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Executive Orders

EXECUTIVE ORDER KBB 07-02

Bond Allocation—Rapides Finance Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

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

WHEREAS, the Rapides Finance Authority has requested an allocation from the 2007 Ceiling to be used with a program of financing mortgage loans for single family, owner-occupied residences for low and moderate income families throughout the parish of Rapides, state of Louisiana, 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 2007 Ceiling in the amount shown.

Amount of Allocation	Name of Issuer	Name of Project
\$15,000,000	Rapides Finance 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's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before April 18, 2007.

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

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.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 18th day of January, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0702#085

EXECUTIVE ORDER KBB 07-03

Bond Allocation—Louisiana Local Government Environmental Facilities and Community Development Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2007 Ceiling to be used to finance the acquisition, construction, installation and equipping of a landfill facility affecting the parishes of Grant and Ouachita, state of Louisiana, 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 2007 Ceiling in the amount shown.

Amount of Allocation	Name of Issuer	Name of Project
\$3,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	CWI—White Oaks Landfill, LLC

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private

Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before April 18, 2007.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of January, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0702#086

EXECUTIVE ORDER KBB 07-04

Additional 2006 Carry-Forward Bond Allocation
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), 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 2006 (hereafter "the 2006 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and
- (3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, On December 28, 2006, Executive Order No. KBB 2006-54 was issued to carry-forward fifty-five million one hundred ninety-seven thousand two hundred forty dollars (\$55,197,240) of the 2006 Ceiling which was unused and/or returned; however, the Order did not reflect the allocation and portion of the allocation returned unused from Executive Order Nos. KBB 2006-21, KBB 2006-26, KBB 2006-35, KBB 2006-43, and KBB 2006-51;

WHEREAS, Executive Order No. KBB 2006-21, issued on May 4, 2006, allocated fifteen million dollars (\$15,000,000) from the 2006 Ceiling to the Hammond-Tangipahoa Home Mortgage Authority in connection with a program to finance mortgage loans for single family, owner-occupied residences for low and moderate income families, but two hundred ninety-five thousand dollars (\$295,000) of

the fifteen million dollar (\$15,000,000) allocation was returned unused;

WHEREAS, Executive Order No. KBB 2006-26, issued on June 8, 2006, allocated ten million dollars (\$10,000,000) from the 2006 Ceiling to the Calcasieu Parish Public Trust Authority in connection with a program to finance mortgage loans for single family, owner-occupied residences for low and moderate income families, but five hundred eighty thousand dollars (\$580,000) of the ten million dollar (\$10,000,000) allocation was returned unused;

WHEREAS, Executive Order No. KBB 2006-35, issued on August 9, 2006, allocated thirty million dollars (\$30,000,000) from the 2006 Ceiling to the East Baton Rouge Mortgage Authority in connection with a program to finance mortgage loans for single family, owner-occupied residences for low and moderate income families, but ten million dollars (\$10,000,000) of the thirty million dollar (\$30,000,000) allocation was returned unused;

WHEREAS, Executive Order No. KBB 2006-43, issued on November 2, 2006, allocated fifteen million dollars (\$15,000,000) from the 2006 Ceiling to the Calcasieu Parish Public Trust Authority in connection with a program to finance mortgage loans for single family, owner-occupied residences for low and moderate income families, but nine hundred fifty thousand dollars (\$950,000) of the fifteen million dollar (\$15,000,000) allocation was returned unused;

WHEREAS, Executive Order No. KBB 2006-51, issued on December 12, 2006, allocated three million dollars (\$3,000,000) from the 2006 Ceiling to the Louisiana Local Government Environmental Facilities Community Development Authority in connection with CWI-White Oaks Landfill, LLC, but the entire allocation of three million dollars (\$3,000,000) was returned unused to the 2006 Ceiling;

WHEREAS, the governor desires to allocate the additional unused portion of the 2006 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

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: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess and/or unused private activity bond volume limit under the 2006 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount:

Issuer	Carry Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Multi-Family Mortgage Revenue Bond Program	\$14,825,000

SECTION 2: 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 the state

of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of January, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0702#087

EXECUTIVE ORDER KBB 07-05

Commandeering of Property Use—East of Harvey
Canal Floodwall, Phase 2b, Parish of Jefferson

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Hurricane Katrina struck the state of Louisiana causing catastrophic flooding and damage to southeastern Louisiana, including breaches to the levee system in the parishes of southeastern Louisiana, the effects of which have threatened and continue to threaten the safety, health, and security of the citizens of those parishes, along with private property and public facilities;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if she finds this necessary to cope with a disaster or emergency; and

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, the Department of Transportation and Development, and the West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, Hurricane Protection Project, West of Algiers, Canal, Contract 2B-Boomtown Casino to Hero Pumping Station, East of Harvey Canal Floodwall, File No. H-8-45681, drawings 1 through 5 of 5, dated November 1, 2006 (Exhibit A) and drawing 72A (Exhibit B), dated January 23, 2007;

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: The state of Louisiana hereby commandeers the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 56, Township 14 South, Range 24 East; containing 22.63 acres and labeled "Limits of Required Right-of-Way" and "Staging Area" on the attached map (Exhibit A), map file no. H-8-45681, drawings 1 through 5, dated November 1, 2006 and drawing 72A (Exhibit B), dated January 23, 2007.

SECTION 2: Said property shall be used by the U.S. Army Corps of Engineers and the West Jefferson Levee District for:

A. Temporary Underground Piling Easement—The project shall include the temporary and assignable right and easement to locate, construct, operate, maintain, alter, repair, replace and patrol the underground appurtenances for a flood control wall, including but not limited to steel or concrete pilings; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines;

B. Temporary Flood Protection Levee (Floodwall) Easement—The project shall include the temporary and assignable right and easement to construct, maintain repair, operate, patrol and replace a flood protection levee/floodwall, including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; and

C. Temporary Work Area Easement—The project shall also include the temporary easement and right-of-way for use by the United States, its representatives, agents, and contractors as a work area, including the right to move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Boomtown Casino to Hero Pumping Station, Phase 2B, East of Harvey Canal Floodwall, Jefferson Parish Project, together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

SECTION 3: The state of Louisiana hereby commandeers the use of the property required by the Department of the Army as indicated on the attached drawings (Exhibits A and B). The use of all property identified above is commandeered pursuant to R.S. 29:724(D)(4). Said owners of the property so commandeered shall be identified and compensated by the Department of Army. The Department of Army shall take all necessary

steps to initiate the expropriation process without unnecessary delays upon the issuance of this Order.

SECTION 4: The Division of Administration, State Land Office, shall take immediate steps to grant the right of entry to the property commandeered for the above purposes pursuant to this Order to ensure completion of the project without delay and to provide necessary safeguards to the citizens of the parish of Jefferson prior to the 2007 Hurricane Season.

SECTION 5: 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 2nd day of February, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0702#088

EXECUTIVE ORDER KBB 07-06

**Additional 2006 Carry-Forward Bond
Allocation—Louisiana Housing Finance Agency**

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), 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 2006 (hereafter "the 2006 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and

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

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, On December 28, 2006, Executive Order No. KBB 2006-54 was issued to carry-forward fifty-five million one hundred ninety-seven thousand two hundred forty dollars (\$55,197,240) of the 2006 Ceiling which was unused and/or returned; however, the Order did not reflect the allocation and portion of the allocation returned unused from Executive Order Nos. KBB 2006-35, and KBB 2006-51;

WHEREAS, Executive Order No. KBB 2006-35, issued on August 9, 2006, allocated thirty million dollars (\$30,000,000) from the 2006 Ceiling to the East Baton Rouge Mortgage Authority in connection with a program to finance mortgage loans for single family, owner-occupied

residences for low and moderate income families, but ten million dollars (\$10,000,000) of the thirty million dollar (\$30,000,000) allocation was returned unused;

WHEREAS, Executive Order No. KBB 2006-51, issued on December 12, 2006, allocated three million dollars (\$3,000,000) from the 2006 Ceiling to the Louisiana Local Government Environmental Facilities Community Development Authority in connection with CWI-White Oaks Landfill, LLC, but the entire allocation of three million dollars (\$3,000,000) was returned unused to the 2006 Ceiling;

WHEREAS, the governor desires to allocate the additional unused portion of the 2006 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

WHEREAS, Executive Order No. KBB 2007-4, issued on January 30, 2007, allocated fourteen million eight hundred twenty-five thousand dollars (\$14,825,000) as an additional carry-forward to the Louisiana Housing Finance Agency from the 2006 Ceiling to be used in connection with a program to finance mortgage loans for multi-family, owner occupied residences for low and moderate income families; and

WHEREAS, the additional carry-forward allocation in the amount of fourteen million eight hundred twenty-five thousand dollars (\$14,825,000) is hereby reduced to thirteen million dollars (\$13,000,000) to accurately reflect the unused portion of the 2006 Ceiling;

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: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess and/or unused private activity bond volume limit under the 2006 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Multi-Family Mortgage Revenue Bond Program	\$13,000,000

SECTION 2: Executive Order No. KBB 2007-4, issued on January 30, 2007, is hereby terminated and rescinded.

SECTION 3: 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of February, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0702#089

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Seed Commission

Contaminated Seed Stock and Other Propagating Stock (LAC 7:XIII.Chapter 3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:1433, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations governing the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. Foundation seed of Cheniere rice produced in 2003 has been found to have LL traits. The announcement also indicated that based on the scientific data reviewed, the USDA and the U. S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. Some rice importing countries have expressed concerns about genetically modified rice. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

Maintaining markets for Louisiana rice is vital to both Louisiana's rice industry and to Louisiana's overall economy. The embargo by the European Union and the treat of an embargo by other rice importing countries created an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy. The Seed Commission has determined that limiting the sale, distribution and planting of seeds of Cheniere rice and other varieties of rice that test positive for LL traits will best serve Louisiana's rice industry. This Rule is enabled by R.S. 3:1433.

This Rule becomes effective upon signature, January 26, 2007, and will remain in effect for 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Contaminated Seed Stock and Other Propagating Stock

§301. Planting of Cheniere rice and other varieties with LL traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter:

1. the Cheniere variety of rice;
2. any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR:34:

§303. Planting of Breeder, Foundation or Registered Cheniere Rice Seed Stock

A. Breeder, Foundation or Registered Cheniere rice seed may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR:34:

§305. Planting of Breeder, Foundation or Registered Rice Seed of other Varieties Stock

A. Breeder, Foundation or Registered seed of other varieties of rice where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this chapter.

B. If a portion of a variety of rice, other than Cheniere rice, is found to test positive for LL traits according to tolerances established by the department, but there is no need to declare the variety as a whole to be contaminated with LL traits then the variety may continue to be planted in Louisiana. However, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR:34:

§307. Sampling of Rice Seed for the Detection of LL Traits

A. Samples of all Breeder, Foundation, Registered and Certified rice seed shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR:34:

§309. Stop-Sale

A. If any lot of Breeder, Foundation, Registered or Certified rice seed that are subject to the requirements of this Chapter tests positive for LL traits according to tolerances established by the department then such seed shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR:34:

Bob Odom
Commissioner

0702#014

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs□Post-Secondary Institutions
(LAC 28:IV.301 and 1903)

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

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

This Declaration of Emergency is effective February 7, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0782E)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. ...

First-Time Freshman—a student who is awarded TOPS opportunity, performance, or honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a Vocational or Technical Education Certificate or Diploma Program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for term and quarter institutions). A student who is awarded TOPS opportunity, performance, or honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a first-time freshman for the immediately succeeding fall term. A student who is awarded TOPS opportunity, performance, or honors and begins in a non-academic program in a post-secondary school in a summer term will be considered a first-time freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a first-time freshman.

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the 14th class day or later at a semester school or the 9th class day or later at a quarter or term school;

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining eight quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends (see

§§705.A, 705.D, 805.A, and 907.A for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth ChalleNGe Program Grant is enrolled full-time, as defined in §301, at the end of the 14th class day or later for semester schools and the 9th class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the 14th class day for semester schools or the 9th class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the 14th or 9th class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:

George Badge Eldredge
General Counsel

0702#084

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Sewage Sludge Regulatory Management
(LAC 33:VII.301 and IX.107, 6901, 6903, 6905,
6907, 6909, 6911, 6913, and 7135)(OS066E5)

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 prevent the unauthorized disposal of sewage sludge in treatment works treating domestic sewage and other areas unprepared to receive the waste stream.

This is a renewal of Emergency Rule OS066E4, which was effective on September 29, 2006, and published in the *Louisiana Register* on October 20, 2006. The department is drafting a rule to promulgate these regulations. This Emergency Rule revises the regulations to:

1. improve clarity and consistency;
2. clarify compliance dates for surface disposal and sanitary wastewater treatment facilities receiving domestic septage and/or portable toilet waste into their systems;
3. establish closure requirements for sanitary wastewater treatment facilities and sewage sludge disposal ponds/lagoons;
4. establish standards for vehicles of transporters of sewage sludge (previously under the jurisdiction of the Office of Public Health); and
5. establish standard conditions for all sewage sludge (biosolids) use or disposal permits.

Prior to the Emergency Rule issued September 1, 2005, sewage sludge was managed by three different programs within the state and the EPA. The multiple permitting process was a cumbersome and expensive process for both the state and the regulated community, resulting in inadequately permitted and/or designed facilities to accept the waste, which is produced in a persistent manner. The

potential for dumping of sewage sludge presents a potential health risk to the public and the environment in areas of the state that are under-developed for receiving the waste. This Emergency Rule attempts to streamline and expedite the permitting process by removing the solid waste requirements for the management of sewage sludge from the solid waste regulations (LAC 33, Part VII). Sewage sludge will be managed by LAC 33:IX.Chapter 69 that is reflective of and equivalent to the Clean Water Act Section 503 program at the federal level.

This Emergency Rule is effective on January 27, 2007, 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 OS066E5 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx 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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

A. - A.8. ...

9. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed in accordance with LAC 33:IX.Chapter 69. Provisions addressing sewage sludge and domestic septage found throughout these regulations will no longer apply.

B. - B.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings

(33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

* * *

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 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 69. Standards for the Use or Disposal of Sewage Sludge

§6901. General Provisions

A. Purpose and Applicability

1. Purpose

a. This Chapter establishes standards, which consist of general and other requirements, pollutant limits, general and other management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works and of domestic septage. Standards are included in this Chapter for sewage sludge and domestic septage (hereafter referred to collectively as *sewage sludge* for the purposes of this Chapter) and a material derived from sewage sludge that is applied to the land and sewage sludge fired in a sewage sludge incinerator. Also included in this Chapter are pathogen and alternative vector attraction reduction requirements for sewage sludge and a material derived from sewage sludge applied to the land; the siting, operation, and financial assurance requirements for commercial preparers or land applicers of sewage sludge and a material derived from sewage sludge; and the standards for transporters of sewage sludge and for vehicles of transporters of sewage sludge.

b. The standards in this Chapter include the frequency of monitoring, recordkeeping requirements, and reporting requirements for Class I sludge management facilities as defined in Subsection I of this Section.

c. This Chapter establishes requirements for the person who prepares sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill.

d. ...

2. Applicability

a. This Chapter applies to:

i. any person who prepares sewage sludge or a material derived from sewage sludge, including the dewatering and solidification of sewage sludge;

ii. any person who applies sewage sludge or a material derived from sewage sludge to the land;

iii. any person who prepares sewage sludge, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill;

iv. the owner/operator of a surface disposal site;

v. the owner/operator of a sewage sludge incinerator; and

vi. the transporter of sewage sludge and the vehicle used to transport the sewage sludge.

b. This Chapter applies to sewage sludge or a material derived from sewage sludge that is applied to the land or placed on a surface disposal site, to the land where the sewage sludge and a material derived from sewage sludge is applied, and to a surface disposal site.

c. ...

d. This Chapter applies to the sewage sludge that is disposed in a Municipal Solid Waste Landfill.

B. Compliance Period

1. - 3.a. ...

b. Compliance with the requirements in Paragraphs F.2, 3, and 4 of this Section shall be achieved as follows.

i. A facility presently meeting all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

ii. A facility that does not meet all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section on December 30, 2005.

iii. All facilities must comply with the requirements in Paragraphs F.3 and 4 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

C. Permits and Permitting Requirements

1.a. Except as exempted in Paragraph C.2 of this Section, no person shall prepare sewage sludge or a material derived from sewage sludge, apply sewage sludge or a material derived from sewage sludge to the land, or own or operate a sewage sludge incinerator without first obtaining a permit in accordance with the deadlines set forth in Subparagraphs C.1.b-d of this Section.

b. As of December 30, 2005, those persons who have been:

i. granted an exemption under LAC 33:Part VII for any form of use or disposal of sewage sludge will have 180 days to submit an application for permit coverage under these regulations;

ii. issued a standard solid waste permit under LAC 33:Part VII for the use, disposal, treatment, or processing of sewage sludge, with the exception of a standard solid waste permit issued for a type of *surface disposal* as defined in Subsection I of this Section, may continue operations under the standard solid waste permit until such time as a permit has been reissued under these regulations by the administrative authority or for a period not to exceed five years, whichever is less. This time period may be reduced by the administrative authority if deemed necessary for the protection of human health and/or the environment;

iii. issued a standard solid waste permit for a type of *surface disposal* as defined in Subsection I of this Section shall comply with the requirements in Subparagraph B.3.b of this Section.

c. As of June 1, 2006, all other facilities not addressed under Subparagraph C.1.b of this Section shall apply for a permit as follows.

i. All sanitary wastewater treatment facilities that receive domestic septage and/or portable toilet waste into their systems shall apply for a permit within 180 days after June 1, 2006.

ii. All treatment facilities that are for the sole purpose of preparing sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility shall apply for a permit within 180 days after June 1, 2006.

iii. All treatment facilities that prepare sewage sludge for the use of land application and all land applicators of biosolids who are not presently operating under an effective standard solid waste permit shall apply for a permit within 180 days after June 1, 2006.

iv. All major sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than three years from June 1, 2006.

v. All minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than five years from June 1, 2006.

d. At least 180 days prior to expiration of the permit described in Clause C.1.b.ii of this Section, the owner/operator of the facility shall submit an application for permit issuance under this Chapter if the owner/operator intends to continue operations after that date.

e. The person who prepares or land-applies sewage sludge or a material derived from sewage sludge shall use the Sewage Sludge (Biosolids) Use or Disposal Permit Application form. The owner/operator of a sewage sludge incinerator shall apply for a permit in accordance with LAC 33:III.Chapter 5 and shall utilize both the Air Quality Permit Application and the Sewage Sludge (Biosolids) Use or Disposal Permit Application forms. The forms can be accessed through the department's website or by contacting the Office of Environmental Services, Water Permits Division.

f. Except as allowed in Subparagraph C.1.b of this Section, all permits issued in accordance with these regulations shall be effective for a period not to exceed five years. The standard five-year permit period may be reduced to a period of less than five years if deemed necessary by the administrative authority for the protection of human health and/or the environment.

2. The person who applies bagged sewage sludge or a bagged material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bagged sewage sludge or a bagged material derived from sewage sludge that is *Exceptional Quality* as defined in Subsection I of this Section.

a. The person who applies bulk sewage sludge or a bulk material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bulk sewage sludge or a bulk material derived from sewage sludge that was obtained from a facility that possesses an Exceptional Quality Permit under LAC 33:IX.6903.J.

b. The administrative authority may exempt any other person who applies sewage sludge or a material derived from sewage sludge to the land from the requirement of obtaining a permit, on a case-by-case basis, after determining that human health and the environment will not

be adversely affected by the application of sewage sludge or a material derived from sewage sludge to the land.

3. The person who prepares sewage sludge, the person who applies sewage sludge to the land, the commercial preparer or land applicator of sewage sludge, and the owner and/or operator of a sewage sludge incinerator who desires to maintain a permit shall obtain adequate training and certification in the processing, treatment, land application, and incineration of sewage sludge.

a. To maintain certification, eight units of continuous education shall be obtained on an annual basis.

b. Classes, seminars, conferences, or conventions used for units must be approved by the administrative authority.

4. Sanitary Wastewater Treatment Facilities and Sewage Sludge Disposal Ponds/Lagoons Closure Requirements

a. The use or disposal options for the closure of a facility that was utilized for the treatment of sanitary wastewater or the disposal of sewage sludge shall consist of:

i. removal and disposal in a permitted municipal solid waste landfill;

ii. obtaining Exceptional Quality Biosolids certification without further soil or site restrictions; or

iii. approval for land application as a Non-exceptional Quality Biosolids with soil or site restrictions.

b. In closing a facility that was utilized for sanitary wastewater treatment, the liquid portion must be removed in a manner that meets the requirements of LAC 33:IX.Subpart 2.

c. A closure plan for removal and disposal of the sewage sludge in a permitted solid waste landfill shall be submitted prior to site closure to the Office of Environmental Services, Water Permits Division, including but not limited to, the following information:

i. the name, mailing address, physical address, and contact person of the facility that is proposed for closure;

ii. an aerial photograph showing the location of the facility that is proposed for closure;

iii. the amount of sewage sludge that will be removed and disposed at a permitted landfill;

iv. a sampling and analysis plan for the sewage sludge. The sampling and analysis plan shall include:

(a) either a schematic drawing or aerial photograph that indicates where the samples will be taken;

(b) the lab methods utilized;

(c) the name of the laboratory where the samples will be analyzed; and

(d) any other information the department may require; and

v. the name, location, and contact person at the site where the sewage sludge will be disposed.

d. Approval or disapproval of the closure plan required in Subparagraph C.4.c of this Section shall be granted by the administrative authority after receipt and review of the plan.

e. A request for an Exceptional Quality Biosolids certification without further soil or site restrictions shall be submitted to the Office of Environmental Services, Water Permits Division, including but not limited to, the following information.

i. A sampling and analysis plan shall be submitted to the administrative authority in accordance with Subsection H of this Section. The sewage sludge shall be sampled and analyzed in a laboratory that is certified by the state of Louisiana. The minimum sampling and analysis requirements are as follows:

(a) toxicity characteristic leaching procedure (TCLP)—one composite sample;

(b) pollutants listed in Table 1 of LAC 33:IX.6903.D—at least four separate, random, representative samples of pollutants listed in the table;

(c) fecal coliform or *Salmonella sp.*—for each pollutant a minimum of four separate, random, representative samples. Report the geometric mean of the separate samples collected and analyzed. The samples must be analyzed by using Part 9221-E of "Standard Methods for the Examination of Water & Wastewater" for fecal coliform and Part 9260 of "Standard Methods for the Examination of Water & Wastewater" for *Salmonella sp.*;

(d) vector attraction reduction—for each pollutant a minimum of four separate, random, representative samples. If specific sampling and analysis methods are listed in Subsection H of this Section for vector attraction reduction, then the methods listed must be used for the determination of vector attraction reduction;

(e) PCB—one composite sample; and

(f) total nitrogen, nitrates, total phosphorus, total potassium, and pH—one composite sample from four or more separate samples collected from the treatment facility or from each cell of an oxidation pond, lagoon, or surface impoundment.

ii. Results of the analyzed samples, along with QA/QC documentation, must be submitted to the administrative authority, along with the following additional information:

(a) the name of the facility that utilized the treatment facility;

(b) the LPDES (sanitary wastewater discharge) Permit Number for the treatment facility;

(c) the design capacity of the treatment facility. If the facility was an oxidation pond, include the size of the pond (in acres) and the number of cells of the pond (1-cell, 2-cell, or 3-cell);

(d) the approximate tons of sewage sludge to be disposed;

(e) the location of the facility delineated on an aerial photograph;

(f) the future plans for the site where the treatment plant is located;

(g) the demographics within the area of the facility (businesses, hospitals, nursing homes, day-care centers, schools, walk-in clinics, etc.);

(h) potable water wells within a 1-mile radius of the facility (locate on an aerial photograph; include private and public potable water wells);

(i) the name of the drinking water aquifer.

f. After receipt and review of the results of the laboratory analyses and the additional information required in Clause C.4.e.ii of this Section, a decision shall be rendered by the administrative authority regarding Exceptional Quality Biosolids certification.

g. If closure is through land application of the sewage sludge as Non-exceptional Quality Biosolids, an official application for a Sewage Sludge (Biosolids) Use or Disposal Permit must be submitted to the Office of Environmental Services, Water Permits Division, utilizing the application form that can be accessed on the department's website or by contacting the Office of Environmental Services, Water Permits Division.

5. Environmental Impact Supplementary Information. In addition to the requirements of this Chapter, all sewage sludge use or disposal permit applications must include a response to each of the following:

a. a detailed discussion demonstrating that the potential and real adverse environmental effects of the proposed facility have been avoided to the maximum extent possible;

b. a cost benefit analysis that balances the environmental impact costs against the social and economic benefits of the facility and demonstrates that the latter outweigh the former;

c. a discussion and description of possible alternative projects that would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits;

d. a detailed discussion of possible alternative sites that would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits; and

e. a discussion and description of mitigating measures that would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits.

D. Sewage Sludge Disposed in a Municipal Solid Waste Landfill

1. - 2. ...

3. The person who prepares sewage sludge that is disposed in a Municipal Solid Waste Landfill shall provide the following to the Office of Environmental Services, Water Permits Division:

a. proof that the sewage sludge is being disposed at an approved landfill by furnishing the name, address, and permit number of the landfill; and

b. copies of all records of sampling and laboratory analyses of the sewage sludge that are required by the owner/operator of the landfill.

E. Registration Requirements and Standards for Vehicles and Transporters of Sewage Sludge

1. Transporters of sewage sludge shall only transport the sewage sludge and/or grease mixed with sewage sludge to a permitted facility and shall maintain the following records.

a. The transporter shall maintain a daily log or record of activities.

b. The daily log or record shall contain the following information regarding the sewage sludge and/or grease mixed with sewage sludge:

i. the date obtained, pumped, or removed;

ii. the origin or source;

iii. the volume generated at each site;

iv. the transfer or disposal site; and

v. the total amount that was transported or disposed.

2. A transporter of sewage sludge shall obtain a transporter registration number from the Office of Environmental Services, Water Permits Division, prior to engaging in transportation activities, utilizing a form that is obtained from the Office of Environmental Services, Water Permits Division, or the department's website.

3. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the roads and streets that must be traveled during the transporting of sewage sludge.

4. The bodies of vehicles must be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the sewage sludge, inhibits access by vectors, prevents the sewage sludge from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

5. The bodies of vehicles that are utilized to transport liquefied sewage sludge or a sewage sludge that is capable of producing a leachate shall be constructed and/or enclosed with an appropriate material that will completely prevent the leakage or spillage of the liquid.

6. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage that may lead to groundwater contamination or uncontrolled contaminated surface runoff.

7. Water collected in the vehicle washdown area shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

F. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1. No person shall use or dispose of sewage sludge or a material derived from sewage sludge through any practice for which requirements have not been established in this Chapter.

2. *Surface disposal*, as defined in Subsection I of this Section, is prohibited as a use or disposal method of sewage sludge or of a material derived from sewage sludge.

3.a. *Storage of sewage sludge*, as defined in Subsection I of this Section, is allowed for a period not to exceed six consecutive months when:

i. necessary for the upgrade, repair, or maintenance of a treatment works treating domestic sewage or for agricultural storage purposes when the sewage sludge is to be used for *beneficial use* as defined in Subsection I of this Section;

ii. notification has been made by the person who wishes to store the sewage sludge to the administrative authority; and

iii. subsequent approval by the administrative authority has been received.

b.i. The administrative authority may approve the storage of sewage sludge for commercial preparers or land appliers of sewage sludge or for purposes other than those listed in Subparagraph F.3.a of this Section, for a period greater than six consecutive months, if the person who stores the sewage sludge demonstrates that the storage of the sewage sludge will not adversely affect human health and the environment.

ii. The demonstration shall be in the form of an official request forwarded to the administrative authority at least 90 days prior to the storage of the sewage sludge and shall include, but is not limited to:

- (a). the name and address of the person who prepared the sewage sludge;
- (b). the name and address of the person who either owns the land or leases the land where the sewage sludge is to be stored, if different from the person who prepared the sewage sludge;
- (c). the location, by either street address or latitude and longitude, of the land;
- (d). an explanation of why the sewage sludge needs to remain on the land;
- (e). an explanation of how human health and the environment will not be affected;
- (f). the approximate date when the sewage sludge will be stored on the land and the approximate length of time the sewage sludge will be stored on the land; and
- (g). the final use and disposal method after the storage period has expired.

iii.(a). The administrative authority shall make a determination as to whether or not the information submitted is complete and shall issue the determination within 30 days of having received the request. If the information is deemed incomplete, the administrative authority will issue a notice of deficiency. The commercial preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

(b). Within 30 days after deeming the information complete, the administrative authority will then make and issue a determination to grant or deny the request for the storage of sewage sludge.

4. The use of ponds or lagoons is allowed for the *treatment of sewage sludge*, as defined in Subsection I of this Section, only after a permit has been granted under these regulations and the applicable air and water discharge permits have been applied for and granted by the administrative authority.

a. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation to the Office of Environmental Services, Water Permits Division, that indicates the final use or disposal method for the sewage sludge and shall apply for the appropriate permit for the chosen final use or disposal in accordance with this Chapter.

b. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation by a qualified groundwater scientist to the Office of Environmental Services, Water Permits Division, that indicates that the area where the pond or lagoon is located will adequately protect against potential groundwater contamination either by natural soil conditions or by a constructed soil or synthetic liner that has a hydraulic conductivity of 1×10^{-7} centimeters per second or less, and protect from the potential to *contaminate an aquifer* as defined in Subsection I of this Section.

5. Materials Prohibited from Feedstock or Supplements That Are Blended, Composted, or Mixed with Sewage Sludge

a.i. The person who generates, transports, or treats sewage sludge shall not blend, compost, or mix hazardous waste with sewage sludge.

ii. The blending, composting, or mixing of sewage sludge with feedstock or supplements containing any of the materials listed in Table 1 of LAC 33:IX.6901.F is prohibited.

b. The administrative authority may prohibit the use of other materials as feedstock or supplements if the use of such materials has a potential to adversely affect human health or the environment, as determined by the administrative authority.

c. Material utilized as feedstock or supplements and blended, composted, or mixed with sewage sludge must be sampled and analyzed on an annual basis to determine if the material is nonhazardous by a hazardous waste determination in accordance with 40 CFR 261 and/or LAC 33:Part V.

d. Results of the sampling and analysis required in Subparagraph F.5.c of this Section must be submitted to the administrative authority on an annual basis.

Table 1 of LAC 33:IX.6901.F
Materials Prohibited from Feedstock or Supplements That Are Blended, Composted, or Mixed with Sewage Sludge
Antifreeze
Automotive (lead-acid) batteries
Brake fluid
Cleaners (drain, oven, toilet)
Gasoline and gasoline cans
Herbicides
Household (dry cell) batteries
Oil-based paint
Pesticides
Photographic supplies
Propane cylinders
Treated wood containing the preservatives CCA and/or PCP
Tubes and buckets of adhesives, caulking, etc.
Swimming pool chemicals
Unmarked containers
Used motor oil

6.a. Sewage sludge composting operations shall not be located on airport property unless an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration.

b. If an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration to allow a sewage sludge composting operation to be located on airport property, the location restrictions at LAC 33:IX.6905.A.1.f and g for off-airport property operations shall apply.

7.a. The use of raw or untreated sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is prohibited.

b. The use of sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is allowed only if the sewage sludge meets the requirements and is used in accordance with the requirements in LAC 33:IX.Chapter 69.

8. Sewage sludge mixed with grease shall be disposed in a permitted landfill and shall not be introduced into any

part of a treatment works, including its collection system, or applied to the land.

9. On a case-by-case basis, the permitting authority may impose requirements in addition to or more stringent than the requirements in this Chapter when necessary to protect human health and the environment from any adverse effect of a pollutant in the sewage sludge.

G. Exclusions

1. Co-Firing of Sewage Sludge

a. Except for the co-firing of sewage sludge with *auxiliary fuel*, as defined in LAC 33:IX.6911.B, this Chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired.

b. This Chapter does not establish requirements for sewage sludge co-fired with auxiliary fuel if the auxiliary fuel exceeds 30 percent of the dry weight of the sewage sludge and auxiliary fuel mixture.

2. Sludge Generated at an Industrial Facility. This Chapter does not establish requirements for the use or disposal of sludge generated at an industrial facility during the treatment of industrial wastewater, including sewage sludge generated during the treatment of industrial wastewater combined with domestic sewage.

3. Hazardous Sewage Sludge. This Chapter does not establish requirements for the use or disposal of sewage sludge or a material derived from sewage sludge that is hazardous under 40 CFR Part 261 and/or LAC 33:Part V.

4. Sewage Sludge with High PCB Concentration. This Chapter does not establish requirements for the use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis).

5. Incinerator Ash. This Chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.

6. Grit and Screenings. This Chapter does not establish requirements for the use or disposal of grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity) or screenings (e.g., relatively large materials such as rags) generated during preliminary treatment of domestic sewage in a treatment works.

7. Drinking Water Treatment Sludge. This Chapter does not establish requirements for the use or disposal of sludge generated during the treatment of either surface water or groundwater used for drinking water.

H. Sampling and Analysis

1. Sampling

a. The permittee shall collect and analyze representative samples of sewage sludge or a material derived from sewage sludge that is applied to the land, and sewage sludge fired in a sewage sludge incinerator.

b. The permittee shall create and maintain records of sampling and monitoring information that shall include:

- i. the date, exact place, and time of sampling or measurements;
- ii. the individual(s) who performed the sampling or measurements;
- iii. the date(s) analyses were performed;
- iv. the individual(s) who performed the analysis;
- v. the analytical techniques or methods used; and
- vi. the results of such analysis.

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services, Water Permits Division. Methods in the materials listed below shall be used to analyze samples of sewage sludge.

a. Enteric Viruses. ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.

b. Fecal Coliform. Part 9221 E or Part 9222 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

c. Helminth Ova. Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 88-154273/AS).

d. Inorganic Pollutants. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB-87-120-291). Third Edition and Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE, Washington, DC 20002 (Document Number 955-001-00000-1).

e. *Salmonella sp.* Bacteria. Part 9260 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa," *Journal of the Water Pollution Control Federation*, Vol. 46, No. 9, September 1974, pp. 2163-2171. Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314.

f. Specific Oxygen Uptake Rate. Part 2710 B, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

g. Total, Fixed, and Volatile Solids. Part 2540 G, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

h. Incineration of Sewage Sludge—Standards of Performance and Particulate Matter. Materials and Methods

at 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.

i. Incineration of Sewage Sludge—National Emission Standards for Beryllium and for Mercury. Materials, Methods, and Standards at 40 CFR Part 61 as incorporated by reference at LAC 33:III.5116.

j. Composting of Sewage Sludge. *Test Methods for the Examination of Composting and Compost*, The US Composting Council Research and Education Foundation and USDA, TMECC Website: <http://tmecc.org/tmecc/index.html>.

k. Nutrients—*Methods of Soil Analysis*, Soil Science Society of America Series (Most Recent Editions).

I. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Operations Area—any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An *air operations area* includes paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to those areas' associated runways, taxiways, or aprons.

Apply Sewage Sludge or Sewage Sludge Applied to the Land—land application of sewage sludge.

Base Flood—a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use—using sewage sludge or a material derived from sewage sludge for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose adverse effects upon human health and the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Bulk Sewage Sludge—sewage sludge that is not sold or given away in a bag or other container for application to the land.

Class I Sludge Management Facility—for the purpose of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of ownership, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;

b. the person who prepares sewage sludge or a material derived from sewage sludge, including commercial preparers of sewage sludge;

c. the owner/operator of a sewage sludge incinerator; and

d. the person who applies sewage sludge or a material derived from sewage sludge to the land (includes commercial land applicators of sewage sludge).

Commercial Preparer or Land Applier of Sewage Sludge—any person who prepares or land-applies sewage sludge or a material derived from sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person.

Contaminate an Aquifer—to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when existing concentration exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop—a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage—either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a restaurant.

Domestic Sewage—waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis—calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality—sewage sludge or a material derived from sewage sludge that meets the ceiling concentrations in Table 1 of LAC 33:IX.6903.D, the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the pathogen requirements in LAC 33:IX.6909.C.1, one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h, and the concentration of PCBs of less than 10 mg/kg of total solids (dry weight).

Feed Crops—crops produced primarily for consumption by animals.

Feedstock—primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops—crops such as flax and cotton.

Food Crops—crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility—any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food service facilities* include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, and schools.

Grease—a material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats, oils, and grease; oil and grease; and oil and grease substances* shall all be included within this definition.

Groundwater—water below the land surface in the saturated zone.

Industrial Park—an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater—wastewater generated in a commercial or industrial process.

Land Application—the beneficial use of sewage sludge or a material derived from sewage sludge by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Other Container—either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of 1 metric ton or less.

Permitting Authority—either EPA or a state with an EPA-approved sludge management program.

Person Who Prepares Sewage Sludge—the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant—an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

Pollutant Limit—a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier—a person who land-applies sewage sludge or a material derived from sewage sludge for private benefit purposes, where the land application is not for monetary profit or other financial consideration and either the person did not generate or prepare the sewage sludge or a material derived from sewage sludge, or the facility or facilities from which the sewage sludge or a material derived from sewage sludge was obtained are not owned by or associated with the private land applier.

Privately Owned Sanitary Wastewater Treatment Facility (POSWTF)—a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *publicly owned treatment works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW)—a treatment works, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality* as defined by Section 504(2) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the municipality, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Qualified Groundwater Scientist—an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in

groundwater hydrology, subsurface geology, and/or related fields, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.

Runoff—rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Surface Disposal—the use or disposal of sewage sludge that does not meet the criteria of *land application* as defined in this Subsection. This may include, but is not limited to, ponds, lagoons, sewage sludge only landfills (monofills), or landfarms.

Supplements—for the purpose of this Chapter, materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or to adjust the carbon to nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

To Store, or Storage of, Sewage Sludge—the temporary placement of sewage sludge on land.

To Treat, or Treatment of, Sewage Sludge—the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Transporter of Sewage Sludge—any person who moves sewage sludge off-site or moves sewage sludge to a storage site, treatment or processing site, disposal site, or land application site.

Treatment Works—a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:

§6903. Land Application

A. Applicability

1. This Section applies to any person who prepares sewage sludge or a material derived from sewage sludge that is applied to the land, to any person who applies sewage sludge or a material derived from sewage sludge to the land, to sewage sludge or a material derived from sewage sludge

that is applied to the land, and to the land on which sewage sludge or a material derived from sewage sludge is applied.

2.a.i. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in Paragraph E.2 of this Section do not apply when bulk sewage sludge is applied to the land if the bulk sewage sludge is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in Paragraph E.2 of this Section do not apply when a bulk material derived from sewage sludge is applied to the land if the derived bulk material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

b. ...

3.a.i. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if sewage sludge sold or given away in a bag or other container is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if a material derived from sewage sludge is sold or given away in a bag or other container and the material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

iii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

A.3.b. - C.1.a.ii.(c). ...

b. No person shall apply sewage sludge or a material derived from sewage sludge to the land except in accordance with the requirements in this Chapter.

c. The person who applies sewage sludge or a material derived from sewage sludge to the land shall obtain information needed to comply with the requirements in this Chapter.

d. Sewage sludge or a material derived from sewage sludge shall not be applied to the land until a determination has been made by the administrative authority that the land application site is a legitimate beneficial use site.

2. General Management Practices

a. All Sewage Sludge or Material Derived from Sewage Sludge

i. ...

ii. Sewage sludge or material derived from sewage sludge shall be applied to the land only in accordance with the requirements pertaining to slope in Table 1 of LAC 33:IX.6903.C.

iii. In addition to the restrictions addressed in Clause C.2.a.ii of this Section, all sewage sludge or material derived from sewage sludge having a concentration of PCBs equal to or greater than 10 mg/kg of total solids (dry wt.) must be incorporated into the soil regardless of slope.

iv. When sewage sludge or a material derived from sewage sludge is applied to agricultural land, forest, or a reclamation site, the following buffer zones shall be established for each application area, unless otherwise specified by the administrative authority:

(a) - (b). ...

(c). established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment—1,000 feet, unless special permission is granted by a qualified representative of the established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of a notarized affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the application area be located less than 200 feet from any of the above establishments;

(d). property boundary—100 feet, unless special permission is granted by the property owner(s); and

(e). occupied residential home or structure—500 feet, unless special permission is granted by the owner and/or lessee of the occupied residential home or structure. The permission must be in the form of a notarized affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall land application of sewage sludge be conducted less than 200 feet from the occupied residential home or structure.

v. Sewage sludge or a material derived from sewage sludge shall not be applied to agricultural land, forest, or a reclamation site during the months when the water table is less than or at 2 feet below the soil surface as indicated in the Parish Soil Surveys or the Water Features Data published by the Natural Resources Conservation Service (NRCS); or some form of monitoring device shall be provided to ensure that the annual high water table is greater than 2 feet below the soil surface at the time of application.

vi. The person who applies sewage sludge or a material derived from sewage sludge to agricultural or forest land shall provide proof to the administrative authority that a full nutrient management plan has been developed for the agricultural or forest land where the sewage sludge or a material derived from sewage sludge is applied. The full nutrient management plan shall be developed by the Natural Resource Conservation Service, a certified soil scientist, a certified crop advisor, or a local LSU Agricultural Center Cooperative Extension Service agent.

b. - b.ii.(d). ...

Table 1 of LAC 33:IX.6903.C	
Slope Limitations for Land Application of Sewage Sludge	
Slope Percent	Application Restriction
0-3	None, except drainage to prevent standing water shall be provided.
3-6	A 100-foot vegetated runoff area should be provided at the down slope end of the application area if a liquid is applied. Measures should be taken to prevent erosion.
6-12	Liquid material must be injected into the soil. Solid material must be incorporated into the soil if the site is not covered with vegetation. A 100-foot vegetated runoff area is required at the down slope end of the application area for all applications. Measures must be taken to prevent erosion. Terracing may be required if deemed a necessity by the administrative authority to prevent runoff from the land application site and erosion.
>12	Unsuitable for application unless terraces are constructed and a 200-foot vegetated buffer area with a slope of less than 3 percent is provided at the down slope edge of the application area and the material is incorporated (solid material) and injected (liquid material) into the soil. Measures must be taken to prevent runoff from the land application site and to prevent erosion.

D. - D.2.d. Table 4. ...

3. Repealed.

Equation (1). Repealed.

E. - F.1.c. ...

2. Vector Attraction Reduction—Sewage Sludge

a. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge or a material derived from sewage sludge is applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

G. Frequency of Monitoring

1. The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3, and Table 4 of LAC 33:IX.6903.D; the frequency of monitoring for pathogen density requirements in LAC 33:IX.6909.C.1 and 2.b; and the frequency of monitoring for vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-d and g-h shall be the frequency specified in Table 1 of LAC 33:IX.6903.G.

Table 1 of LAC 33:IX.6903.G	
Frequency of Monitoring—Land Application	
Amount of Sewage Sludge ¹ (metric tons per 365-day period)	Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

¹Either the amount of bulk sewage sludge applied to the land or the amount of sewage sludge prepared for sale or give-away in a bag or other container for application to the land (dry weight basis).

2. After the sewage sludge has been monitored for two years at the frequency in Table 1 of LAC 33:IX.6903.G, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in LAC 33:IX.6909.C.1.e.ii and iii.

H. Recordkeeping

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that prepare sewage sludge shall keep a record of the annual production of sewage sludge (i.e., dry ton or dry metric tons) and of the sewage sludge management practice used and retain such record for a period of five years.

2. Additional Recordkeeping

a. The recordkeeping requirements for the person who prepares the sewage sludge or a material derived from sewage sludge that is land applied and meets the criteria in Subparagraph A.2.a or 3.a of this Section are those indicated in Subparagraph J.4.a of this Section.

b. - b.ii.(c), Certification. ...

c. For bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site and that meets the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the Class B pathogen requirements in LAC 33:IX.6909.C.2, and one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

i. - ii.(b). ...

(c) when the vector attraction reduction requirement in either LAC 33:IX.6909.D.2.i or j is met, a description of how the vector attraction reduction requirement is met;

(d). - (e), Certification. ...

d. For bulk sewage sludge applied to the land that is agricultural land, forest, a public contact site, or a reclamation site whose cumulative loading rate for each pollutant does not exceed the cumulative pollutant loading rate for each pollutant in Table 2 of LAC 33:IX.6903.D and that meets the Exceptional Quality or Class B pathogen requirements in LAC 33:IX.6909.C, and the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

d.i. - e.ii.(a). ...

(b) the following certification statement:
"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.6903.C.2.a.i-v and b.i was prepared for each site on which sewage sludge given away or sold in a bag or other container is applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including fine and imprisonment."

I. Reporting

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that prepare sewage sludge shall submit the information in Paragraph H.1 of this Section to the Office of Environmental Services, Water Permits Division, on February 19 of each year.

2. Additional Reporting Requirements

a. Reporting requirements for a person who prepares the sewage sludge or a material derived from

sewage sludge having an Exceptional Quality Permit are as indicated in Subparagraph J.4.b of this Section.

b. All other *Class I sludge management facilities*, as defined in LAC 33:IX.6901.I, that apply bulk sewage sludge to the land and are required to obtain a permit under LAC 33:IX.6901.C, shall submit the information in Paragraph H.2 of this Section for the appropriate requirements, to the Office of Environmental Services, Water Permits Division, as indicated in the following clauses.

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.6903.I.

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.6903.I.

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.6903.I.

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.6903.I.

July	November 28
August	
September	
October	February 28
November	
December	
¹ Separate reports must be submitted for each monitoring period.	

3. The administrative authority may require any facility indicated in Subparagraph I.2.a of this Section to report any or all of the information required in Subparagraph I.2.b of this Section if deemed necessary for the protection of human health or the environment.

J. Exceptional Quality Permit

1.a. The person who prepares the sewage sludge or a material derived from sewage sludge who desires to receive an Exceptional Quality Permit must prepare sewage sludge that is of *Exceptional Quality* as defined in LAC 33:IX.6901.I and shall forward to the Office of Environmental Services, Water Permits Division, an Exceptional Quality Permit Request Form having the following information:

i. - vi.(h). ...

b. Samples required to be collected in accordance with Clauses J.1.a.i-v of this Section shall be from at least four representative samplings of the sewage sludge or the material derived from sewage sludge taken at least 60 days apart within the 12 months prior to the date of the submittal of an Exceptional Quality Permit Request Form.

2. Any Exceptional Quality Permit shall have a term of not more than five years.

3.a. For the term of the Exceptional Quality Permit, the preparer of the sewage sludge or material derived from sewage sludge shall conduct continued sampling at the frequency of monitoring specified in Paragraph G.1 of this Section. The samples shall be analyzed for the parameters specified in Clauses J.1.a.i-iii of this Section, and for the pathogen and vector attraction reduction requirements in Clauses J.1.a.iv and v, as required by LAC 33:IX.6909.

b. If results of the sampling indicate that the sewage sludge or the material derived from sewage sludge no longer is *Exceptional Quality* as defined in LAC 33:IX.6901.I, then the preparer must cease any land application of the sewage sludge as an Exceptional Quality sewage sludge.

c. If the sewage sludge that is no longer of Exceptional Quality is used or disposed, the exemption for Exceptional Quality sewage sludge no longer applies and the sewage sludge must meet all the requirements and restrictions of this Chapter that apply to a sewage sludge that is not Exceptional Quality.

d. The sewage sludge or material derived from sewage sludge shall not be applied to the land as an Exceptional Quality sewage sludge until the sample analyses have shown that the sewage sludge or material derived from sewage sludge meets the criteria for *Exceptional Quality* as defined in LAC 33:IX.6901.I.

4.a. Recordkeeping. The person who prepares the sewage sludge or a material derived from sewage sludge shall develop the following information and shall retain the information for five years:

i. the results of the sample analysis required in Subparagraph J.3.a of this Section; and

Table 1 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period (Once per Year)	Report Due Date
January - December	February 28

Table 2 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per Quarter)	Report Due Date
January, February, March	August 28
April, May, June	
July, August, September	February 28
October, November, December	
¹ Separate reports must be submitted for each monitoring period.	

Table 3 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per 60 Days)	Report Due Date
January, February	June 28
March, April	
May, June	October 28
July, August	
September, October	February 28
November, December	
¹ Separate reports must be submitted for each monitoring period.	

Table 4 of LAC 33:IX.6903.I	
Reporting—Land Application	
Monitoring Period ¹ (Once per Month)	Report Due Date
January	May 28
February	
March	
April	August 28
May	
June	

ii. the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality pathogen requirements in LAC 33:IX.6909.C.1 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

b. Reporting. The person who prepares the sewage sludge or a material derived from sewage sludge shall forward the information required in Subparagraph J.4.a of this Section to the Office of Environmental Services, Water Permits Division, on a quarterly basis. The schedule for quarterly submission is contained in the following table.

Schedule For Quarterly Submission	
Monitoring Period	Report Due Date
January, February, March	May 28
April, May, June	August 28
July, August, September	November 28
October, November, December	February 28

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:785 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§6905. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. Exemption. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.6901.I, shall be exempted from the siting requirements in LAC 33:IX.6909.B and the facility closure requirements in Paragraph C.3 of this Section if the POTW prepares sewage sludge or a sewage sludge treatment facility is located within the POTW's perimeter.

B. Siting

1. Location Characteristics

a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.

b. Facilities that are not located within the boundaries of a legally zoned and established industrial park:

i. shall not be located less than 1,000 feet from an established school, hospital, institution, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment unless special permission is granted by the owner of the established school, hospital, institution, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot

buffer zone. However, in no case shall the facility be located less than 200 feet from any of the above establishments;

ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

c. Facilities shall not be located less than 300 feet from a private potable water supply or a private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.

d. Facilities shall not be located less than 300 feet from a public potable water supply or a public water supply elevated storage tank or ground storage tank unless special permission is granted by the Department of Health and Hospitals.

e. Untreated sewage sludge and/or supplement or feedstock material to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

f. Facilities that prepare or compost only sewage sludge or blend, mix, or compost sewage sludge and have only woodchips or yard waste (e.g., leaves, lawn clippings, or branches) as feedstock or supplements shall not be located closer than the greater of the following distances:

i. 1,200 feet from any aircraft's approach or departure airspace or *air operations area* as defined in LAC 33:IX.6901.I; or

ii. the distance called for by the U. S. Department of Transportation Federal Aviation Administration's airport design requirements.

g. Facilities that prepare sewage sludge that include food or other municipal solid waste as feedstock or supplements or prepare sewage sludge with grease that was pumped or removed from a food service facility shall not be located closer than:

i. 5,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircrafts; or

ii. 10,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircrafts or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircrafts.

h. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.

i. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a 3-foot depth below the surface, or the water table at the facility shall be controlled to a minimum of a 3-foot depth below this zone.

j. Storage and processing of sewage sludge or any material derived from sewage sludge is prohibited within any of the buffer zones indicated in Subparagraphs B.1.a-i of this Section.

k. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery

areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations.

1. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

m. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics

a. Perimeter Barriers, Security, and Signs

i. All facilities must have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

iii. During non-operating hours, each facility entry point shall be locked.

iv. All facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

c. Receiving and Monitoring Sewage Sludge, Other Feedstock, or Supplements Used

i. Each processing or treatment facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge or other feedstock or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of feedstock or supplements. The facility shall also be equipped with a device or method to control entry of sewage sludge, other feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

ii. Each processing or treatment facility shall be equipped with a central control and recordkeeping system for tabulating the information required in Clause B.2.c.i of this Section.

3. Facility Surface Hydrology

a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.

b. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

c. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology

a. Except as provided in Subparagraph B.4.c of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifer.

b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a registered engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of, and certified by, a registered engineer, licensed in the state of Louisiana.

6. Facility Administrative Procedures

a. Permit Modifications. Permit modifications shall be in accordance with the requirements of this Chapter.

b. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

C. Operations

1. Composters, Mixers, Blenders, and Preparers

a. Facility Operations and Maintenance Manual

i. A Facility Operations and Maintenance Manual shall be developed and forwarded with the permit application to the Office of Environmental Services, Water Permits Division.

ii. The Facility Operations and Maintenance Manual must describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of processing operations. At a minimum, the manual shall address the following:

- (a) site and project description;
- (b) regulatory interfaces;
- (c) process management plan;
- (d) pathogen treatment plan;
- (e) odor management plan;
- (f) worker health and safety management plan;
- (g) housekeeping and nuisance management plan;
- (h) emergency preparedness plan;
- (i) security, community relations, and public access plan;
- (j) regulated chemicals (list and location of regulated chemicals kept on-site);
- (k) recordkeeping procedures;
- (l) feedstock, supplements, and process management;
- (m) product distribution records;

- (n). operator certification; and
- (o). administration of the operations and maintenance manual.

iii. The Facility Operations and Maintenance Manual shall be kept on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

b. Facility Operational Standards

i. The facility must include a receiving area, mixing area, curing area, compost storage area for composting operations, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

ii. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge and thereby control litter and other pollution of adjoining areas.

iii. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

iv. Treatment facilities for washdown and contaminated water shall be provided or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

v. Leachate Management. Leachate produced in the composting process:

(a). must be collected and disposed off-site at a permitted facility; or

(b). must be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

(c). may be reused in the composting process as a source of moisture.

vi. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

vii. Odor Management

(a). The production of odor shall be minimized.

(b). Processed air and other sources of odor shall be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

viii. Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

2. Composters Only

a. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed in an approved solid waste facility.

b. Composted sewage sludge shall be used, sold, or disposed at a permitted disposal facility within 36 months of completion of the composting process.

3. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority in writing at least 90 days before closure or intent to close, seal, or abandon any individual unit within a facility and shall provide the following information:

i. date of planned closure;

ii. changes, if any, requested in the approved closure plan; and

iii. closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining sewage sludge or a material derived from sewage sludge, other feedstock, and supplements shall be removed to a permitted facility for disposal.

iii. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the requirements of Subparagraph C.3.c of this Section must be provided to the administrative authority.

c. Remediation/Removal Program

i. Surface liquids and sewage sludges containing free liquids shall be dewatered or removed.

ii. If a clean closure is achieved, there are no further post-closure requirements. The plan for clean closure must reflect a method for determining that all waste has been removed, and such a plan shall, at a minimum, include the following:

(a). identification (analysis) of the sewage sludge, other feedstock, and supplements that have entered the facility;

(b). selection of the indicator parameters to be sampled that are intrinsic to the sewage sludge, other feedstock, and supplements that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

(c). sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided;

(d). a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

(e). a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

(f). analyses to be sent to the Office of Environmental Services, Water Permits Division, confirming that the requirements of Subparagraph C.3.b of this Section have been satisfied;

(g). identification of the facility to be used for the disposal of the excavated waste; and

(h). a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Water Permits Division, before backfilling takes place. The administrative

authority will determine whether the facility has been closed properly.

iii. If sewage sludge or a material derived from sewage sludge or other feedstock and supplements used in the blending, composting, or mixing process remains at the facility, the closure and post-closure requirements for industrial (Type I) solid waste landfills or non-industrial landfills (Type II), as provided in LAC 33:Part VII, shall apply.

iv. If the permit holder demonstrates that removal of most of the sewage sludge or a material derived from sewage sludge or other feedstock and supplements to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure requirements.

(a). If levels of contamination at the time of closure meet residential standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Clause C.3.c.iv of this Section shall not apply.

(b). Excepting those sites closed in accordance with Subclause C.3.c.iv.(a) of this Section, within 90 days after a closure is completed, the permit holder must have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

v. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:

§6907. Financial Assurance Requirements for Commercial Preparers or Land Appliers of Sewage Sludge

A. - A.2. ...

a. Evidence of liability insurance may consist of either a signed duplicate original of a commercial preparer or land applier of sewage sludge liability endorsement, or a certificate of insurance. All liability endorsements and certificates of insurance must include:

2.a.i. - 5.a.i. ...

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

A.5.a.iii. - B.8.d. ...

i. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is

demonstrated through the use of financial tests, including the amount of liability coverage;

ii. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

iii. a list of the commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

iv. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

e. - i.i. ...

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana commercial preparer or land applier of sewage sludge rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

8.i.iv. - 12.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:

§6909. Pathogens and Vector Attraction Reduction

A. Scope. This Section contains the following:

1. ...

2. the site restrictions for land on which a Class B sewage sludge is applied; and

3. the alternative vector attraction reduction requirements for sewage sludge that is applied to the land.

B. Special Definitions. In addition to the terms referenced and defined at LAC 33:IX.6901.I, the following definitions apply to this Section.

* * *

C. Pathogens

1. Sewage Sludge—Exceptional Quality

a. - b. ...

c. Exceptional Quality—Alternative 1

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable

Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

c.ii. - d. ...

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - ii.(c). ...

e. Exceptional Quality—Alternative 3

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - iii.(d). ...

f. Exceptional Quality—Alternative 4

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. ...

iii. The density of viable helminth ova in the sewage sludge shall be less than one per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

g. Exceptional Quality—Alternative 5

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. ...

h. Exceptional Quality—Alternative 6

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

1.h.ii. - 2.e.v. ...

vi. Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the administrative authority.

vii. - viii. ...

3. Repealed.

a. Repealed.

b. Repealed.

D. - D.1.c. ...

d. Repealed.

2.a. - 2.j.ii. ...

k. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:806 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§6911. Incineration

A. - A.2. ...

B. Special Definitions. All terms not defined below shall have the meaning given them in LAC 33:IX.6901.I and in LAC 33:III.111.

* * *

C. - C.2.f. ...

3. In conducting the performance tests required in Paragraph C.2 of this Section, the owner or operator shall use as reference methods and procedures the test methods referenced in LAC 33:IX.6901.H or other methods and procedures as specified in this Section, except as provided for in Subparagraph C.2.b of this Section.

C.4.a. - D.6.b.iv. ...

v. samples of the sewage sludge charged to the incinerator shall be collected in nonporous jars at the beginning of each run and at approximately 1-hour intervals thereafter until the test ends, and "2540 G Total Fixed and Volatile Solids in Solid and Semisolid Samples" shall be used to determine dry sewage sludge content of each sample (total solids residue), except that:

D.6.v.(a). - I.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:809 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§6913. Standard Conditions Applicable to All Sewage Sludge (Biosolids) Use or Disposal Permits

A. General Conditions

1. Introduction. In accordance with the provisions of this Chapter all Sewage Sludge (Biosolids) Use or Disposal Permits shall incorporate either expressly or by reference all conditions and requirements applicable to the preparation and use or disposal of sewage sludge set forth in the Louisiana Environmental Quality Act, as amended, as well as all applicable regulations.

2. Duty to Comply. The permittee must comply with all conditions of an issued final permit. Any permit noncompliance constitutes a violation of the Louisiana Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Enforcement Actions

a. The department may take enforcement action as prescribed by state law or regulation against any person who:

i. fails to submit a permit application as required by law;

ii. knowingly makes any false statement, representation, or certification in any application, record, report, or other document filed with the department pursuant to the act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the act for perjury or false statements;

iii. fails to correct deficiencies in the permit application, or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

iv. fails to take any necessary action to complete the permit issuance, such as payment of fees or publication of required notices; or

v. fails to comply with any condition of the permit.

b. Exception. In cases where the permit application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services, Water Permits Division, stating that no sewage sludge use or disposal practice or other activity that would require a permit from the Office of Environmental Services, Water Permits Division, is currently taking place. Provided that the

application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under this Paragraph.

4. Toxic Pollutants

a. If any sewage sludge use or disposal standard or prohibition is promulgated under this Chapter or Section 405 of the Clean Water Act for a pathogen, pollutant, vector attraction reduction, management practice, etc., and that standard or prohibition is more stringent than any applicable requirement in an existing permit, the administrative authority shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the sewage sludge use or disposal standard or prohibition.

b. The permittee shall comply with sewage sludge use or disposal standards or prohibitions established under this Chapter within the time frame provided in the regulations that established these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Duty to Reapply for an Individual Permit. If the permittee wishes to continue an activity regulated by an existing permit after the expiration date of that permit, the permittee must apply for and obtain a new permit. The new application shall be submitted at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the administrative authority. (The administrative authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) A permit that was issued in accordance with these regulations and that has expired shall be administratively continued until such time as a decision on an application to continue an activity under the permit has been issued by the administrative authority, if the application was received by the department at least 180 days prior to the permit expiration.

6. Permit Action. The conditions set forth in LAC 33:IX.2903, 2905, 2907, 3105, and 6509 for cause for modification, revocation and reissuance, and for termination of a permit shall apply to permits issued in accordance with these regulations.

7. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information. The permittee shall furnish to the administrative authority, within a reasonable time, any information that the administrative authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the administrative authority, upon request, copies of records required to be kept by the permit.

9. State Laws. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.

10. Severability. If any provision of these regulations, or the application thereof, is held to be invalid, the remaining provisions of these regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these regulations are declared to be severable.

11. Draft Permits. The conditions set forth in LAC 33:IX.3107.A for draft permits shall also pertain to permits issued in accordance with these regulations.

12. Fact Sheet. A fact sheet shall be prepared for each draft permit issued in accordance with these regulations. The fact sheet shall include, but not be limited to, the following:

- a. the name of the applicant;
- b. the name of the facility;
- c. the address of the facility;
- d. the physical location of all facilities that are utilized to prepare sewage sludge or a material derived from sewage sludge;
- e. the physical location of all land application sites;
- f. general and management practices;
- g. soil and site restrictions;
- h. monitoring, sampling and analysis, and reporting requirements; and
- i. all other information that is pertinent to the facility and to the permitting process.

13. Public Notice and Public Comment Period. The conditions set forth in LAC 33:IX.3113 for public notices and the public comment period shall apply to all permits issued in accordance with these regulations.

14. Public Comments and Requests for Public Hearings. The conditions set forth in LAC 33:I.1505 and IX.3115 for public comments and requests for public hearings shall apply to all permits issued in accordance with these regulations.

15. Public Hearings. The conditions set forth in LAC 33:IX.3117 for public hearings shall apply to all permits issued in accordance with these regulations.

16. Obligations to Raise Issues and Provide Information during the Public Comment Period. The conditions set forth in LAC 33:IX.3119 for the obligations to raise issues and provide information during the public comment period shall apply to all permits issued in accordance with these regulations.

17. Reopening of the Public Comment Period. The conditions set forth in LAC 33:IX.3121 for reopening of the public comment period shall apply to all permits issued in accordance with these regulations.

18. Issuance of a Final Permit Decision. After the close of the public comment period under Paragraph A.13 of this Section on a draft permit, the administrative authority shall issue a final permit decision. The administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a Sewage Sludge (Biosolids) Use or Disposal Permit. For the purposes of this Section a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

19. Response to Comments. The conditions set forth in LAC 33:IX.3125 for responding to comments shall apply to all permits issued in accordance with these regulations.

B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any sewage sludge use or disposal practice in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying practice.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

b. The permittee shall provide an adequate operating staff that is duly qualified to carry out operation and maintenance and other functions necessary to ensure compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and Entry. The conditions set forth in LAC 33:IX.6513 for inspection and entry shall apply to all permits issued in accordance with these regulations.

2. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under LAC 33:IX.6901.H or, unless otherwise specified in 40 CFR Part 503, as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the sludge reporting form specified by the administrative authority.

3. Laboratory Accreditation

a. LAC 33:I.Chapters 45-59 provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

- i. submitted on behalf of any facility, as defined in R.S.30:2004;
- ii. required as part of any permit application;
- iii. required by order of the department;
- iv. required to be included on any monitoring report submitted to the department;
- v. required to be submitted by a contractor; or
- vi. otherwise required by department regulations.

b. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department. Retesting of analyses will be required by an accredited commercial laboratory. Where retesting is not possible, the data

generated will be considered invalid and in violation of the LPDES permit.

c. Regulations on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Assessment, Laboratory Services Division.

D. Reporting Requirements

1. Facility Changes. The permittee shall give notice to the Office of Environmental Services, Water Permits Division, as soon as possible of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services, Water Permits Division, of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers. A permit is not transferable to any person except after notice to the Office of Environmental Services, Water Permits Division. The administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act. Except as provided in LAC 33:IX.2901.A, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act.

4. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each schedule date.

5. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Paragraph D.4 of this Section at the time monitoring reports are submitted.

6. Other Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the administrative authority, it shall promptly submit such facts or information.

7. Signatory Requirements. All applications, reports, or information submitted to the administrative authority shall be signed and certified.

a. All permit applications shall be signed as follows:

i. for a corporation—by a responsible corporate officer. For the purpose of this Section, a *responsible corporate officer* means:

(a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation. These responsible corporate officers are presumed to have the authority to sign permit applications unless the corporation has notified the administrative authority to the contrary; or

(b) the manager of one or more manufacturing, production, or operating facilities, provided the manager is

authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals;

ii. for a partnership or sole proprietorship—by a general partner or the proprietor, respectively; or

iii. for a municipality, state, federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this Paragraph, a principal executive officer of a federal agency includes:

(a) the chief executive officer of the agency; or

(b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

b. All reports required by permits and other information requested by the administrative authority shall be signed by a person described in Subparagraph D.7.a of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i. the authorization is made in writing by a person described in Subparagraph D.7.a of this Section;

ii. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and

iii. the written authorization is submitted to the administrative authority.

c. Changes to Authorization. If an authorization under Subparagraph D.7.b of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Subparagraph D.7.b of this Section must be submitted to the administrative authority prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under the provisions of Subparagraph D.7.a or b of this Section, shall make the following certification.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the

best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8. Availability of Reports. All recorded information (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 2074(D) and designated as such in accordance with LAC 33:IX.2323.A and C and LAC 33:IX.6503 shall be made available to the public for inspection and copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq. Claims of confidentiality for the following will be denied:

- a. the name and address of any permit applicant or permittee;
- b. permit applications, permits, and effluent data;
- c. information required by the Sewage Sludge (Biosolids) Use or Disposal Permit Application forms provided by the administrative authority. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 71. Appendices

§7135. Appendix R—Financial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE
LIABILITY ENDORSEMENT
* * *

[See Prior Text in Liability Endorsement]

Document 2. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CERTIFICATE OF LIABILITY INSURANCE
* * *

[See Prior Text in Certificate of Liability Insurance]

Document 3. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT
* * *

[See Prior Text in Irrevocable Letter of Credit]

(A). A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the commercial preparer or land applier of sewage sludge site at the [name of permit holder or applicant] at [site location] as set forth in the Louisiana Administrative Code (LAC), Title 33, Part IX.6907.A.

* * *

[See Prior Text in Irrevocable Letter of Credit]

Document 4. Trust Agreement

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY

TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement (the "Agreement") is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a commercial preparer or land applier of sewage sludge processing facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

* * *

[See Prior Text in Trust Agreement]

Document 5. Surety Bond

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
FINANCIAL GUARANTEE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]

[agency interest number, site name, facility name, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code* (LAC), Title 33, Part IX.6907, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:IX.6907.B and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety,

THEN, this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety has received written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Financial Guarantee Bond]

Document 6. Performance Bond

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
PERFORMANCE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]

[agency interest number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s)]

for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons by These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in Louisiana Administrative Code (LAC), Title 33, Part IX.6907.B and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:IX.6905.C.3, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of the LAC 33:IX.6905.C.3, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance, as

specified in LAC 33:IX.6907.B, and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Facility Performance Bond]

Document 7. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

* * *

[See Prior Text in Irrevocable Letter of Credit]

Document 8. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR
POST-CLOSURE CARE

* * *

[See Prior Text in Certificate of Insurance]

Document 9. Letter from the Chief Financial Officer

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
LETTER FROM THE CHIEF FINANCIAL OFFICER
(LIABILITY COVERAGE, CLOSURE, AND/OR
POST-CLOSURE)

* * *

[See Prior Text in Letter]

(A). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:IX.6907.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

(B). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is demonstrated through a financial test similar to that specified in LAC 33:IX.6907.B or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

(C). This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:IX.6907.B" or "LAC 33:IX.6907.A and B"], [insert "liability coverage," "closure," "post-closure," or "closure and post-closure"] care of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

(D). This firm is the owner or operator of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:IX.6907.A and/or B. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

* * *

[See Prior Text in Letter]

Document 10. Corporate Guarantee

COMMERCIAL PREPARER OR LAND APPLIER OF
SEWAGE SLUDGE FACILITY
CORPORATE GUARANTEE FOR LIABILITY COVERAGE,
CLOSURE, AND/OR POST-CLOSURE CARE

* * *

[See Prior Text in Corporate Guarantee]

(B). [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following commercial preparer or land applier of sewage sludge facility covered by this guarantee: [List the agency interest number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs (C) and (D) below if the guarantee is for closure and/or post-closure.]

* * *

[See Prior Text in Corporate Guarantee]

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 Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 33:

Mike D. McDaniel, Ph.D.
Secretary

0702#012

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Protective Helmets and Safety Vests (LAC 35:I.309)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective February 17, 2007 (extending the Emergency Rule status), and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to require safety vests for all persons while riding a horse on the racetrack proper. The practice is currently in place but the requirement for wearing a safety vest is only applicable to jockeys. The amendment makes the requirement applicable to all persons riding a horse, including exercise riders.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 3. General Rules

§309. Protective Helmets and Safety Vests

A. All persons exercising or schooling horses are compelled to wear protective helmets recommended by the stewards and approved by the commission, and a safety vest designed to provide shock-absorbing protection to the upper body, as evidenced by a label with a rating of five, by the British Equestrian Trade Association. This shall also apply to association outriders and pony riders in post parade. Anyone failing to comply with this requirement may be fined or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), amended LR 3:19 (January 1977), LR 4:271 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

Charles A. Gardiner III
Executive Director

0702#019

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Triple Play (LAC 35:XIII.11515 and 11517)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule

effective February 9, 2007, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 115. Triple Play

§11515. Scratches and Nonstarters

A. In the event a triple play ticket designates a selection in any one or more of the races comprising the triple play and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, prior to the official start of the first leg, all tickets designating that horse shall be refunded and the money deducted from the pool.

B. In the event the scratch was made in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with a betting interest scratched in the second leg. The breakage shall not be deducted from the pool.

C. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with an betting interest scratched in the third leg. The breakage shall not be deducted from the pool.

D. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: from the gross pool shall be deducted the takeout and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other betting interests (less breakage) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratched betting interests from both the second and third legs. The breakage shall not be deducted from the pool.

E. If all three legs of the triple play are cancelled or declared "no contest," the entire pool shall be refunded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

§11517. Dead Heats

A. In the event of a dead heat for win between two or more horses in any triple play race, all the horses in the dead heat for win shall be considered as official winning horses in the race for the purpose of calculating the pool and payoffs. There shall be a separate payoff price, per dollar calculated, for each winning combination as follows: from the gross pool is deducted the takeout, consolation payoff amounts, if any, and amounts wagered on all winning combinations. The balance shall be divided by the number of different winning combinations upon which bets were sold, each resulting allocated part being assigned to each respective winning combination. An allocated part plus the amounts bet on each winning combination when divided by the amount bet on each winning combination (less breakage) shall be the resulting payoff per dollar per respective winning combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

Charles A. Gardiner III
Executive Director

0702#021

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Total Dissolved Carbon Dioxide Testing (LAC 35:I.1720)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective February 17, 2007 (extending the Emergency Rule status), and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to correct the penalty phase of the current Rule. Currently, penalties for violations of the total dissolved carbon dioxide Rule are applicable only for positive tests discovered through post-race analysis. The amendment allows for violators to be sanctioned where analysis reveals a positive, both from post- and pre-race analysis. Additionally, this action adds the penalty of a redistributed purse to a second offense.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1720. Total Dissolved Carbon Dioxide Testing

A. - B3. ...

4. In the event a sample drawn from a horse contains an amount of TCO₂ which exceeds the levels described above, the following penalties shall apply.

a. ...

b. The second time the laboratory reports an excessive TCO₂ level, the stewards shall suspend the trainer for the duration of the race meeting plus ten days or for a period not to exceed six months, whichever is greater, the purse shall be redistributed and the case referred to the commission.

4.c. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission LR 26:1992 (September 2000), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:1221 (July 2006), LR 33:

Charles A. Gardiner III
Executive Director

0702#020

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Financial Institutions**

Louisiana International Banking
(LAC 10:III.1101-1105)

Editor's Note: This Emergency Rule is being repromulgated due to an error upon submission. The original Emergency Rule may be viewed on page 2212 of the December 2006 edition of the *Louisiana Register*.

The Office of Financial Institutions, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following Emergency Rule of the International Banking Statutes as authorized by R.S. 6:551.7 and 6:551.24. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective January 11, 2007 and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Office of Financial Institutions has found an immediate need, since no such rules exist at this time, to provide rules for the establishment of fees and assessments to ensure that the costs of regulation of international banking activities in Louisiana are adequately recaptured. Without this Emergency Rule the public welfare may be harmed as a result of the inability for international banks to establish facilities to engage in activities that could enhance economic growth in Louisiana. The failure to adopt this Rule may impede economic development in Louisiana that could improve the standard of living and enrich the quality of life for citizens of this state.

The Office of Financial Institutions is re-adopting this emergency provision, as the previous publishing of the Emergency Rule was not properly presented for oversight review as required by R.S. 49:953(B).

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part III. Banks

Chapter 11 Louisiana International Banking

§1101. General Provisions

The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered depository institutions for services rendered. All fees detailed in this Rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege will not be afforded to applications that will not be expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1103. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:551.7 and 6:551.24, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the International Banking Statutes, R.S. 6:551.1 et seq.

Description	Fee
A. Application for a foreign bank, bank holding company, or financial holding company, to establish and operate a subsidiary bank in Louisiana.	\$10,000
B. Application for a foreign bank to establish and operate a branch, an international banking facility, a representative office, or an agency in Louisiana.	\$2,000
C. Application for a U.S. bank or foreign bank to organize or acquire a subsidiary to engage in international banking activities specifically authorized in the Edge Act or to operate as an agreement corporation.	\$2,000
D. Application for a foreign bank to establish and operate an administrative office in Louisiana.	\$1,000
E. Examination fee for each foreign bank, branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary operating in Louisiana. Fee per examiner.	\$50 per hour
F. Examination fee for each branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary of an out-of-state foreign bank. This fee shall be billed to the primary state regulator of the out-of-state foreign bank being examined, and due upon receipt of the OFI invoice.	The greater of \$50 per hour per examiner or the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1105. Administration

A. The commissioner may increase any of the fees in §1103 when a combination of two or more of the transactions described in that Section occur, said fee not to exceed the lesser of \$50 per hour, or the combined fees as stated above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

John Ducrest, CPA
Commissioner

0702#001

DECLARATION OF EMERGENCY

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

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compiled the previously promulgated Rules governing the CommunityCARE Program to establish LAC 50:I.Chapter 29 (*Louisiana Register*, Volume 29, Number 6). The CommunityCARE Program provides a medical home for designated Medicaid recipients by linking the recipient to a primary care provider selected by the recipient. The bureau promulgated an Emergency Rule to amend the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 32, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2006 Emergency Rule. This action is being taken to enhance federal revenue.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. Effective February 28, 2007, a supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's

participation in the Louisiana Immunization Network for Kids Statewide (LINKS) and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

2. The supplemental payment will be issued on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to 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

0702#063

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment
Dental Program Reimbursement Rate Increase
(LAC 50:XV.6901-6905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.6903 and to adopt §6905 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 provides coverage and reimbursement of dental services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay (*Louisiana Register*, Volume 29, Number 2). Additional funds were allocated by the Legislature during the 2003 and 2004 Regular Sessions and the bureau subsequently increased the reimbursement rate for certain dental procedures and established coverage for additional procedures (*Louisiana Register*, Volume 30, Number 2 and Volume 31, Number 3). As a result of the allocation of additional funds by the legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule to increase the reimbursement fees for

certain dental procedures and establish coverage for additional procedures (*Louisiana Register*, Volume 32, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2006 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental

§6901. General Provisions

A. Medicaid recipients who are under 21 years of age are eligible to receive services covered by the EPSDT Dental Program.

B. Provider Participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

C. Prior authorization is required for certain dental services covered in the EPSDT Dental Program. Services requiring prior authorization are identified in the Dental Services Manual, EPSDT Dental Program Fee Schedule.

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 33:

§6903. Covered Services

A. Effective March 2, 2007, the following dental procedures are reimbursed at the state's established fee schedule:

1. prefabricated stainless steel crown with resin window; and

2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:

§6905. Reimbursement

A. Services covered in the EPSDT Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or

2. the state's established schedule of fees minus any third party coverage.

B. The EPSDT Program Dental Fee Schedule is available in the Dental Services Manual.

C. Effective for dates of service on and after November 1, 2006, the reimbursement fees for:

1. comprehensive orthodontic treatment services shall be increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate; and

2. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

D. The following dental services will be excluded from the rate increase:

1. complete denture, maxillary;
2. complete denture, mandibular;
3. immediate denture, maxillary;
4. immediate denture, mandibular;
5. maxillary partial denture, resin base (including clasps);
6. mandibular partial denture, resin base (including clasps);
7. reline complete maxillary denture (laboratory);
8. reline complete mandibular denture (laboratory);
9. reline maxillary partial denture (laboratory);
10. reline mandibular partial denture (laboratory);
11. hospital call; and
12. behavior management, by report.

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 33:

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

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

0702#064

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis, and Treatment
Personal Care Services
Personal Care Workers Wage Pass-Through
(LAC 50:XV.7321)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.7321 under 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 adopted provisions governing the reimbursement methodology for personal care services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (*Louisiana Register*, Volume 28, Number 2). This Emergency Rule is being promulgated to amend the provisions of the February 20, 2003 Rule governing the reimbursement methodology for personal care services in the EPSDT Program to implement an hourly wage pass-through payment to providers for personal care workers.

This action is being taken to promote the health and well-being of Medicaid recipients by assuring continued access to services through assisting providers to recruit and retain sufficient personal care workers. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$591,322 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for personal care services in the EPSDT Program to implement a wage pass-through payment to providers for personal care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7321. Reimbursement

A. ...

B. Personal Care Workers Wage Pass-Through.

1. Effective February 9, 2007, an hourly wage pass-through payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage pass-through shall be paid to personal care workers as wages. If less than 100 percent of the pass-through is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage pass-through.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage pass-through has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage pass-through.

6. Audit procedures shall be established by the department to verify the wage-pass through payments reimbursed to providers.

7. Noncompliance or failure to demonstrate that the wage pass-through was paid directly to personal care workers may result in:

a. forfeiture of eligibility for wage pass-through payments;

b. recoupment of previous wage pass-through payments;

c. Medicaid fraud charges; and

d. loss of provider license.

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 29:179 (February 2003), amended LR 33:

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

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

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

0702#031

DECLARATION OF EMERGENCY

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

Hospital Services—Inpatient Hospitals—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 an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high

uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department now proposes to amend the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule. This action is being taken to enhance federal revenue.

Effective February 21, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the October 23, 2006 Emergency Rule 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.

4. Qualification is based on the hospital's latest filed cost report 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.

C. 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 33:

§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

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.2.a-h; or

6. effective June 28, 2006, be a public community hospital as defined in §305.A.; or

7. effective June 28, 2006, be a private community hospital as defined in §307.A.; or

8. effective September 15, 2006, be a non-rural community hospital as defined in §308.A.; and

9. 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 33:

§305. Public Community Hospitals

A. Definitions

Public Community Hospital—a hospital owned by a parish, city, or other local government instrumentality that does not qualify as a small rural hospital.

Uncompensated Care Costs—Net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer

payments and all other inpatient and outpatient payments received from patients.

B. DSH payments to a public community hospital shall be calculated as follows.

1. Each qualifying public community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital may be more or less than the federal share so claimed.

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. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

D. 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 33:

§307. Private Community Hospitals

A. Definitions

Community Hospital—a private hospital that is not a small rural hospital which provided services to uninsured evacuees during the period February 1, 2006 through June 30, 2006.

Evacuee—a Louisiana citizen who resided in one of the mandatory evacuated parishes for Hurricane Katrina on August 24, 2005 or Hurricane Rita on September 23, 2005.

Mandatory Evacuated Parish or Area—a parish or a designated area of a parish for which a mandatory evacuation order was issued for Hurricane Katrina or Hurricane Rita. The parishes and designated areas include:

- a. the mandatory evacuated parishes and designated areas for Hurricane Katrina include:
 - i. Orleans Parish;
 - ii. Jefferson Parish;
 - iii. St. Bernard Parish;
 - iv. Plaquemines Parish;
 - v. Assumption Parish;
 - vi. St. John Parish;
 - vii. St. Charles Parish;
 - viii. Lafourche Parish;
 - ix. Terrebonne Parish;
 - x. St. James Parish [south of Vacherie past LA Highway 20 and LA Highway 3127 and part of Paulina

(Grand Point) past LA Highway 642 and LA Highway 3125, (zip codes 70090 and 70763)];

xi. St. Tammany Parish [all areas south of Interstate 12 including Slidell, Lacombe, Mandeville, and Covington, (zip codes 70458, 70461, 70445, 70471, 70448, 70447, 70433, and 70435)];

xii. Tangipahoa Parish [areas south of LA Highway 22 including Akers, Bedico and Lee's Landing, (zip codes 70454 and 70421)];

xiii. St. Mary Parish [Cypremont Point, (zip code 70538) and Burns (zip code 70522)]; and

xiv. Iberia Parish [areas south of LA Highway 90 and down LA Highway 14 including Delcambre, (zip codes 70560 and 70528)].

b. The mandatory evacuated parishes and designated areas for Hurricane Rita include:

i. Calcasieu Parish;

ii. Cameron Parish;

iii. Jefferson Davis Parish;

iv. Plaquemines Parish;

v. Acadia Parish (areas south of LA Highway 92);

vi. Jefferson Parish (Lafitte, Crown Point, Barataria and Grand Isle);

vii. Iberia Parish (Delcambre and areas south of LA Highway 90);

viii. Lafourche Parish (south of Leon Theriot Floodgate and the lower portion of Pointe-Aux-Chenes);

ix. St. Mary Parish (all areas south of the Intercoastal Canal including Cypremont Point, Burns, Four Corners, and Louisa);

x. Terrebonne Parish (Grand Caillou/Dulac, Bayou du Large/Theriot, Pointe-Aux-Chenes and from the Montegut Fire Station south); and

xi. Vermilion Parish [south of LA Highway 14 between Cameron Parish line and LA Highway 335, south of La 335, below Kaplan and Abbeville; south of Jacqueline Street in Abbeville and back to LA Highway 14 (near Erath and Delcambre), and all mobile homes south of LA Highway 14].

Uncompensated Care Costs—Net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Uninsured—A person having no health insurance or sources of third party payment for services provided.

B. DSH payments to a private community hospital shall be calculated as follows.

1. Payment for allowable evacuee uninsured services shall be calculated by multiplying each qualifying hospital's allowable uninsured evacuee charges by its hospital specific cost-to-charge ratio as determined by the department. DSH payments to each qualifying community hospital shall not exceed the hospital specific net uncompensated care costs for the state fiscal year.

C. Hospitals shall submit supporting evacuee uninsured patient specific data for hospital services provided from February 1, 2006 through June 30, 2006 in a format specified by the department. The deadline for submission of all payment requests is October 18, 2006. Submitted

uninsured patient data shall be subject to verification by the department before DSH payments are made.

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. 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. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

E. Aggregate DSH payments for qualifying community hospitals shall be limited to the state DSH appropriated amount for community hospitals. In the event that aggregate allowable uninsured evacuee costs for community hospitals exceeds the state appropriated amount, each qualifying hospital's payment shall be calculated as follows:

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

2. multiplying by the state DSH-appropriated amount for community hospitals.

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 33:

§308. Non-Rural Community Hospitals—SFY 2007

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1st may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. DSH payments to private, non-rural community hospitals located in Orleans, Jefferson, Calcasieu and Cameron Parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured costs.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. DSH payments to private, non-rural community hospitals located in all other parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from January 1, 2006 through June 30, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is October 31, 2006. The second payment to hospitals will be based on patient specific data for dates of service from July 1, 2006 through December 31, 2006. The deadline for submission of data used to calculate final payment is by March 31, 2007. Qualification for both payments is determined from the patient specific data for dates of services from January 1, 2006 through June 30, 2006.

1. Hospitals that were non-operational due to Hurricane Katrina and became operational between July 1, 2006 through December 31, 2006, the patient specific data

during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

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 33:

§309. Federally Mandated Statutory Hospitals Not Included In Any Other Group

A. Definition

Federally Mandated Statutory Hospital Not Included In Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii and is not included in any other qualifying group.

B. DSH payments to individual federally mandated statutory 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 hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying 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 the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by the state disproportionate share appropriated amount for this pool of hospitals.

D. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; 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 33:

§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

i. met the qualifications of a sole community hospital as of June 30, 2005 and subsequently converts to critical access hospital status; 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 is located:

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

- ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and
- iii. within 10 miles of a United States military base; or
- j. has no more than 60 hospital beds as of September 26, 2002 and is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and
 - ii. 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 is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and
 - ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or
 - l. has no more than 40 hospital beds as of January 1, 2005, and is located:
 - i. in a municipality with a population of less than 3,100; and
 - ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

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

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 which are owned by a local government.

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

C. Payment to hospitals included in §311.B.1-2. 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.1-6 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 is disbursed by the department for the state fiscal year. 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.2. 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 33:

§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 100 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, 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; then
- 2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

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 33:

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

Interested persons may submit written comments to Jerry Phillips at 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

0702#066

DECLARATION OF EMERGENCY

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

Intermediate Care Facilities for the Mentally Retarded
Direct Service Professionals Wage Enhancement
(LAC 50:VII.32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.32903 under 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 adopted provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded (ICFs/MR) that included the Inventory for Client and Agency Planning (ICAP) instruments (*Louisiana Register*, Volume 31, Number 9).

This Emergency Rule is being promulgated to amend the provisions of the September 20, 2005 Rule governing the reimbursement methodology for ICFs/MR by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the facility. It is the intent that this wage enhancement be paid to the direct care staff.

This action is being taken to prevent imminent peril to the health and well-being of ICFs/MR residents by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$6,566,104 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing amends the provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement

Subchapter A. Reimbursement Methodology

§32903. Rate Determination

A. - D.1.d. Table ...

e. Direct Service Provider Wage Pass-Through. For dates of service on or after February 9, 2007, the direct care reimbursement in the amount of \$2 per hour to ICF-MR providers shall include a direct care service worker wage enhancement incentive. It is the intent that this wage enhancement be paid to the direct staff. Noncompliance with the wage enhancement shall be subject to recoupment.

i. At least 75 percent of the wage pass-through shall be paid to the direct support professional and 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

ii. The wage enhancement will be added on to the current ICAP rate methodology as follows:

(a) Per diem rates for recipients residing in 1-8 bed facilities will increase \$16.00;

(b) Per diem rates for recipients residing in 9-16 bed facilities will increase \$15.00; and

(c) Per diem rates for recipients residing in 16+ bed facilities will increase \$8.00;

D.2. - H.2. ...

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 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005), amended LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to 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

0702#033

DECLARATION OF EMERGENCY

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

Nursing Facilities—Direct Support Professionals Wage Enhancement (LAC 50:VII.1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.1305 under 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 adopted a Rule to establish a prospective payment system for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 8). The August 20, 2002 Rule was subsequently amended to adopt provisions governing a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12). This Emergency Rule is being promulgated to amend the provisions of the December 20, 2006 Rule governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility. It is the intent that this wage enhancement be paid to the direct care staff.

This action is being taken to promote the health and well-being of nursing facility residents by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$11,476,836 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - D.1.h.Example ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care rate will be increased by a \$4.70 wage enhancement prior to the case-mix adjustment for direct care staff. The \$4.70 wage enhancement will be included in the direct care component

of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1474 (June 2002), repromulgated LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:

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

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

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

0702#026

DECLARATION OF EMERGENCY

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

Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.11101-11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.11101-11103 under 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 clarified the provisions governing the Nurse Family Partnership (NFP) Program by adopting all existing Rules in codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5). The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain Department of Health and Hospitals (DHH) administrative regions. The bureau amended the May 20, 2004 Rule to expand the DHH administrative regions served and to amend the eligibility criteria and staffing qualifications (*Louisiana Register*, Volume 31, Number 8). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau amended the August 20, 2005 Rule to clarify that the

first-time mother continues to be the focus of the NFP Program after the birth of the child (*Louisiana Register*, Volume 32, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective March 19, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule addressing the program description and recipient qualifications in the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

§11103. Recipient Qualifications

A. A Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

A.1. - B.3. ...

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

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

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

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

0702#065

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waiver
Adult Day Health Care
Direct Service Professionals Wage Enhancement
(LAC 50:XXI.3109)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends LAC 50:XXI.3109 under 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, Office of Aging and Adult Services adopted provisions governing the reimbursement methodology for the Adult Day Health Care (ADHC) Waiver (*Louisiana Register*, Volume 30, Number 9). This Emergency Rule is being promulgated to amend the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the ADHC Waiver by increasing reimbursement to providers to implement a wage enhancement for direct care staff. It is the intent that the wage enhancement be paid to the direct care staff.

This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the ADHC Waiver Program by approximately \$42,356 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions governing the reimbursement methodology for the Adult Day Health Care Waiver by increasing reimbursement to providers to implement a wage pass-through payment for direct care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 31. Reimbursement

Subchapter A. Prospective Payment System

§3109. Provider Reimbursement

A. - B.7.a. ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care price will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

B.7.b. - B.8.b ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2048 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

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

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

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

0702#027

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice
Direct Support Professionals Wage Pass-Through
(LAC 50:XXI.12101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 under 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 adopted provisions governing the reimbursement methodology for the Children's Choice Waiver (*Louisiana Register*, Volume 28, Number 9). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities is promulgating this Emergency Rule to amend the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the Children's Choice Waiver to implement an hourly wage pass-through payment to providers for direct care staff.

This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the Children's Choice Waiver Program by approximately \$334,222 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with

Developmental Disabilities amends the provisions governing the reimbursement methodology for the Children's Choice Waiver to implement a wage pass-through payment to providers for direct support professionals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children's Choice

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - B.4. ...

5. Direct Support Professionals Wage Pass-Through.

a. Effective February 9, 2007, an hourly wage pass-through payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Family Support Services to Medicaid home and community-based waiver services recipients.

i. At least 75 percent of the wage pass-through shall be paid to personal care workers as wages. If less than 100 percent of the pass-through is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

ii. The minimum hourly rate paid to direct support professionals shall be the current minimum wage plus 75 percent of the wage pass through.

b. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

i. gross wage paid to the direct support professional(s);

ii. total number of direct support hours worked; and

iii. the amount paid in employee benefits.

c. A separate report shall be submitted for paid overtime.

d. The provider shall submit quarterly wage reports that verify that the 75 percent wage pass-through has been paid to the appropriate staff.

e. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage pass-through.

f. Audit procedures shall be established by the department to verify the wage-pass through payments reimbursed to providers.

g. Noncompliance or failure to demonstrate that the wage pass-through was paid directly to direct support professionals may result in:

i. forfeiture of eligibility for wage pass-through payments;

ii. recoupment of previous wage pass-through payments;

iii. Medicaid fraud charges; and

iv. loss of provider license.

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 28:1987 (September 2002), amended LR 33:

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 Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0702#028

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver Direct Support Professionals Wage Pass-Through (LAC 50:XXI.14101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14101 under 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 Community Supports and Services implemented a home and community-based services waiver, the New Opportunities Waiver (NOW), to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities is promulgating this Emergency Rule to amend the provisions of the June 20, 2004 Rule governing the reimbursement methodology for the New Opportunities Waiver to implement an hourly wage pass-through payment to providers for direct care staff.

This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$12,125,968 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the New Opportunities

Waiver to implement a wage pass-through payment to providers for direct support professionals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Direct Support Professionals Wage Pass-Through

1. Effective February 9, 2007, an hourly wage pass-through payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Individual and Family Support Services to Medicaid home and community-based waiver services recipients.

a. At least 75 percent of the wage pass-through shall be paid to personal care workers as wages. If less than 100 percent of the pass-through is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to direct support professionals shall be the current minimum wage plus 75 percent of the wage pass through.

2. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage pass-through has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage pass-through.

6. Audit procedures shall be established by the department to verify the wage-pass through payments reimbursed to providers.

7. Noncompliance or failure to demonstrate that the wage pass-through was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage pass-through payments;

b. recoupment of previous wage pass-through payments;

c. Medicaid fraud charges; and

d. loss of provider license.

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 Community Supports and Services, LR 30:1209 (June 2004), amended LR 33:

Implementation of the provisions of this Emergency 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 Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0702#030

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Elderly and Disabled Adults Waiver
Direct Service Professionals Wage Pass-Through
(LAC 50:XXI.Chapter 91)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services adopts LAC 50:XXI.Chapter 91 under 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 adopted provisions governing the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 28, Number 9). This Emergency Rule is being promulgated to adopt a reimbursement methodology for the EDA Waiver and provisions to implement an hourly wage pass-through payment to providers for direct care staff.

This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff. It is estimated that implementation of this Emergency Rule will increase expenditures in the EDA Waiver Program by approximately \$1,946,766 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services adopts the provisions governing the reimbursement methodology for the Elderly and Disabled Adults Waiver to implement a wage pass-through for direct support professionals.

Title 50

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

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 91. Reimbursement

§9101. Reimbursement Methodology

A. Reimbursement for EDA Waiver services shall be a prospective flat rate for each approved unit of service provided to the recipient.

B. Direct Support Professionals Wage Pass-Through

1. Effective February 9, 2007, an hourly wage pass-through payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide home and community-based waiver services to Medicaid recipients. Direct support professionals are persons who deliver direct care services such as assistance with the activities of daily living.

a. At least 75 percent of the wage pass-through shall be paid to the direct support professionals as wages. If less than 100 percent of the pass-through is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to direct support professionals shall be the current minimum wage plus 75 percent of the wage pass through.

2. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage pass-through has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage pass-through.

6. Audit procedures shall be established by the department to verify the wage-pass through payments reimbursed to providers.

7. Noncompliance or failure to demonstrate that the wage pass-through was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage pass-through payments;

b. recoupment of previous wage pass-through payments;

c. Medicaid fraud charges; and

d. loss of provider license.

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, Office of Aging and Adult Services, LR 33:

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

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

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

0702#029

DECLARATION OF EMERGENCY

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

Personal Care Services—Long Term Personal Care Workers Wage Pass-Through (LAC 50:XV.12917)

The Department of Health and Hospitals, Office of the Secretary, Office Of Aging and Adult Services amends LAC 50:XV.12917 under 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 adopted provisions governing the coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services is promulgating this Emergency Rule to amend the provisions of the June 20, 2003 Rule governing the reimbursement methodology for personal care services to implement an hourly wage pass-through payment to providers for personal care workers.

This action is being taken to promote the health and well-being of Medicaid recipients by assuring continued access to services through assisting providers to recruit and retain sufficient personal care workers. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$4,051,964 for state fiscal year 2006-2007.

Effective February 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for personal care services to implement a wage pass-through payment to providers for personal care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12917. Reimbursement Methodology

A. ...

B. Personal Care Workers Wage Pass-Through

1. Effective February 9, 2007, an hourly wage pass-through payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage pass-through shall be paid to personal care workers as wages. If less than 100 percent of the pass-through is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage pass-through.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- gross wage paid to the personal care worker(s);
- total number of personal care hours worked; and
- the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage pass-through has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage pass-through.

6. Audit procedures shall be established by the department to verify the wage-pass through payments reimbursed to providers.

7. Noncompliance or failure to demonstrate that the wage pass-through was paid directly to personal care workers may result in:

- forfeiture of eligibility for wage pass-through payments;
- recoupment of previous wage pass-through payments;
- Medicaid fraud charges; and
- loss of provider license.

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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to

inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0702#032

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Louisiana State Uniform Construction Code
(LAC 55:VI.905)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature, January 29, 2007, by the authorized representative of the Louisiana State Uniform Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. This new code went into effect statewide on January 1, 2007. The Louisiana State Uniform Construction Code Council ("Council") promulgated rules in order to help clarify the building code officer registration process and the provisional registration periods for code enforcement officers. The Council instituted, in the regular rulemaking process, a rule pertaining to the qualifications for third party providers to register with the Council on a provisional basis, however, the House Commerce Committee rejected that particular Rule which resulted in no Rule currently being in place. Immediately adopting this Rule will greatly improve the facilitation of the intent of this legislation in mandating a statewide uniform construction code in allowing third party providers to provisionally register with the Council.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

§905. Third Party Providers.

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization for their specialty work only. For purposes of this section, specialty work shall be designated as follows: Architects—building; Civil engineers—building; Electrical engineers—electrical; Mechanical engineer—plumbing, fuel gas, and mechanical. This provisional certificate shall expire on December 31,

2007. Thereafter, any third party provider renewing this Certification of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:

Jill Boudreaux
Acting Undersecretary

0702#017

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Issuance and Cancellation of a Lien; Fees
(LAC 61:I.5302)

Under the authority of R.S. 47:1511, R.S. 47:1577, R.S. 47:295, and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, issues an Emergency Rule to amend LAC 61:I.5302, relative to the release of property subject to a lien and to offers in compromise. This Emergency Rule shall be effective February 1, 2007, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever occurs first.

With respect to release of a lien, the amendment conforms the language in the regulation to the language in R.S. 47:1578(B)(3), as amended by Act 56 of the 2004 Regular Legislative Session to clarify that the secretary is authorized to release any part of the property subject to the recorded lien when it is determined that the state's interest in the part to be released has no value.

Louisiana Revised Statutes 47:1578 and 47:295 allow the secretary to compromise certain judgments for taxes as well as to waive, reduce, or compromise individual income tax, penalties, interest, or other amounts. This Emergency Rule is necessary to allow the Department of Revenue to inform taxpayers and their representatives that the secretary will only accept one offer from a taxpayer in a 10-year period and that a nonrefundable payment of at least 10 percent of the amount offered must accompany the offer in compromise application. A delay in adopting this rule could have an adverse impact on the taxpayers who are unaware of the recent changes implemented for the offer in compromise program.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - C.3. ...

4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the interest of the state of Louisiana in the part of the property to

be released or the secretary determines that the interest of the state of Louisiana in the part to be released has no value. This provision is subject to approval by the Board of Tax Appeals.

D. - E. ...

F. Offers in Compromise

1. The secretary will only accept one offer from any applicant in a 10-year period.

2. A nonrefundable payment of at least 10 percent of the amount offered must accompany an Offer in Compromise application.

G. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004), amended LR 33:

Cynthia Bridges
Secretary

0702#003

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, has exercised the emergency provisions of the Administrative Procedure Act. R.S. 49:953(B) to amend LAC 67:V., Subpart 4, Family Services, Chapter 23, Daycare, effective February 12, 2007. This Emergency Rule shall remain in effect for a period of 120 days.

Emergency action is necessary in this matter in order to provide an increase in the maximum reimbursement rates to Class A Day Care Centers to bring the Office of Community Services reimbursement rates for day care services to the department level for these services.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 4. Family Services

Chapter 23. Daycare

§2301. Daycare Services

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of Family Support Child Care Assistance Program. When a

center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:

Ann Silverberg Williamson
Secretary

0702#062

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Earned Income Tax Credit and Tax Assistance Program
for Filers without Children (LAC 67:III.Chapter 58)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children. This rule, effective March 1, 2007, shall remain in effect for a period of 120 days.

Pursuant to Executive Order KBB 2005-17, Section 2C, the agency shall adopt Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers without Children, to provide a tax filing service offered free of charge to low-income taxpayers. This program serves EITC filers who are not TANF-eligible.

The authorization for emergency action in this matter is by the Solutions to Poverty Network Council, created by Executive Order KBB 2005-17. The federal Earned Income Tax Credit (EITC), a tax credit for low-income individuals and families whose income derives from employment, is the nation's largest anti-poverty program. Over 10 percent of low-income filers in Louisiana who qualify for EITC do not claim it due to lack of awareness and education on income tax issues. Of the number of filers who claim the credit, a large number needlessly pay fees disproportionate to their income level to access their own tax refunds. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children educates low-income taxpayers on eligibility for EITC and other credits, and provides a free tax filing service to those who can least afford to pay a commercial preparer. In improving Louisiana's access to and retention of a major federal tax credit for low-wage workers, the program rewards work while reducing poverty. The program meets the Solutions to Poverty Executive Order's stated objective to encourage family and individual self-sufficiency.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 17. Earned Income Tax Credit and Tax Assistance Program for Filers without Children
Chapter 58. Earned Income Tax Credit and Tax Assistance Program for Filers without Children
Subchapter A. Designation and Authority of State Agency

§5801. Authority

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program is established in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council, effective November 1, 2006, to provide a tax filing service offered free of charge to low-income taxpayers.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5803. Administration

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program shall be administered by the Department of Social Services, Office of Family Support through contracts with outside entities.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Subpart B. Eligibility

§5805. Conditions of Eligibility

A. Eligibility for services is limited to:

1. individuals without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard; or
2. married couples without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann Silverberg Williamson
Secretary

0702#058

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

FITAP/STEP—Eligibility Requirements and Criteria in
Family Transition Assessment
(LAC 67:III.1247 and 5727)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend

Title 67 Part III, Subpart 2, Family Independence Temporary Assistance Program, Section 1247 and Subpart 16, Strategies to Empower People (STEP) Program, Section 5727 effective February 9, 2007. This Rule shall remain in effect for a period of 120 days.

Pursuant to the authority of Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant and in accordance with the Administrative Procedure Act, the agency shall amend §1247 E.1-2 to restore language concerning the eligibility requirements for cash assistance stated in Title IV of the Social Security Act and restore language in §5727 B.1-4 which addresses criteria in the Family Transition Assessment to assist participants upon their transition from cash assistance. This text was erroneously omitted from a previous Rule.

Emergency action in this Rule is necessary because failure to amend this language in a timely manner could result in loss of benefits to eligible individuals, noncompliance with federal regulations and the imposition of penalties and sanctions by the Administration for Children and Families, the federal agency responsible for overseeing Louisiana's TANF Block Grant.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 2. Family Independence Temporary Assistance Programs
Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1247. Time Limits

A. - D.3....

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6. and R.S. 46:460.5(A)(3); Act 58, 2003 Reg. Session; Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:494 (March 2004), LR 31:102 (January 2005), LR 33:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5727. Family Transition Assessment

A. ...

B. The FTA shall include but is not limited to:

1. a plan for on-going success in the work force;
2. identification of short and long-term goals;
3. identification of potential barriers and an action plan to overcome these barriers; and
4. information regarding eligibility for supportive services including, but not limited to: Medicaid benefits, food stamp benefits, child care, transportation, Louisiana

Child Health Insurance Program, the earned income tax credit, and TANF-funded services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 31:103 (January 2005), LR 33:

Ann Silverberg Williamson
Secretary

0702#060

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives—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 amend LAC 67:III, Subpart 15, Chapter 55 TANF Initiatives, §5581, Earned Income Tax Credit (EITC) Program. This Emergency Rule effective March 1, 2007, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective November 1, 2006, since it will expire before the final rule takes effect. (The final rule will be published in the April 2007 issue of the *Louisiana Register*.)

Pursuant to the authority granted to the department by Louisiana's TANF Block Grant, the agency is amending language in §5581 so that financial literacy will be provided to families receiving services through the Earned Income Tax Credit (EITC) Program. Additionally, the agency is amending the TANF goal being met by the services provided as well as restricting eligibility factors. The authorization for emergency action in this matter is contained in Act 16 of the 2005 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 to EITC-eligible families and to provide financial literacy to families receiving services under this program. Strategies include collaboration with the Internal Revenue Service, various state departments and the targeted expansion of existing outreach activities to assure that free

taxpayer assistance to EITC-eligible families is available statewide.

B. These services meet the TANF goal to end dependence of needy parents by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards.

D. ...

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, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:

Ann Silverberg Williamson
Secretary

0702#059

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season—Little Lake Public Oyster Seed Grounds

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953(B) and 967(D), and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

The oyster season in the Little Lake Public Oyster Seed Grounds as described in Louisiana Administrative Code (LAC) 76:VII.521 shall open at one-half hour before sunrise on February 21, 2007.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Department of Health and Hospitals for public health concerns.

Earl P. King, Jr.
Chairman

0702#034

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Fire Danger Ratings (LAC 7:XXXIX.1111 and 1113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii), the Commissioner of Agriculture and Forestry adopts the rules and regulations for the purpose of identifying the presence of high fire danger, which will permit certain parishes to declare bans on outdoor burning as authorized in Act Number 376 of the 2006 Regular Session of the Louisiana Legislature.

The above referenced Act grants authority for prohibition of certain outdoor burning for parishes with populations below 90,000. That authority is limited to areas where fire danger rating is high, as defined by the Louisiana Department of Agriculture and Forestry. To allow for parishes to exercise the authority granted by Act 376, it is necessary for the Louisiana Department of Agriculture and Forestry to adopt this Rule which provides the fire danger rating upon which the parishes must rely for their authority.

This Rule complies with and is enabled by R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 11. Rural Fire Protection

Subchapter B. Parish Burn Ban Ordinances

§1111. Purpose

A. The Commissioner of Agriculture and Forestry adopts the following regulations for the purpose of implementing the provisions of R.S. 33:1236(31)(b)(iii) and R.S. 30:2057(B)(5)(c), relative to the regulation of burning of vegetable matter and flammable materials in certain parishes when the fire danger rating for the parish is high or is predicted to be high.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:249 (February 2007).

§1113. Determination of Fire Danger Rating

A. The fire danger rating for the state shall be primarily determined by the Keetch Byram Drought Index generalized color map (KBDI) which is published weekly by the Louisiana Office of State Climatology, Louisiana State University.

B. The fire danger rating for a parish will be high when any portion of a parish is indicated with a KBDI index of 601 or greater based on the most current KBDI color map.

C. If the Louisiana Department of Agriculture and Forestry has sufficient cause to believe that fire danger in localized areas may not be accurately represented by the published KBDI map, then the department may use

additional data to analyze conditions and to declare a state of high fire danger for any parish if warranted by available data.

D. If the department declares one or more parishes to have a high fire danger rating, based on data other than the KBDI map, then the department will publish a list of such parishes on its website.

E. The KBDI map may be referenced through the Louisiana Office of State Climatology through its website at www.losc.lsu.edu or by the Louisiana Department of Agriculture and Forestry's website at www.ldaf.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3, 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:249 (February 2007).

Bob Odom
Commissioner

0702#051

RULE

Department of Culture, Recreation, and Tourism Office of the Secretary

Black Bear Golf Course (LAC 25:XI.Chapter 5)

Black Bear Golf Course, a public access championship golf course constructed by the State of Louisiana in Richland Parish, is operated by the Department of Culture, Recreation and Tourism. The course was created as part of a larger project to attract economic development in the Poverty Point region. This Rule governs the public's use of Black Bear Golf Course, including the fees required for access and use of the facilities. The fees have been set at a rate to ensure fair competition in the industry. These rules and fees are intended to help position the course be able to support itself through self-generated funds by its fifth year of operation, contingent upon the success of related amenities and the development of other programs in the area.

Title 25

CULTURAL RESOURCES

Part XI. Office of the Secretary

Chapter 5. Black Bear Golf Course

§501. Definitions

A. As used within this Part, the following terms have the meanings provided herein.

Black Bear Golf Course (Course)—a public, 18-hole championship golf course and its associated property and facilities. Located adjacent to Poverty Point Reservoir in Richland Parish, Louisiana, the course is operated by the Louisiana Department of Culture, Recreation and Tourism.

Department of Culture, Recreation, and Tourism (DCRT)—a state governmental agency responsible for planning, developing, and implementing improved opportunities for the enjoyment of cultural and recreational activities by the people of Louisiana and for greater

development of their cultural and physical potential. The department is responsible for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for the future leisure needs of the people.

Director of Golf (Director)—the top supervisor directly in charge of day-to-day management of the course. The director is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

Secretary—the secretary of the DCRT, who serves as the executive head and chief administrative officer of the department and is appointed by the lieutenant governor with consent of the Senate. The secretary has responsibility for the administration, control, and operation of the functions, programs, and affairs of DCRT, including the authority to make, alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the DCRT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007).

§503. General Authority and Purpose

A. These rules were enacted by the DCRT pursuant to the authority granted to the secretary by R.S. 36:204(3) and pertain to the governance and operation of the Black Bear Golf Course, a recreation facility under jurisdiction of the DCRT.

B. Course rules are designed to provide the proper atmosphere for the enjoyment and protection of course facilities and for the safety of visitors. Visitors are expected to familiarize themselves with these rules.

C. Course is open to all persons regardless of race, color, national origin, age, sexual orientation, or disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§505. Course Property

A. No person shall intentionally remove, damage, destroy, or disturb course property or the property of another course visitor, without the consent of the owner. Such "property" shall include but is not limited to structures, signs, movables, markers, natural features, holes, grass or other plants or landscaping, or wildlife.

B. Smoking is prohibited except in designated areas. No outside alcoholic beverages are allowed on course property.

C. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon course property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§507. Golfing Etiquette

A. All golfers must use proper golfing etiquette at all times. This includes but is not limited to maintaining the proper pace of play and allowing incoming groups to play

through if necessary. Golfers should repair divots in the fairway and ball marks on greens.

B. Proper attire, including shirt and shoes, must be worn by all golfers at all times. Proper attire for men includes sleeved and collared or semi-collared shirts; hemmed non-denim pants or shorts; and soft-spike shoes. Proper attire for women includes collared or semi-collared shirts; hemmed non-denim pants, shorts, or skirts; and soft-spike shoes.

C. Groups of more than five golfers will only be allowed to play in a group together on the course with special permission from the director. Single golfers will only be allowed if the course is clear or with special permission from the director.

D. Children under 6 years old are not allowed on the course without special permission from the director. When on a golf cart, children between and including age 6 to age 16 must be accompanied by an adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§509. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The director is authorized to control the use and consumption of alcoholic beverages on the course. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the course by others.

C. No loud or otherwise disruptive pets will be allowed at the course. The director or other authorized course employees will have discretion to determine which pets are not allowed. Owners will be responsible for their pets, including keeping the pets under control, cleaning up after the pets, and the payment of restitution for any damage caused by the pets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§511. Business Solicitation

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the director, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent of the director, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§513. Trespass

A. No person shall enter course property except at designated public access points or unless possessing permission from authorized agents of the course.

B. No person shall enter the course when the course is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007).

§515. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on course property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles, excluding golf carts, must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise specifically authorized by the director.

C. Golf carts must be driven only on the cart paths at tees and greens. Golf carts may not be driven in the heavy rough areas.

D. Vehicles, including recreational vehicles, motorcycles, and trailers, shall be parked only in designated parking areas unless otherwise specifically authorized by the director or his designees.

E. No person shall operate a vehicle in excess of the posted speed limit.

F. No unauthorized person may remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§517. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation, eviction from the course, and/or restitution to the DCRT for damages incurred.

B. At the director's discretion, any person who is evicted from the course for disciplinary reasons may be banned from the course for one year.

C. If a person is delinquent in paying for damage incurred, the DCRT reserves the right to refuse privileges to that person pending receipt of such restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§519. Operating Schedule

A. The course operating schedule will be set at the discretion of the director based on user demand, course conditions, budgetary reductions, legislative mandates, construction and maintenance, availability of staff and other resources, and other relevant factors. The hours of operation will be posted at the course.

B. The director may direct the closing of the course to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the course to a degree normal public use and enjoyment are altered, or when such use might impair the health, safety, and well-being of the public or the course employees.

C. The director may also close portions of the course for reasons provided in Subsections A or B or for any other relevant factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§521. Course Fees

The maximum fees that may be charged for reservations or use of the course and its services and facilities are as follows, taxes not included:	Maximum Fee
Greens fee per golfer, including shared cart and range balls	\$75
Second tee time	\$40/per golfer
Annual Pass	\$2800
Driving range	\$15/hour
Cart rental, 18 holes	\$18/rider
Cart rental, 9 holes	\$10/rider

B. From time to time, as deemed appropriate by the Secretary or his designee, special programs, rates, discounts on course fees, or package deals may be offered in order to promote the course or encourage visitation, e.g., on weekdays or during off-peak golfing months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§523. Reservation Policy

A. Tee time reservations will be taken one month in advance. A credit card or other form of deposit will be required to secure a time. Reservations will be accepted only from persons 18 years of age or older.

B. Groups will be allowed to book two, three, four, or five players per time slot. On weekends and holidays, groups will only be allowed to book fivesomes after 10 a.m.

C. Cancellation of reservations must be made at least 24 hours in advance. Cancellations made within 24 hours of the scheduled tee time might be subject to a 50 percent surcharge. A change of reservation date or time will be considered a cancellation and treated accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§525. Refunds

A. Rain checks will be issued at the discretion of the director for unfavorable changes in weather conditions, so long as the conditions stay unfavorable for golfing for more than 30 minutes. Credit will be given only for the percentage of holes not completed.

B. Refunds will not be issued to visitors evicted for violations of these rules.

C. Refunds will not be issued to visitors who choose to leave the course as a result of inclement weather before the director has decided that the change in weather will persist for more than 30 minutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007).

§527. Tournament Procedure

The maximum deposit fees that may be charged for tournament reservations are as follows:	Maximum Fee
Under 20 Players	\$100.00
21 – 50 Players	\$200.00
Over 51 Players	\$300.00

1. Deposit fees may be waived at the director's discretion for a group that previously hosted a successful tournament.

B. Groups of 12 or more players will be booked as a tournament. Any group with three or more requested tee times will be allowed to contract a tournament.

C. Only the director or his designee may book a tournament. The tournament may be booked as far in advance as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007).

§529. Golf Cart Rental

A. A valid driver's license is required to rent a golf cart. The renter must be able to safely use the cart while it is under his control.

B. Carts must be returned immediately after completion of play, in as good condition as originally rented. Any person who damages a golf cart under his or her rental control agrees to pay for necessary repairs.

C. Any person who rents a golf cart agrees to hold the course harmless for any damage caused to any person or the cart by its operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007).

§531. Golfer Safety

A. At the first sign of lightning in the immediate area, a siren will be sounded to announce suspension of play. Those who remain on the course after the lightning warning is given will be playing at their own risk.

B. All persons must exercise reasonable care while using course facilities and follow safety rules at all times. Each person assumes liability for his or her own safety, and the course will not be responsible for accident or injury to any person or to others caused by that person's own recklessness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007).

Julia George Moore
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0702#011

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.307, 409, 515, 703-707, 3905, 4001, and 4527)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28, Part Number 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 and existing flexibility outlined in guidance for No Child Left Behind and address situations, including changes necessitated in response to the hurricanes of 2005, which 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

§307. Incentive Points

A. Students repeating the 4th or 8th grade must retake all parts of the LEAP 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 test of mathematics, English language arts, science or social studies than any previous attempt (of the same test), 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 any previous attempt (of the same test), the school where the student tested in the previous spring earns 50 incentive points per improved subject. The incentive points will be included in School Performance Score calculations the following academic year.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:1021 (June 2006), LR 33:252 (February 2007).

§409. Calculating a 9-12 Assessment Index

A. For all grades 9 - 11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 4.0 percent (100.0% - 9th grade DO rate + 4.0%).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%)].

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%) x (100.0% - 11th grade DO rate + 4.0%)].

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

Unit Weights for 9-12 Assessment Index					
Grade	ELA	Math	Science	Social Studies	Total
9th Grade	1	1			2
10th Grade	1.25	1.25			2.5
11th Grade			1.25	1.25	2.5

D. Sum all weighted values from step C, above.

E. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). This quotient is the 9-12 Assessment Index.

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 percent.

Grade	Subject	Subject-Test Index Score	Dropout Adjustment	Adjusted Subject-Test Index Score	Unit Weight	Weighted Adjusted Subject-Test Index Score
9	ELA	100	.990	99.0	1	99.0
9	MTH	50	.990	49.5	1	49.5
10	ELA	100	1.010	101.0	1.25	126.3
10	MTH	150	1.010	151.5	1.25	189.4
11	SCI	50	1.040	52.0	1.25	65.0
11	SS	50	1.040	52.0	1.25	65.0
Sums					7	594.2
9-12 Assessment Index				594.2 ÷ 7 = 84.9		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007).

§515. State Assessments and Accountability

A. - E. ...

F. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

G. ...

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 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007).

§703. Inclusion of Students in the Subgroup Component

A. - A.2. ...

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

B. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007).

§705. AMO

A. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades.

1. Proficient = a score of basic, mastery or advanced.

2. Beginning in 2006, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, *i*LEAP, LAA 1, and LAA 2 will be used to calculate the percent proficient for the Subgroup Component (for schools and Districts).

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 33:253 (February 2007).

§707. Safe Harbor

A. - D. ...

E. For 2005-06 only, Safe Harbor calculations (for schools and Districts) shall not use *i*LEAP or LAA 2 results.

F. Beginning in 2006-07 for schools and Districts, English language arts and mathematics test results from grades 3-8 and 10 LEAP, GEE, *i*LEAP, LAA 1, and LAA 2 will be used to calculate the reduction of non-proficient students in Safe Harbor.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:1025 (June 2006), LR 33:253 (February 2007).

§3905. Inclusion of Alternate Assessment Results

A. Beginning with the 2005-2006 Baseline SPS and Subgroup AYP calculations, LEAP Alternate Assessment Level 1 and Level 2 shall be included in all SPS and Subgroup AYP calculations.

B. LAA 1 scores shall be converted according to the following scale.

LAA 1 Score	Level	Assessment Points
0.00-0.49	Unsatisfactory	0
0.50-2.49	Approaching Basic	50
2.50-3.49	Basic	100
3.50-4.49	Mastery	150
4.50-5.00	Advanced	200

1. Students taking LAA 1 or LAA 2 exams shall be included in accountability calculations at the grade level in which they are enrolled in the Student Information System (SIS).

C. LAA 2 shall first be administered in Spring 2006 to students in grades 4, 8, 10, and 11. In Spring 2007, LAA 2 shall be given in grades 4-11.

1. Each LAA 2 exam will be assigned 1 of 4 performance levels (Basic, Approaching Basic, Foundational, and Pre-Foundational) and each performance level will be assigned points for use in assessment index calculations as follows.

LAA 2 Performance Level	Assessment Points
Basic	100
Approaching Basic	75
Foundational	50
Pre-Foundational	0

2. Students scoring Basic on a LAA 2 exam will be considered Proficient in Subgroup Component calculations.

D. Students participating in either LEAP Alternate Assessment Level 1 (LAA 1) or Level 2 (LAA 2) will be assigned scores of zero in SPS component calculations and scores of non-proficient in subgroup component calculations if they do not meet the specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007).

§4001. Proficient in English

A. To be considered English proficient a student who is limited English proficient must score for:

1. Two Years

a. at Basic or above on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2 assessments, and/or

b. at or above the 40th percentile composite score on IOWA (through Spring testing 2005), and

2. One Year

a. at the Full English Proficiency Level V on the English Language Development Assessment (ELDA) in listening, speaking, reading, and writing;

3. if, after scoring Level V on all four domains of ELDA, a limited English proficient student:

a. for three consecutive years does not score Basic or above at least twice on all subjects of the LEAP, GEE, iLEAP, LAA 1, and/or LAA 2; and

b. after evaluation, it is determined the academic difficulties are not a result of a lack of proficiency in English;

c. the student shall no longer be classified as limited English proficient.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007).

§4527. Disaster Considerations for the School and District Subgroup Component

A.1. Schools and districts shall receive a one year exclusion from the Subgroup Component in accountability if they:

a. reside within the boundaries of parishes declared natural disaster areas by the President of the United States; and

b. were closed due to the declared disaster for 18 consecutive school days.

2. Any school eligible for this exclusion that does pass the Subgroup Component shall be considered as passing the Subgroup Component.

B. For the Subgroup Component in 2006 and for all schools not excluded in Subsection A (above), displaced students shall comprise a separate subgroup and be excluded from all other subgroups.

1. The Displaced Students subgroup shall be evaluated for participation, and any school or district that did not test at least 95.0 percent of these students in ELA and math will fail the Subgroup Component.

2. The Displaced Students subgroup test results shall be reported on all appropriate Subgroup Component reports; but:

a. schools will not be classified as failing the Subgroup Component as a result of the academic performance of the Displaced Students subgroup.

3. Due to the one year lag in attendance and dropout/graduation data, and as required by the U.S. Department of Education, the Displaced Students subgroup attendance and dropout/graduation data shall be used in 2006-2007 in the appropriate subgroups, not as displaced students. District should make extra effort during the clean-up period to verify that any exit and attendance data is accurate.

4. All students in the Displaced Students subgroup that did not score proficient in ELA and/or math at the 2006 spring test administration must receive remediation in academic year 2006-2007.

5. The displaced students shall not be considered a separate subgroup the following academic year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 33:254 (February 2007).

Weegie Peabody
Executive Director

0702#004

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices

(LAC 28:CXI.Chapters 1, 3, 5, 18, 23, 27, 33, and 35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§105. Testing and Accountability

A. - B. ...

C. All LEAs must administer all assessments according to the testing schedule dates approved by SBESE.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:255 (February 2007).

§107. Assessment Programs

A - G ...

H. End-of-Course Tests (EOCT). The EOCT will be administered to high school students enrolled in and/or receiving credit for an EOCT course online beginning fall 2007. The tests, criterion-referenced and standards-based will be phased in over a period of six years to assess student mastery of eight high school courses.

I. The Iowa Tests. The Iowa Tests of Basic Skills (ITBS), used in grades 3, 5, 6, and 7, and the Iowa Tests of Educational Development (ITED), used in grade 9, are norm-referenced tests that provide comparative data to evaluate student, school, and district performance. The last administration of The Iowa Tests will occur in the academic year 2004-2005.

J. Graduation Exit Examination ("old" GEE). The "old" GEE measures curricula-based proficiencies in English Language Arts, Mathematics, Written Composition, Science, and Social Studies. The administration of the "old" GEE became a district responsibility beginning with the 2003-2004 academic year.

K. LEAP Alternate Assessment-B (LAA-B). The LAA-B, which was administered from 2000 through 2003, assessed special education students who met specific criteria at their functioning levels in language/reading and/or mathematics, rather than at their enrolled grade levels.

L. National Assessment of Educational Progress (NAEP). Also known as the Nation's Report Card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

M. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments, including LEAP, GEE, ELDA, and *i*LEAP. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

N. Placement Tests. Students from out-of-district or in-state educational settings, such as approved home study programs or nonpublic schools, who wish to enroll in public schools at grades 5 and 9 must take a placement test if they have not taken and met the requirements for LEAP. Students taking the placement test must score basic or above in English Language Arts or Mathematics and approaching basic or above in the other to enroll in grade 5 and score approaching basic or above in English Language Arts and Mathematics to enroll in grade 9.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007).

§109. Assessment Populations

A. - A.3.c. ...

d. limited English proficient students. These are students who are aged 3 through 21; who were not born in the United States or whose native language is a language other than English; who are Native Americans or Alaska Natives or native residents of the outlying areas and come from an environment where a language other than English has had significant impact on their level of English language proficiency; or who are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

A.3.d.i. - B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1527 (July 2005), amended LR 33:255 (February 2007).

§111. Limitations on Public Release of Assessment Data

A. When the total N-count in any reporting category or group on an assessment report is nine or less, do not release the assessment data publicly.

B. When the total N-count in any reporting category or group on an assessment report is ten or greater and all students are reported at one achievement level, do not release the assessment data publicly.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:255 (February 2007).

Chapter 3. Test Security

§305. Test Security Policy

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

2. For purposes of this policy, school districts shall include:

a. local education agencies (LEAs) as well as the Recovery School District (RSD);

2.b. - 3.h. ...

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

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

k. ...

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state's test security policy. A Statement of Assurance regarding the LEA's test security policy must be submitted annually to the LDE, Division of Standards, Assessments, and Accountability. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

4.a. - 9.b. ...

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

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

e. ...

f. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator, who is authorized to procure test materials that are utilized in testing programs administered by or through the SBESE of the LDE. The name of the individual designated must be provided in writing to the LDE, Division of Standards, Assessments, and Accountability, and included on the Statement of Assurance.

g. Testing shall be conducted in class-sized groups. Bulletin 741 (913A) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller Bulletin 741, (915). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the LDE, Division of Standards, Assessments, and

Accountability, at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the Division of Standards, Assessments, and Accountability, the school district must provide at least one proctor for every 30 students.

9.h. - 13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The Louisiana Department of Education's LEAPdata Query and LEAPweb Reporting Systems contain students' private information, including state test scores and state identification numbers. The systems are password protected and require a user ID and an assigned password for access. The systems are not for public use, and any student information from the systems must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or support staff member. This person has a legitimate educational interest if he/she needs to review an education record in order to fulfill his or her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to this system must abide by FERPA law. Disclosure of passwords to anyone other than the state, district, or school official(s) is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>.

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators or those with whom the principal shares his/her PIN) must sign a security agreement and send to the DTC to keep on file at the district for three years.

ii. LEAPdata Query System. All school users (e.g., teachers, counselors, test coordinators) must sign the security agreement and return it to the principal to keep on file at the school for three years. A new security agreement should be signed by all users each year after the new password letters for schools are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password.

iii. Security agreements must also be signed by DTCs for the LEAPweb Reporting and LEAPdata Query Systems and returned to the LDE.

b. Users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic formats) and of aggregated data of fewer than 10 students.

16. LDE staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing

irregularities will be identified for visits. Other schools will be randomly selected.

17. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81 et seq., policy and regulations adopted by the SBESE, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007).

§307. Change of District Test Coordinator Notification

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE, Division of Standards, Assessments, and Accountability. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007).

§309. Erasure Analysis

A. - A.3.b. ...

4. Once districts, schools, and individual students have been identified, the state superintendent of education sends letters to district superintendents stating that students in those districts have been identified as having excessive wrong-to-right erasures. Based on the number of erasures found, scores for students exceeding the four-standard-deviation criterion will be voided. Individual student reports from the testing program will reflect the voided scores. In the aggregation of scores at the school, district, and state levels, each voided score will have the effect of a zero score. Copies of the District/School and Student Erasure Analysis reports are enclosed with the letters. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division of Standards, Assessments, and Accountability, and the district test coordinator.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007).

§311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses (Constructed Responses, Short Answers, and Essays)

A. - A.1.c. ...

d. The district test coordinator must then fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The original Void Verification form, along with a copy of the school test

coordinator's request for the void, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

2. Reported Violations by School Personnel or Other Persons. All suspected instances of cheating should be reported directly to the school's district test coordinator for further investigation, and a report of the incident must be sent to LDE, Division of Standards, Assessments, and Accountability. If it is deemed necessary to void tests, the DTC must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability. The original Void Verification form along with a written report of the investigation carried out must be mailed the LDE, Division of Standards, Assessments, and Accountability.

3. - 3.a.iii. ...

b. If possible incidents of violations are discovered in the scoring process, the scoring contractor notifies the LDE, Division of Standards, Assessments, and Accountability, of suspect documents with a summary of its findings.

c. Professional assessment and related-content personnel from the Division of Standards, Assessments, and Accountability review the suspect documents and determine whether the evidence supports voiding the responses.

d. If voiding is recommended, LDE mails the district superintendent a letter of what was observed during the scoring process that caused the alert and identifies the particular document that was voided. Copies of the correspondence are provided to the deputy superintendent of education, the assistant superintendent of the Office of Student and School Performance, the director of the Division of Standards, Assessments, and Accountability, and the local district test coordinator.

i. Within 30 calendar days of the receipt of such a letter, the district must investigate the incident and provide a written plan of action to the state superintendent of education. If the district and/or parent/guardian(s) wish to discuss the situation further or to examine the student responses, a meeting may be scheduled at the LDE offices between staff members from the Division of Standards, Assessments, and Accountability, district representatives, and parent/guardian(s).

4. Disturbing Content. If student responses with disturbing content are discovered during the scoring process, the scoring contractor will notify the appropriate staff member at the LDE, Division of Standards, Assessments, and Accountability.

a. - b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:257 (February 2007).

§312. Administrative Error

A. Administrative errors by school personnel that results in a question regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The original Void Verification form, along with a copy of the account of the incident, must also be mailed to

the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007).

§313. Viewing Answer Documents

A. ...

B. The district test coordinator must send a written request to view the answer document to the LDE, Division of Standards, Assessments, and Accountability. The request must include:

B.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007).

§315. Emergencies during Testing

A. - A.6. ...

7. If test security has been compromised, the district test coordinator must notify the LDE, Division of Standards, Assessments, and Accountability, as soon as possible.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007).

Chapter 5. Test Coordinator Responsibilities

Subchapter A. District Test Coordinator

§501. District Test Coordinator Role

A.1. - A.2.m. ...

n. reporting immediately to the LDE, Division of Standards, Assessments, and Accountability, any missing test booklets or answer documents and returning them to test contractors if they are found;

o. investigating any testing irregularities and reporting them to the LDE, Division of Standards, Assessments, and Accountability;

p. reporting to the LDE, Division of Standards, Assessments, and Accountability, instances of students marking in a wrong section of the answer document;

q. ...

r. returning any secure materials used for test accommodations, such as transparencies or computer disks, to the LDE, Division of Standards, Assessments, and Accountability;

s. maintaining the district password and all school passwords within the district that are used with LEAPweb Reporting System and the LEAPdata Query System;

t. training district and school users within a district to effectively use the systems; ensure they are familiar with the Family Educational Rights and Privacy Act (FERPA) law governing confidentiality of student records, and ensure they have signed a security agreement before receiving a password for access to the LEAPdata Query System;

u. ensuring:

i. that all district/school users maintain the security of and access to all student information obtained via the LEAPweb Reporting and LEAPdata Query systems;

ii. that all school users are aware that student test data shall not be disclosed to anyone other than another school official and only for a legitimate educational purpose.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007).

Subchapter B. School Test Coordinator

§511. School Test Coordinator Role

A. - A.7. ...

8. noting any discrepancies in the count or numbering of test booklets or answer documents from that recorded on the security check off lists from the testing contractor.

9. - 20. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007).

Chapter 18. End-of-Course Tests

§1801. Description

A. The EOCT tests, which are criterion-referenced and standards-based, will be available online to high school students beginning in fall 2007. The tests will be phased in over a period of six years, beginning with Algebra I. In the first years of administration, district participation will be voluntary. Policies regarding the use of EOCT results shall be determined by the district's local pupil progression plan. The tests measure the knowledge and skills a student should have mastered by the end of the course. The results of the EOCT will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards. The tests will assess student learning in eight high school courses:

1. Algebra I;
2. Geometry;
3. English I;
4. English II;
5. Biology;
6. American History;
7. Civics; and
8. Free Enterprise.

B. For those districts opting to participate in EOCT assessment, any student enrolled in and/or receiving credit for an EOCT course, regardless of grade and inclusive of middle school students taking high school courses for high school credit, is required to take the EOCT upon completion of that course.

C. EOCT will be offered at the end of the fall and spring semesters.

1. Students completing the course at the end of the fall semester participate in the fall test.

2. Students completing the course at the end of the spring semester participate in the spring test.

D. Retests will not be offered for EOCT.

E. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:258 February 2007).

Chapter 23. English Language Development Assessment (ELDA)

Subchapter A. Background

§2301. Overview

A. The NCLB of 2002 Title III (20 USCS §6301 et seq.) requires standards-based assessment of the progress of all LEP students enrolled in grades kindergarten through 12 in attaining English proficiency, including a student's level of comprehension, speaking, listening, reading, and writing skills in English. ELDA grade cluster 3-12 was field-tested in spring 2004 and implemented during spring 2005. Grade cluster K-2 was field tested in spring 2005. Full implementation of ELDA in kindergarten through 12 occurred in spring 2006.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:259 (February 2007).

Subchapter B. General Provisions

§2303. Introduction

A. ELDA is composed of tests in four grade clusters (Kindergarten-2, 3-5, 6-8, 9-12) in the four language domains (reading, writing, listening, and speaking). It assesses both the academic and school/social environment language of students. ELDA is vertically linked across grade clusters and has five levels of proficiency descriptors ranging from level 1, which has a realistic definition of English proficiency for beginners, to level 5, which has a rigorous definition of full English proficiency.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007).

Subchapter C. ELDA Test Design

§2305. Format

- A. ELDA test design consists of:
1. Inventory. Observation in grade levels K-2;
 2. Multiple choice items (MC). Grade levels 3-12;
 3. Short Constructed Responses (SCR). Grade levels 3-12;
 4. Extended Constructed Responses (ECR). Grade levels 3-12.

	Listening	Speaking	Reading	Writing
K	Inventory with specified tasks	Inventory with specified tasks	Inventory with specified tasks	Inventory with performance activities
1-2	Inventory with specified tasks	Inventory with specified tasks	Inventory with specified tasks	Inventory with performance activities
3-5	50 MC	16 SCR	50 MC	3 SCR 1 ECR 15 MC
6-8	50 MC	16 SCR	50 MC	3 SCR 1 ECR 15 MC
9-12	50 MC	16 SCR	50 Multiple Choice	4 SCR 1 ECR 15 MC

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007).

Subchapter D. Target Population

§2307. Participation Criteria

A. Limited English Proficient students. A student who is aged 3 through 21; who is enrolled in an English-speaking elementary school or secondary school for less than a year; who was not born in the United States or whose native language is a language other than English; who is a Native American or Alaska Native or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his level of English language proficiency; or who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

1. the ability to meet the state's proficient level of achievement on state assessments;
2. the ability to successfully achieve in classrooms where the language of instruction is English; or
3. the opportunity to participate fully in society.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007).

Subchapter E. Proficiency Levels and Proficiency Standards

§2309. Proficiency Levels

A.1. The English Language Development Standards (ELDS) levels are:

- a. Level 1, Beginning Proficiency;
- b. Level 2, Lower Intermediate Proficiency;
- c. Level 3, Upper Intermediate Proficiency;
- d. Level 4, Advanced Proficiency; and
- e. Level 5, Full English Proficiency.

2. The name of the proficiency levels align with ELDS. The definition of each level is also consistent with the definitions of ELDS.

B. Proficiency Level Definitions

1. Listening Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand short utterances.

Level II, Lower Intermediate Proficiency—a student at this level understands simple statements, directions, and questions.

Level III, Upper Intermediate Proficiency—a student at this level understands standard speech delivered in most settings.

Level IV, Advanced Proficiency—a student at this level can identify main ideas and relevant details of discussions or presentations on a wide range of topics.

Level V, Full English Proficiency—a student at this level can understand and identify main idea(s) and relevant details of extended discussions or presentations on a wide range of familiar and unfamiliar topics.

2. Speaking Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to use gestures and simple words to communicate.

Level II, Lower Intermediate Proficiency—a student at this level can use appropriate strategies to initiate and respond to simple conversation.

Level III, Upper Intermediate Proficiency—a student at this level can communicate orally with some hesitation.

Level IV, Advanced Proficiency—a student at this level can actively engage in most communicative situations familiar and unfamiliar.

Level V, Full English Proficiency—a student at this level is fluent and accurate in language production.

3. Reading Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to understand simple printed material.

Level II, Lower Intermediate Proficiency—a student at this level can understand the general message of basic reading passages.

Level III, Upper Intermediate Proficiency—a student at this level can understand descriptive materials within familiar contexts and some complex narratives.

Level IV, Advanced Proficiency—a student at this level can understand the context of most text in the academic areas with support.

Level V, Full English Proficiency—a student at this level can use reading strategies the same as their native English-speaking peers to derive meaning from a wide range of both social and academic texts.

4. Writing Proficiency Levels

Level I, Beginning Proficiency—a student at this level is beginning to develop communicative writing skills.

Level II, Lower Intermediate Proficiency—a student at this level can compose short informative passages on very familiar topics.

Level III, Upper Intermediate Proficiency—a student at this level can write simple texts and short reports.

Level IV, Advanced Proficiency—a student at this level can write multi-paragraph essays, journal entries, personal/business letters, and creative texts in an organized fashion with some errors.

Level V, Full English Proficiency—a student at this level can write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions (wordy or indirect language).

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007).

§2311. Proficiency Standards

A. Proficiency standards for ELDA listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade cluster.

1. ELDA Proficiency Level Raw-Score Ranges

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Kindergarten					
Listening	0–3	4–8	9–15	16–18	19–21
Speaking	0–5	6–11	12–17	18–21	22–24
Reading	0–7	8–19	20–35	36–39	40–42
Writing	0–6	7–15	16–20	21–25	26–27

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 1 - 2					
Listening	0–5	6–10	11–15	16–18	19–21
Speaking	0–7	8–12	13–17	18–21	22–24
Reading	0–9	10–21	22–30	31–38	39–42
Writing	0–7	8–16	17–20	21–24	25–27

2. ELDA Proficiency Level Scaled-Score Ranges

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 3 - 5					
Listening	100–449	450–543	547–644	645–724	725–930
Speaking	117–449	450–546	547–667	668–808	809–937
Reading	100–449	450–579	580–647	648–769	770–931
Writing	127–449	450–576	577–668	669–932	934–950

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 6 - 8					
Listening	115–553	554–625	626–717	718–805	806–941
Speaking	133–457	458–610	611–718	719–824	825–936
Reading	103–459	460–611	612–690	691–828	829–940
Writing	149–552	553–652	653–721	722–896	897–928

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Grade Cluster 9 - 12					
Listening	118–555	556–631	632–728	729–849	850–950
Speaking	192–569	570–649	650–764	765–849	850–950
Reading	122–544	545–629	630–717	718–849	850–933
Writing	122–508	509–630	631–718	719–849	850–932

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:260 (February 2007).

Subchapter F. ELDA Proficiency Level Descriptors
§2313. Introduction

A. Proficiency level descriptors for ELDA assessments were developed by English Language Learners (ELL) teachers from across the Limited English Proficient State Collaborative on Assessment and Student Standards (LEP SCASS) states. The descriptors define what a student should know and be able to do at each proficiency level for each domain assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007).

§2315. Proficiency Level Descriptors

A. Listening Proficiency Level Descriptors

Listening	
5	Students at this stage can understand a wide range of both social and academic texts available to native English speakers.
4	Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas.
3	Students at this stage can understand short conversations on topics in everyday situations, with peers, and selected adults, either in face-to-face situations or on the telephone.
2	Students at this stage can understand simple statements, directions, and questions. Frequently request repetition and/or circumlocutions (wordy or indirect language).
1	Students at this stage have problems understanding even short utterances. May occasionally understand isolated words, such as cognates, borrowed words, or high-frequency social conventions.

B. Speaking Proficiency Level Descriptors

Speaking	
5	Students at this stage can engage in most social communication situations with confidence and mastery of complex language structures. Communication in academic areas is characterized by fluent and accurate language production with some circumlocution regarding technical vocabulary.
4	Students at this stage can handle most communicative situations with confidence but may need help with any difficulty that may arise in language production, especially in academic areas.
3	Students at this stage can initiate and sustain a conversation in face-to-face situations or on the telephone, with fluent speakers, often with hesitation and circumlocution regarding low-frequency vocabulary.
2	Students at this stage can use appropriate strategies to initiate and respond to simple statements and engage in simple face-to-face conversations with more fluent speakers of the same age group.
1	Students at this stage have no functional communicative speaking skills. May communicate with high-frequency learned words or phrases.

C. Reading Proficiency Level Descriptors

Reading	
5	Students at this stage can understand a wide range of both social and academic texts available to native English speakers.
4	Students at this stage can understand the content of most texts of interest to them and, with support, most academic content areas.

Reading	
3	Students at this stage can understand more complex narrative and descriptive materials within a familiar context.
2	Students at this stage can understand simple material for informative or social purposes.
1	Students at this stage have problems understanding even the simplest of material. May occasionally be able to identify isolated words and/or phrases when strongly supported by context.

D. Writing Proficiency Level Descriptors

Writing	
5	Students at this stage are mostly able to produce fluent academic writing using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions.
4	Students at this stage can write multi-paragraph essays, journal entries, personal and business letters, and creative texts in an organized fashion but with some errors.
3	Students at this stage can write simple texts, personal and business letters, and short reports using high-frequency language.
2	Students at this stage can describe basic personal needs and compose short information passages and texts on very familiar topics.
1	Students at this stage have no practical communicative writing skills. May be able to form some individual letters or transcribe familiar words or phrases.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007).

Subchapter G. ELDA Assessment Structure
§2317. Listening Domain Structure

A. Kindergarten–Grade 2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The listening assessment has several steps:
a. Scripted Administration Directions. Students will be read a scripted set of directions by the test administrator.

b. Recorded Prompting. Students will complete the test using a prerecorded audiocassette or CD.

i. A narrator reads stimulus materials, questions, and possible responses to the student.

ii. Stimulus material is read two times during the narration.

iii. Questions are read one time only.

iv. Students have 10 seconds to respond, in their answer document, to each question after the narrator has read the last option.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007).

§2319. Speaking Domain Structure

A. Kindergarten-2

1. Inventory with activities to be completed by the student.

B. Grades 3-12

1. The speaking assessment has seven sections that require a student to exhibit comprehension skills responding to prerecorded prompts.

a. Practice Task 1

b. Practice Task 2

- c. School—Social Interaction Tasks
- d. English—Language Arts Task
- e. Mathematics, Science, and Technology Tasks
- f. Social Studies Tasks
- g. Closing

2. The teacher scores individual student's responses to each prompt using the scoring rubrics.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007).

§2321. Reading Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by each student.

B. Grades 3-12

1. The reading tests are divided into three parts.

a. Short Passages. This section tests the student's ability to understand information in short reading passages. One or more multiple-choice questions are asked about each passage.

b. Instructions. This section tests the student's ability to understand directions. There is a different set of instructions for each question. The student will need to identify which person followed the directions correctly.

c. Longer Passages. This section tests the student's ability to understand information in longer reading passages. The student will answer several questions about each passage.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:262 (February 2007).

§2323. Writing Domain Structure

A. Kindergarten-2

1. Inventory with specified tasks to be performed by the student.

B. Grades 3-12

1. The writing assessment is divided into three parts.

a. Open Ended. Students will write responses to prompts.

b. Revise and Edit. Students will choose the best answer to multiple choice questions, correct grammar and usage errors in passages.

c. Graphic Organizers. Students will answer multiple-choice questions about graphic organizers.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:262 (February 2007).

Chapter 27. Placement Tests

§2701. Administration and Scoring

A. - C. ...

D. District test coordinators score the placement tests for students taking the tests in the public school districts. The LDE, Division of Standards, Assessments, and Accountability, scores all placement tests administered by charter schools and laboratory schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 32:239 (February 2006), LR 33:262 (February 2007).

Chapter 33. Assessment of Special Populations

§3305. Students with One or More Disabilities

According to Section 504

A. - B.1. ...

2. The student must undergo an annual review by the Section 504 Committee and an Individual Accommodation Plan (IAP) must be completed for each newly identified student or for each student whose accommodations have changed since his or her last test administration.

a. The IAP identifies students with disabilities as defined by the Rehabilitation Act of 1973 and the ADA. The form also must be used to document accommodations for qualified Section 504 students. School districts are responsible for completing the form once a student's eligibility has been determined.

b. Signatures. Duplicate signatures are not acceptable on the IAP. Signature lines with an asterisk must be original signatures. The parent and student signatures are optional, but it is considered best practice to obtain these. The district Section 504 coordinator's signature is required only if the student will require accommodations on statewide assessment.

B.2.c. - C.4.1. ...

D. Individualized Healthcare Plans. If a Section 504 student requires medical procedures that will prevent him or her from participating in a statewide assessment, individualized healthcare plans must be attached to the IAP.

E. Forms Management

1. Submission. A LEAP Data Validation form must be completed and submitted, along with a copy of the student's IAP, to the district Section 504 coordinator by the district-designated date. The district Section 504 coordinator should establish the deadline for collection of the forms early enough to ensure time for review before submitting them to the LDE. School districts should contact the district Section 504 coordinator regarding the deadline. The LEAP Data Validation forms should be submitted to the LDE annually.

2. Review. The IAPs will be reviewed by a committee of LDE employees and Section 504 Statewide Task Force members for any possible testing irregularities, including potential violations of test security; appropriateness; and required information that substantiates the accommodations provided during assessment. Reviews will be scheduled throughout the month of January, to be completed by January 30. district Section 504 coordinators will be notified concerning the place and time of review for their districts.

3. Extenuating Circumstances. The extenuating circumstances that will be considered for reviewing an IAP submitted after the deadline and/or after the established review period are:

a. - b. ...

F. Gifted or Talented Students with a Qualified Disability. For students who are classified as gifted or talented students and who have a qualified disability under Section 504, a Section 504 IAP must be attached to the student's IEP.

G. LEAP Summer Retest and GEE Summer, Fall, and February Seniors Only Retest. Students who were identified

as Section 504 or who had accommodations added to their Section 504 IAP after the spring assessment must have a LEAP Data Validation form completed and submitted to LDE 30 days before the summer or fall retest. A copy of the IAP must be forwarded to the student's summer remediation and summer or fall testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

H. GEE and "Old" GEE. Students who have completed their Carnegie units but are no longer enrolled in school should receive the accommodations documented on their last IAP.

I. Test Accommodations for both Section 504 and Special Education

1. - 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 33:262 (February 2007).

§3306. Approved Accommodations for Special Education and Section 504 Students

A. The following accommodations, if used in classroom instruction and assessment and specified on a student's IEP or IAP may be used for testing.

1. Braille

a. Braille editions of the test are provided for students who are proficient in this mode of access to written material. The regular print edition may be modified in braille. Supplementary test administration instructions and manipulatives are provided as needed. All responses must be transferred to the scorable answer document.

2. Large Print

a. Large-print editions may be used by students who use large print as an accommodation in classroom instruction and assessment. Large-print editions contain all test items that are in the regular edition. Essentially the large-print edition is an enlarged version of the regular-print edition, though the layout may vary slightly so as not to make the document more difficult for a student to use. All responses must be transferred to the scorable answer document.

3. Answers Recorded

a. If a student is unable due to his/her disability to write, provisions the test administrator must record the student's answers on the scorable answer document. Scribes and others supporting a student's test taking must be neutral in responding to the student during test administration. Assistance in test administration must not give away the answers. The student's responses must accurately represent the student's own choices. If a scribe is used for a writing topic, the scribe must write exactly what the student dictates without punctuation or capitalization. The student then must edit what the scribe wrote and provide punctuation and capitalization or any other changes.

4. Assistive Technology

a. Assistive technology can include, but is not limited to a:

- i. computer;
- ii. tape recorder;

- iii. calculator;
- iv. abacus;
- v. grip for a pencil;
- vi. visual magnification device;
- vii. communication device;
- viii. mask or marker to maintain place;
- ix. speech synthesizer; and
- x. electronic reader.

5. Extended Time/Adjusted Time

a. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. The time of day the test is administered may also be adjusted to a time more beneficial to the student. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

6. Communication Assistance

a. A test administrator who is fluent in the cuing or signing modality routinely used by a student should be available to repeat or clarify directions and sign portions of the test if warranted by the student's reading level as documented on the IEP or IAP.

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language Session of iLEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. Transferred Answers

a. Student responses that are recorded in any format other than on the standard answer document must be transferred by the test administrator precisely as instructed in the appropriate test manual. Such formats include braille, large print, oral responses, typewritten responses, computer responses, and any other responses recorded with the assistance of mechanical or technological devices. Student responses not transferred will not be scored. If both a student's and a test administrator's handwriting appear on an answer document, only the student's writing will be scored.

8. Individual/Small Group Administration

a. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

9. Tests Read Aloud

a. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading and Language session of iLEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

10. Other

a. Any necessary accommodations may be used, but they must be decided by the IEP team or Section 504 committee and listed on the student's IEP or IAP. The accommodation must not invalidate the meaning of the test score or the purpose of the test. Examples of other accommodations include highlighting the task or verbs in the directions on the test or assisting the student in tracking the test items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:263 (February 2007).

§3307. Limited English Proficient Students

A. - B.6.c. ...

C. Approved Accommodations for LEP Students

1. The following accommodations are to be provided for LEP students participating in the LEAP, GEE, iLEAP, and LAA 2 assessments.

a. Extended Time/Adjusted Time. Every student must be given extended or sufficient time to respond to every test item. Time may be adjusted for certain students, such as those who have short attention spans or those who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

b. Individual/Small Group Administration. Tests may be administered to a small group (maximum, eight students) or to an individual requiring more attention than can be provided in a larger classroom. If other selected accommodations affect the standard administration of the test (e.g., extended time on a timed test, tests read aloud), individual or small group administration must be used.

c. Provision of English/Native Language Word-to-Word Dictionary (No Definitions). LEP students may use either a standard or an electronic English/native language word-to-word dictionary, without definitions, on all sessions of the test. On the written composition sessions of the tests, all LEP students may use an English/native language word-to-word dictionary with definitions; this is not an accommodation.

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such assessments include the Reading and Responding session of LEAP, GEE and LAA 2, Reading and Language session of iLEAP, Reading Comprehension in the ITBS and the "old" GEE, the Reading session of ELDA, and any others developed to measure this skill. Directions only to these assessments may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

e. Test Administered by ESL Teacher or by Individual Providing Language Services. Familiarity with the speech patterns of the ESL teacher or individual providing language services may assist the student in understanding the test directions or the portions read aloud if the student receives the accommodation Tests Read Aloud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007).

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. - F. ...

G. A fee of up to \$35, which covers actual costs of administering, scoring, and reporting the results of statewide assessments, may be charged. For students testing to enter the public school system, this fee shall be refunded upon the student's enrollment in the public school system the semester immediately following testing. The DTC shall return test results to parents when results are returned to the public schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1-17:391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007).

§3509. Expelled Students

A. If a student is expelled from school and is not enrolled in any type of alternative program or receiving any services from the school district, the parent/legal guardian may make a timely request that the student be tested and the school district shall make arrangements to test the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:264 (February 2007).

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RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated* LEAP and LEAP Alternate Assessment, Level 2 (LAC 28:CXI.Chapter 17 and 20)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The revisions will provide information regarding:

- Addition of new language in Chapter 17 regarding statewide assessments.
- Chapter 17, *Integrated* Louisiana Educational Assessment Program (*i*LEAP), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provides details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.
- Addition of new language in Chapter 20 regarding statewide assessments.
- Chapter 20, Louisiana Alternate Assessment, Level 2 (LAA 2), has been updated to provide educators with finalized information about this new statewide assessment. *Bulletin 118* provide details about test design, test format, achievement levels, achievement level descriptors, performance standards, and content standards.

The document will consolidate statewide test information and provide easy access to that information.

**Title 28
EDUCATION**

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

**Chapter 17. *Integrated* LEAP
Subchapter A. General Provisions**

§1701. Introduction

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas: English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-

referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (*i*LEAP) tests were used, beginning in spring 2006. The *i*LEAP tests replaced The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. In accordance with NCLB timelines, the *i*LEAP tests were implemented spring 2006. Beginning in 2007–2008, NCLB also requires tests in science: once in grades 3 through 5, once in grades 6 through 9, and once in grades 10 through 12. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

1. Tests and Grade Levels for *i*LEAP

Grade	English Language Arts (ELA)	Math	Science	Social Studies
3	Augmented NRT	Augmented NRT	CRT	CRT
5	Augmented NRT	Augmented NRT	CRT	CRT
6	Augmented NRT	Augmented NRT	CRT	CRT
7	Augmented NRT	Augmented NRT	CRT	CRT
9	Augmented NRT	Augmented NRT	Not Assessed	Not Assessed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:265 (February 2007).

**Subchapter B. *i*LEAP Test Design
§1703. Format**

A. All *i*LEAP tests are aligned to the GLEs, and student performance on the content standards is the primary reporting scheme. The *i*LEAP replaces the current NRTs with a survey battery (short form) of the ITBS in English language arts and mathematics at grades 3, 5, 6, and 7. At grade 9, the NRT component of *i*LEAP includes the core battery of the ITED, with the exception of Math Computation. The NRT is augmented with a CRT component that measures state standards not measured on the ITBS and the ITED. Most of the items on the NRT form for a given grade align with the GLEs for that grade. The *i*LEAP also includes Science and Social Studies tests at grades 3, 5, 6, and 7. The *i*LEAP Science and Social Studies tests are entirely criterion-referenced, aligned with state content standards and GLEs. The LDE elected to use CRTs for science and social studies to have the best measure of what students are learning in classrooms in these content areas.

B. Overall Design of *i*LEAP

1. The NRT components for the Math and English Language Arts tests shall be administered as timed assessments using national standardized procedures. The CRT components for all four content areas are untimed; however, suggested times are provided. The abbreviations MC and CR in the chart refer to the types of items on the *i*LEAP; i.e., multiple-choice and constructed-response items.

	English Language Arts	Math	Science	Social Studies
Grades Assessed	3, 5, 6, 7, 9	3, 5, 6, 7, 9	3, 5, 6, 7	3, 5, 6, 7
Test Components and Item Types	NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9 CRT: Using Information Resources (MC) Writing Prompt (CR)	NRT: Survey Battery (MC) grades 3, 5, 6, 7 Core Battery (MC) grade 9 CRT: (MC and CR)	CRT: MC	CRT: MC
Number of Items	NRT: varies by grade from approx. 70 to 140 CRT: 8 MC and 1 CR	NRT: varies by grade from approx. 25 to 40 CRT: varies by grade from approx. 20 to 30 MC and 2 CR	Varies by grade from approx. 40 to 48 MC	Varies by grade from approx. 30 to 40 MC

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:265 (February 2007).

Subchapter C. Achievement Levels and Performance Standards

§1705. Introduction

A.1. Student performance on the CRT components of the *iLEAP* is reported in terms of achievement level: *Advanced*, *Mastery*, *Basic*, *Approaching Basic*, or *Unsatisfactory*. In addition, norm-referenced scores are reported for Math and English Language Arts. Grade-level committees of educators, mostly teachers, convened to review draft Achievement Level Descriptors (ALDs) that were developed for *iLEAP*. They used a group-consensus procedure to review the draft descriptors and GLEs to make recommendations for wording that would most appropriately describe expectations for each achievement level and grade.

B. On each test—English Language Arts, Math, Science, and Social Studies—student performance will be reported in terms of achievement level. The Louisiana achievement levels are:

1. Advanced;
 2. Mastery (Exceeding the Standard);
 3. Basic (Meeting the Standard);
 4. Approaching Basic (Approaching the Standard);
- and
5. Unsatisfactory.

C. Achievement Levels Definitions

1. *Advanced*—a student at this level has demonstrated superior performance beyond the mastery level.

2. *Mastery* (formerly Proficient)—a student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.

3. *Basic*—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

4. *Approaching Basic*—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

5. *Unsatisfactory*—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007).

§1707. Performance Standards

A. Reporting of Scores

1. NRT score:
 - a. percentile rank;
 - b. national curve equivalent (nce);
 - c. standard score;
 - d. stanine;
 - e. includes all items on the NRT form.
2. CRT score:
 - a. achievement level;
 - b. includes CRT items and only those items on the NRT survey battery or on the NRT core battery that align with GLEs at or below the grade level assessed.

B. *i*LEAP Achievement Levels and Scaled Score Ranges—Grades 3, 5, 6, 7, and 9

Achievement Level	English Language Arts Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	383–500	386–500	387–500	383–500	436–500
Mastery	338–382	341–385	341–386	344–382	374–435
Basic	282–337	286–340	280–340	286–343	291–373
Approaching Basic	239–281	247–285	239–279	236–285	219–290
Unsatisfactory	100–238	100–246	100–238	100–235	100–218

Achievement Level	Mathematics Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	386–500	405–500	394–500	421–500	393–500
Mastery	343–385	355–404	358–393	376–420	360–392
Basic	283–342	282–354	281–357	292–375	293–359
Approaching Basic	245–282	250–281	248–280	255–291	263–292
Unsatisfactory	100–244	100–249	100–247	100–254	100–262

Achievement Level	Science Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	382–500	378–500	380–500	388–500	Not Assessed
Mastery	342–381	341–377	343–379	348–387	
Basic	292–341	292–340	295–342	302–347	
Approaching Basic	249–291	248–291	251–294	259–301	
Unsatisfactory	100–248	100–247	100–250	100–258	

Achievement Level	Social Studies Scaled Score Ranges				
	Grade 3	Grade 5	Grade 6	Grade 7	Grade 9
Advanced	396–500	365–500	364–500	372–500	Not Assessed
Mastery	341–395	339–364	338–363	339–371	
Basic	287–340	289–338	292–337	293–338	
Approaching Basic	255–286	257–288	261–291	262–292	
Unsatisfactory	100–254	100–256	100–260	100–261	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007).

Subchapter D. *i*LEAP Assessment Structure

§1709. Content Standards

A. The *i*LEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007).

§1711. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.

- a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
- b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
- c. Louisiana English language arts standards measured by the NRT components include the following.
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.
 - ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.
 - iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.
 - iv. Standard 2. Students write competently for a variety of purposes and audiences.

v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:

- a. writing; and
- b. using information resources;
- c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.

1. The (NRT) ITED Core Battery components and standards measured include the following:

- a. vocabulary;
- b. reading comprehension; and
- c. language: revising written materials.
- d. Louisiana English language arts standards measured include the following:
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;
 - ii. Standard 2. Students write competently for a variety of purposes and audiences;
 - iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;
 - iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and
 - v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

2. The Criterion-Referenced (CRT) Components and standards measured include the following:

- a. writing; and
- b. using information resources;
- c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007).

§1713. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

1. The NRT Component includes the following:
 - a. multiple-choice items that assess Concepts and Estimation; and

b. multiple-choice items that assess Problem Solving and Data Interpretation.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

1. The NRT Component includes the following:

a. Multiple-choice items that assess Math Concepts and Problem-Solving.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:268 (February 2007).

§1715. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007).

§1717. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;

2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:

- a. Geography; and
- b. History.

3. Grade 7 assesses three of the four social studies strands. They are as follows:

- a. Geography;
- b. History; and
- c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:269 (February 2007).

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter A. General Provision

§2001. Introduction

A. LEAP Alternate Assessment, Level 2 (LAA 2) is a criterion-referenced assessment, which is based on modified academic achievement standards, that allows students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning. All content in LAA 2 was derived from the existing LEAP/GEE assessments, and all items selected were subjected to the complete process of reviews and checks to determine appropriateness and eligibility for potential use in LAA 2. The achievement levels are aligned with the *Approaching Basic* and *Basic* achievement levels of LEAP/GEE.

B. For spring 2006, LAA 2 is available only for eligible students in grades 4, 8, 10, and 11.

C. Beginning spring 2007, LAA 2 will be available for eligible students in grades 4 through 11.

D. Grade 3 students are not eligible for LAA 2; they will participate in iLEAP or LAA 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:239 (February 2006), amended LR 33:269 (February 2007).

Subchapter B. Target Population

§2003. Participation Criteria

(Refer to Bulletin 1530, LAC 28:XCVII, Louisiana's IEP Handbook for Students with Disabilities)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:270 (February 2007).

Subchapter C. Achievement Levels and Performance Standards

§2005. Achievement Levels

A.1. The Louisiana achievement levels are:

- a. Basic (Meeting the Standard);
 - b. Approaching Basic (Approaching the Standard);
- and
- c. Foundational;
 - d. Pre-Foundational.

B. Achievement Level Definitions

Basic—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Approaching Basic—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Pre-Foundational—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:270 (February 2007).

§2007. Performance Standards

A. Performance standards for LAA 2 English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form.

B. The scaled-score range of the *Approaching Basic* achievement level is exactly the same scale score range as with LEAP/GEE.

C. The beginning score for the *Basic* achievement level is also exactly the same as with LEAP/GEE.

D. The top end of the *Basic* achievement level was truncated at a scale score of 340 in all cases because the LAA 2 assessment was not designed to accurately assess students who may be emerging into the *Mastery* achievement level.

LAA 2 Achievement Levels and Scaled Score Ranges

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 4				
Basic	301–340	315–340		
Approaching Basic	263–300	282–314		
Foundational	227–262	248–281		
Pre-Foundational	100–226	100–247		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 8				
Basic	315–340	321–340		
Approaching Basic	269–314	296–320		
Foundational	223–268	263–295		
Pre-Foundational	100–222	100–262		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Grade 10		Grade 11		
Basic	299–340	305–340	301–340	297–340
Approaching Basic	270–298	286–304	267–300	275–296
Foundational	221–269	241–285	214–266	241–274
Pre-Foundational	100–220	100–240	100–213	100–240

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:270 (February 2007).

Subchapter D. Achievement Level Descriptors

§2009. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007).

§2011. Grade 4 Achievement Level Descriptors

A. Grade 4 English Language Arts Achievement Level Descriptors

Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between ideas in text and personal experiences; 3. locate some information in commonly used sources; 4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and 5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 4 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. make obvious connections between information and personal experiences; 3. extend ideas in the text by making simple inferences; 4. research a topic by locating information in a variety of sources; 5. express some critical or creative thinking in response to a writing task; 6. develop a central idea with some observable organization and elaboration with a few supporting details; and 7. demonstrate audience awareness through use of general vocabulary, some sentence variety, and some evidence of personal style or voice.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. make limited connections between text and personal experiences; 3. identify obvious meanings in text and make limited or simple inferences; 4. research a topic by locating information in commonly used resources; 5. demonstrate a partial response to a writing task; 6. develop a response with a vague or weak central idea, weak organization, and few or inappropriate details; and 7. demonstrate limited audience awareness through use of simple or inappropriate vocabulary, simple sentences, and little to no evidence of personal style or voice.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between the text and personal experiences; 3. research a topic by locating minimal information in commonly used sources; 4. demonstrate a minimal response to the writing task; 5. develop a response to a writing task using a weak or unfocused central idea, attempted organization, and little or irrelevant support; and 6. show minimal audience awareness through use of simple or inappropriate vocabulary, simple sentences, and weak personal style or voice.

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and use basic facts to perform simple computations with whole numbers; 2. show some understanding of fractions, decimals, and percents and their relationships; 3. solve some simple real-world problems in all the Louisiana mathematics content strands; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are often minimal and presented without supporting information.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use basic facts to perform simple computations with whole numbers; 2. recognize fractions, decimals, and percents; 3. have difficulty applying conceptual knowledge in solving real-world problems; 4. use—with some degree of accuracy—four-function calculators, rulers, and geometric shapes; and 5. provide, at best, only minimal written responses.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use a limited number of basic facts to perform simple computations with whole numbers; 2. demonstrate minimal recognition of fractions, decimals, and percents; 3. apply conceptual knowledge minimally or inappropriately in solving real-world problems; 4. use—with limited degree of accuracy or with inconsistency—four-function calculators, rulers, and geometric shapes; and 5. provide written responses that are difficult to understand or are irrelevant.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use a limited number of basic facts to perform simple computations with whole numbers;
2. demonstrate minimal recognition of fractions, decimals, and percents;
3. apply conceptual knowledge minimally in solving real-world problems;
4. use—with limited degree of accuracy—four-function calculators, rulers, and geometric shapes; and
5. provide written responses that may be partially complete.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007).

§2013. Grade 8 Achievement Level Descriptors

A. Grade 8 English Language Arts Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate both literal and overall understanding of what they read;
2. identify some elements of text and an author's purpose;
3. extend the ideas in text by making simple inferences and drawing conclusions; recognize and relate connections among ideas in texts by drawing conclusions;
4. research a topic by selecting and using information in various sources;
5. express some critical and/or creative thinking in response to a writing task;
6. develop a central idea with a consistent focus, appropriate organization, and elaboration with some supporting details; and
7. demonstrate audience awareness through use of appropriate but general language, and some sentence variety, and a sense of personal style.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in texts;
3. make simple and broad connections between text and personal experiences;
4. research a topic by locating some information in commonly used sources;
5. demonstrate a partial response to a writing task;
6. develop a weak central idea with some evidence of organization and elaboration with few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. make a few interpretations and extensions of ideas in the texts;
3. make simple and broad connections between the text and personal experiences;
4. research a topic by locating some information in commonly used sources;

5. demonstrate a partial response to a writing task;
6. develop a weak central idea with some evidence of organization and elaboration with a few or inappropriate supporting details; and
7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. understand what they read;
2. make minimal interpretations and extensions of ideas in the text;
3. locate some information within commonly used sources;
4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and
5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 8 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve routine, real-world problems through the appropriate selection and use of strategies and technological tools—including calculators and geometric shapes;
3. use fundamental algebraic and informal geometric concepts in problem solving;
4. determine which available data are necessary and sufficient for correct solutions and use them in problem solving; and
5. show limited skill in communicating mathematically.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with instructional assistance;
3. recognize basic geometric figures;
4. recognize simple, obvious patterns;
5. use tools of technology;
6. apply conceptual knowledge inconsistently; and
7. demonstrate difficulty in transferring knowledge and skills to problem-solving situations.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve few one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with detailed instructional assistance;
3. recognize a limited number of basic geometric figures;
4. recognize a limited number of simple, obvious patterns;
5. minimally use the tools of technology;
6. show minimal or inconsistent application of conceptual knowledge; and
7. demonstrate minimal or inappropriate transfer of knowledge and skills to problem-solving situations.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs;
2. solve few one-step problems involving basic computations (+, -, x, ÷) and follow procedural steps with detailed instructional assistance;
3. recognize a limited number of basic geometric figures;
4. recognize a limited number of simple, obvious patterns;
5. minimally use the tools of technology;
6. show minimal application of conceptual knowledge; and
7. demonstrate minimal transfer of knowledge and skills to problem-solving situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:272 (February 2007).

§2015. Grade 10 Achievement Level Descriptors

A. Grade 10 English Language Arts Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate overall understanding of what they read and make some interpretations;
2. identify elements of text and an author's style;
3. extend ideas in text by making simple inferences and some connections to personal experiences;
4. research a topic by selecting and using information in various sources;
5. demonstrate some evidence of critical, analytical, and/or creative thinking in response to a writing task;
6. develop a response with a central idea, evidence of some observable organization, and elaboration with some supporting details; and
7. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate partial understanding of what they read;
2. identify some elements of text and an author's purpose;
3. make simple or broad connections between text and personal experiences;
4. research a topic by locating information in commonly used sources;
5. demonstrate a partial response to a writing task;
6. develop a response with a weak central idea, some evidence of organization, and minimal elaboration or supporting details; and
7. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate a minimal understanding of what they read;
2. identify few elements of text and an author's purpose;
3. make minimal connections between text and personal experiences;

4. research a topic by locating minimal information in commonly used sources;
5. demonstrate a minimal response to a writing task;
6. develop a response with a weak or unfocused idea, attempted organization, and little or irrelevant support; and
7. demonstrate minimal audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. understand what they read;
2. identify some elements of text;
3. make minimal connections between text and personal experiences;
4. locate information within commonly used sources;
5. develop a response to a writing task using a general focus, attempted organization, and minimal support; and
6. demonstrate minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 10 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. use estimation to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. use algebraic and geometric reasoning strategies to solve problems;
3. recognize relationships presented in verbal, algebraic, tabular, and graphical forms;
4. demonstrate knowledge of geometric relationships and corresponding measurement skills;
5. apply statistical reasoning in the organization and display of data and in reading tables and graphs;
6. generalize from patterns and examples in the areas of algebra, geometry, and statistics;
7. use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes; and
8. use calculators appropriately to solve problems.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show limited use of fundamental algebraic, geometric, and statistical reasoning in problem solving;
3. interpret data presented in various forms;
4. show limited skills in communicating mathematically; and
5. demonstrate limited application of conceptually knowledge.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving;
3. interpret data presented in limited forms;
4. show minimal skills in communicating mathematically; and
5. demonstrate minimal or inappropriate application of conceptual knowledge.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;
2. show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving;
3. interpret data presented in limited forms;
4. show minimal skills in communicating mathematically; and
5. demonstrate minimal application of conceptual knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:273 (February 2007).

§2017. Grade 11 Achievement Level Descriptors

A. Grade 11 Science Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. formulate valid hypotheses;
2. design a simple experiment;
3. draw appropriate conclusions;
4. develop inferences from experimentation and apply that information to new situations;
5. distinguish scientific principles from pseudoscience; and
6. apply scientific principles to their everyday life.

With inquiry as the core, students at the Basic level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. know and understand fundamental science facts and concepts concerning the world; and
2. make observations, form a reasonable hypothesis, identify variables, interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate limited knowledge and understanding of fundamental science facts and concepts concerning the world; and
2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions that may be inappropriate or inaccurate.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. demonstrate knowledge and understanding of fundamental science facts and concepts concerning the world with minimal

accuracy or consistency; and

2. make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions.

These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

B. Grade 11 Social Studies Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: interpret geographical data, describe the basic physical structure of the planet, and explain the spatial relationships between humans and their environment.
2. Civics: explain structure and purposes of government, describe the foundations of the American political system, explain international relationships, and describe the roles of citizen.
3. Economics: describe fundamental economic concepts, explain decisions made by consumers, businesses, and government; and explain U.S. fiscal policy.
4. History: describe continuity and change, describe the significance of people, places, events, ideas, and documents, and examine relevant experiences from the past to describe contemporary issues.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: identify geographical data, recognize the physical structure of the planet, and state the spatial relationships between humans and their environment.
2. Civics: identify the structure and purposes of government, recognize the foundations of the American political system, identify international relationships, and identify the roles of citizen.
3. Economics: identify fundamental economic concepts, identify decisions made by consumers, businesses, and government; and identify U.S. fiscal and monetary policies.
4. History: recognize continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: identify limited geographical data, recognize a limited number of physical structures of the planet, and state a limited number of spatial relationships between humans and their environment.
2. Civics: demonstrate limited knowledge about the structure and purposes of government, demonstrate a limited understanding or recognition of the foundations of the American political system, identify a few international relationships, and identify the role of citizens with only some consistency.
3. Economics: demonstrate limited knowledge or understanding of fundamental economic concepts, identify a limited number and type of decisions made by consumers, businesses, and government; and show minimal understanding of U.S. fiscal and monetary policies.
4. History: demonstrate limited recognition of continuity and change, recognize the significance of a limited number of people, places, events, ideas and documents, and identify a limited number of relevant experiences from the past to describe contemporary issues.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to do the following.

1. Geography: identify geographical data, recognize physical structures of the planet, and state the spatial relationships between humans and their environment.
2. Civics: demonstrate knowledge about the structure and purposes of government, demonstrate an understanding or recognition of the foundations of the American political system, identify international relationships, and identify the role of citizens.
3. Economics: demonstrate knowledge or understanding of fundamental economic concepts, identify types of decisions made by consumers, businesses, and government, and show understanding of U.S. fiscal and monetary policies.
4. History: demonstrate recognition of continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:274 (February 2007).

Subchapter E. LAA 2 Assessment Structure

§2019. Content Standards

A. The LAA 2 tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in August 2005 by the SBESE.

B. The LAA 2 is based on academic content standards. Modifications in the test and item format allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

C. The LAA 2 assessments consist of fewer items than LEAP and GEE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007).

§2021. English Language Arts Tests Structure

A. The English Language Arts tests have four sessions or subtests.

1. Writing. The Writing session requires students to produce a composition in response to a prompt. The writing session measures key aspects of English Language Arts standards 2 and 3.

a. Standard 2. Students write competently for a variety of purposes and audiences.

b. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. Reading and Responding. The Reading and Responding session includes two short reading passages (fiction, nonfiction, no poetry), four multiple-choice and one short-answer item for each passage. Questions in this session

measure key aspects of English Language Arts standards 1, 6, and 7.

a. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

b. Standard 6. Students read, analyze, and respond to literature as a record of life experiences.

c. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

3. Using Information Resources. The Using Information Resources session requires students to complete a specified task designed to measure standard 5.

a. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge. Test items appear next to the resource needed to locate each answer. This session includes five multiple-choice items and 1 short answer item.

4. Proofreading. The Proofreading session requires students to identify mistakes in grammar, usage, and mechanics. The session consists of eight multiple-choice items formatted with a sentence as the stem followed by four answer choices. Questions in this session measure key aspects of English Language Arts standard 3.

a. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007).

§2023. Mathematics Test Structure

A. The Mathematics test consists of three sessions:

1. two multiple-choice sessions; and
2. one constructed-response session.

B. The Mathematics test assess the following strands:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations.

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures, regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions.

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007).

§2025. Science Tests Structure

A. The Science tests consist of two sessions.

1. Session 1 uses a multiple-choice test items for grade 11 to assess concepts and skills in all five strands of science.

2. Session 2 consists of two short-answer questions that assess two of the four science content strands: Physical Science, Life Science, Earth and Space Science, and Science and the Environment. These questions allow students to reflect on an idea, demonstrate their understanding of concepts and processes of science, make meaning of a given set of data, or critique the information. The wording of the questions is direct and specific, and the questions focus on the quality of the students' knowledge.

B. The Science tests assess the following science strands.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:276 (February 2007).

§2027. Social Studies Tests Structure

A. The Social Studies tests consist of two sessions.

1. Session 1 consists of 32 multiple-choice test items for grade 11 that assess knowledge, conceptual

understanding, and application of skills in all four social studies strands (i.e., Geography, Civics, Economics, and History). Items in Session 1 are intermingled across strands.

2. Session 2 consists of 2 open-ended questions calling for a constructed response and requiring higher-order thinking in a social studies context (e.g., grasping a concept, analyzing information, evaluating a principle, or applying a skill). Students may be required to construct or interpret a chart, graph, map, timeline, or other graphic representation; to supply a short written answer; or to produce a short writing in response to a social studies issue or problem. Each of the constructed-response items represents one of the four social studies strands. Each task in part B is scored on a 0 to 2 point scale.

B. The four social studies strands assessed are:

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connection between people and places, and the relationship between man and his environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:276 (February 2007).

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Business Education (LAC 28: CXV.2375)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2375, Business Education*. This action was requested to assure that students in the Career and Technical Web Design course have

adequate time to be trained in the skills requested by business and industry.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§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 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
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 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277 (February 2007).

Weegie Peabody
Executive Director

0702#008

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28: CXV.2373-2385, and 3113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*. The changes of the Career and Technical Internship policies will assure that students are able to schedule and fulfill the requirements of the course and to provide trained students to the local industry.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2373. Agricultural Education

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

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	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-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

Course Title(s)	Recommended Grade Level	Units
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), amended LR 33:277 (February 2007).

§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 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), amended LR 33:278 (February 2007).

§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	1
CTE Internship II	12	1
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
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		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	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
Introduction to the Internet	11-12	1/2
Logic for Programming	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), amended LR 33:278 (February 2007).

§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

Course Title(s)	Recommended Grade Level	Units
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
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
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), amended LR 33:278 (February 2007).

§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 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	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), amended LR 33:279 (February 2007).

§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
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), amended LR 33:279 (February 2007).

§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
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), amended LR 33:279 (February 2007).

§3113. Work-Based Learning

A. - C. ...

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. A General Cooperative Education educator shall hold a valid cooperative education certification.

2. The internship teacher-coordinator shall hold a valid teaching certificate in the CTE program that aligns with the student's internship worksite. A General CTE Internship educator shall hold a valid CTE or CTTIE certification.

E. Scheduling Work-based Learning

1. ...

2. Internships shall incorporate classroom instruction and on-the-job training. The classroom phase shall include a minimum 1 class period per week throughout the course of CTE related classroom instruction. The on-the-job training phase shall include a minimum of 155 hours for a 1 credit course or a minimum 335 hours for a 2 credit course throughout the course. Teacher-coordinators shall be scheduled for classroom instruction and on-the-job supervision.

F. - H.6.note. ...

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), amended LR 33:280 (February 2007).

Weegie Peabody
Executive Director

0702#007

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.403)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Section 403 of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. This revision to the policy for ancillary certification as a Child Nutrition Program Supervisor would allow any individual with a master's degree from a regionally accredited college or university to complete guidelines for certification in this area. This will allow more flexibility for individuals completing certification as a Child Nutrition Program Supervisor, increasing the pool of qualified applicants for employment in this area.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 4. Ancillary School Service Certificates Subchapter A. Child Nutrition Program Supervisor

§403. Introduction

A. Child Nutrition Program Supervisor—valid for life with continuous service.

B. Basic Eligibility Requirements. A master's degree from a regionally accredited institution of higher education.

C. Eligibility Requirements in Areas of Specialty

1. Specialty in Food Service:

a. a minimum of three years of successful experience in home economics education or quantity food service management; and

b. a minimum of 21 semester hours—six semester hours in nutrition related to humans, three semester hours in quantity food preparation, and 12 semester hours in at least four of the following subjects:

- i. Quantity Food Service;
- ii. Organization and Management;
- iii. Quantity Food Service Equipment and Layout;
- iv. Accounting;
- v. Statistics;
- vi. Microbiology;
- vii. Food Service or Technology.

2. Specialty in Nutrition:

a. a minimum of three years of successful experience in teaching, nutrition education, public health nutrition, clinical or administrative dietetics, cooperative extension, or food service management;

b. graduate and/or undergraduate course work, as follows:

- i. nutrition, 18 semester hours—six semester hours in nutrition related to humans, and 12 semester hours may include nutrition, physiology, biochemistry, microbiology, or bacteriology;
- ii. foods, nine semester hours;
- iii. statistics, research methodology, or evaluative techniques, three semester hours; and
- iv. a minimum of 12 semester hours in at least two of the following subjects:

(a). Quantity Food Preparation or Quantity Cookery;

(b). Child or Adolescent Psychology;

(c). Communication and Speech;

(d). Educational Materials and/or Methods;

(e). Personnel or Institutional Management.

D. Reinstatement of a lapsed Certificate: If certificate holder allows a period of five consecutive calendar years to pass in which he/she is not regularly employed as a Child Nutrition Program Supervisor for at least one semester, or 90 consecutive days, he/she must present evidence of having earned six semester hours of credit in state-approved courses (see Appendix C). The six semester credit hours must be earned during the five year period immediately preceding reinstatement.

E. A special provisional certificate, Acting Child Nutrition Program Supervisor, may be issued to an individual employed in this capacity.

1. Eligibility Requirements. A baccalaureate or master's degree from a regionally accredited institution of higher education.

2. Renewal Guidelines. Valid for one year and renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent certification as a Child Nutrition Program Supervisor.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended 33:280 (February 2007).

Weegie Peabody
Executive Director

0702#009

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Junior Reserve Officers Training Corps Instructor (ROTC)(LAC 28:CXXXI.408)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended §408 of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §408. Junior Reserve Officers Training Corps Instructor (ROTC). This policy allows the issuance of an Ancillary ROTC certificate to an individual who has retired from the active duty in the military or who has been officially recommended by the appropriate branch of the military service, with certification by the appropriate Department of Defense unit, to serve as a Junior Reserve Officers Training Corps Instructor (ROTC). At present, there is no certification area that allows an individual to serve as an instructor for ROTC. The ancillary certificate would make available to school districts an instructor qualified to perform these duties.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 4. Ancillary School Service Certificates

Subchapter A. Child Nutrition Program Supervisor

§408. Junior Reserve Officers Training Corps Instructor (ROTC)

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

B. Provisional Certification: Valid for five years.

1. Eligibility Requirements

a. Be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, 03 though 06; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. Renewal Guidelines. May be renewed upon request of the Louisiana employing authority.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:281 (February 2007).

Weegie Peabody
Executive Director

0702#010

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

State Manifest Requirements
(LAC 33:V.1107)(HW093)

Editor's Note: A portion of this rule, which was published on pages 88-89 of the January 20, 2007, issue of the *Louisiana Register*, is being reprinted to correct the designation of existing text that was not amended by this rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.1107 and 5136 (Log #HW093).

This rule removes state hazardous waste manifest requirements that are no longer valid. A new federally-mandated manifest rule that supersedes the state requirements became effective on September 5, 2006. The EPA rule was adopted by the department in May 2006. This rule cleans up state requirements remaining in the regulations due to the delayed effective date, including the fee. This rule is required for state RCRA program compliance. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. General Requirements. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, Environmental Assistance Division, or access the U.S. Environmental Protection Agency's

website to obtain information on EPA-registered and approved sources.

1. - 7. ...

8. The requirements of this Chapter and LAC 33:V.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Required Information

1. The manifest must contain all of the following information before being issued:

a. the name, physical address, telephone number, and active EPA identification number of the generator;

b. the name, physical address, telephone number, and active EPA identification number of each transporter;

c. the name, physical address, telephone number, and active EPA identification number of the designated facility;

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101; and

e. the total quantity of each hazardous waste in tons, cubic yards, pounds, or gallons (liquids only), and the type, including but not limited to, metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, portable tanks, tank cars, cylinders, wooden boxes, and fiber or plastic boxes, and number of containers as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight shall be provided.

B.2. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281 (February 2007).

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0702#041

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Triple Play
(LAC 35:XIII.11515 and 11517)

The Louisiana State Racing Commission hereby amends LAC 35:XIII.Chapter 115 Triple Play to provide for scratches/nonstarters and dead heats in a triple play wager, and provisions thereof.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 115. Triple Play

§11515. Scratches and Nonstarters

A. In the event a triple play ticket designates a selection in any one or more of the races comprising the triple play and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, prior to the official start of the first leg, all tickets designating that horse shall be refunded and the money deducted from the pool.

B. In the event the scratch was made in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with a betting interest scratched in the second leg. The breakage shall not be deducted from the pool.

C. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with an betting interest scratched in the third leg. The breakage shall not be deducted from the pool.

D. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: from the gross

pool shall be deducted the takeout and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other betting interests (less breakage) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratched betting interests from both the second and third legs. The breakage shall not be deducted from the pool.

E. If all three legs of the triple play are cancelled or declared "no contest," the entire pool shall be refunded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:282 (February 2007).

§11517. Dead Heats

A. In the event of a dead heat for win between two or more horses in any triple play race, all the horses in the dead heat for win shall be considered as official winning horses in the race for the purpose of calculating the pool and payoffs. There shall be a separate payoff price, per dollar calculated, for each winning combination as follows: from the gross pool is deducted the takeout, consolation payoff amounts, if any, and amounts wagered on all winning combinations. The balance shall be divided by the number of different winning combinations upon which bets were sold, each resulting allocated part being assigned to each respective winning combination. An allocated part plus the amounts bet on each winning combination when divided by the amount bet on each winning combination (less breakage) shall be the resulting payoff per dollar per respective winning combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:283 (February 2007).

Charles A. Gardiner III
Executive Director

0702#023

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Worker's Compensation Insurance
(LAC 46:XLI.531)

The Louisiana State Racing Commission hereby amends LAC 46:XLI.531 "Worker's Compensation Insurance" as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 5. Assistant Trainers and Other Employees

§531. Worker's Compensation Insurance

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only by the

Louisiana Horsemen's Benevolent and Protective Association, or a waiver thereof, covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 29:1820 (September 2003), LR 33:283 (February 2007).

Charles A. Gardiner III
Executive Director

0702#024

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Identification on Caskets
(LAC 46:XXXVII.1109)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors has added a provision to Chapter 11, Funeral Establishments. The board finds it necessary to add this provision to provide identification on caskets.

This Rule will assist families in their time of need should human remains be displaced from their final resting place and need to be identified.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1109. Identification on Caskets

A. In compliance with the directives and the mandates as set forth within R.S. 37:853, and considering that various casket manufacturers have thoroughly researched and developed a methodology to properly preserve and display information concerning the identification of the human remains contained within their casket, all licensed funeral directors and/or embalmers and all licensed funeral establishment shall, in order to assist in the identification of caskets and/or the identification of human remains, utilize the recommendations of the individual casket manufacturer whose casket is used as the container into which the human remains are placed, in preserving and displaying the mandated information regarding the name of the decedent, their date of death, and the funeral home involved in the service.

B. Should the casket manufacturer of the product used in the service not have a recommendation for a methodology to properly preserve and display the necessary information concerning the identification of human remains, then the

licensed funeral directors and/or embalmers and licensed funeral establishments shall utilize any one of the products recommended by the casket manufacturers who have in fact researched and developed a proper system or methodology to properly preserve and display the mandated information concerning human remains, or alternative use a methodology submitted to and approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:853.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 33:283 (February 2007).

Dawn Scardino
Executive Director

0702#002

RULE

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

Hospital Licensing Standards
(LAC 48:I.9469, 9505-9521)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9469, 9507-9515 and repeals §§9517-9521 as authorized by R.S. 40:2100-2115 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 93. Hospitals

Subchapter O. Outpatient Services (Optional)

§9469. General Provisions and Organization

A. ...

B. Outpatient services shall be appropriately organized, integrated with and provided in accordance with the standards applicable to the same service provided by the hospital on an inpatient basis.

1. Outpatient services shall be provided only under conditions stated in Subparagraphs a, b, or Clauses b.i.-ii below.

a. Outpatient services may be provided by a hospital if that hospital provides inpatient services for the same area of service. For example, a hospital may provide psychiatric outpatient services if that hospital provides psychiatric services on an inpatient basis.

b. Outpatient services may be provided by a hospital that does not provide inpatient services for the same area of service only if that hospital has a written policy and procedure to ensure a patient's placement and admission into an inpatient program to receive inpatient services for that area of service. The policy and procedure must ensure that the hospital is responsible for coordination of admission into an inpatient facility and must include, but not be limited to, the following:

i. the hospital personnel and/or staff responsible for coordination of placement and admission into an inpatient facility; and

ii. the procedure for securing inpatient services for that patient.

2. For all outpatient services, there shall be established methods of communication as well as established procedures to assure integration with inpatient services that provide continuity of care.

3. When patients are admitted, pertinent information from the outpatient record shall be provided to the inpatient facility so that it may be included in the inpatient record.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2423 (November 2003), LR 33:284 (February 2007).

Subchapter S. Perinatal Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the Obstetrical Unit and the Neonatal Intensive Care Unit shall be at the identical level except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services must be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services will be required to be in compliance with this Subchapter S immediately upon promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007).

§9507. Obstetrical Services

A. These requirements are applicable to those hospitals which provide obstetrical and neonatal services.

B. Levels of Care Units. There are four established obstetrical levels of care units:

1. Obstetrical Level I Unit;
2. Obstetrical Level II Unit;
3. Obstetrical Level III Unit; and
4. Obstetrical Level III Regional Unit.

C. Obstetrical services shall be provided in accordance with current acceptable standards of practice as delineated in the current AAP/ACOG *Guidelines for Perinatal Care*. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a Level III regional unit must meet the requirements of a Level I, II, and III unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007).

§9509. Obstetrical Unit Functions

A. Obstetrical Level I Unit

1. General Provisions

a. Care and supervision for low risk pregnancies greater or equal to 35 weeks gestation shall be provided.

b. There shall be a triage system for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a Level I Unit.

c. There shall be a written transfer agreement with a hospital which has an approved appropriate higher level of care.

d. The unit shall provide detection and care for unanticipated maternal-fetal problems encountered in labor.

e. Blood and fresh frozen plasma for transfusion shall be immediately available.

f. Postpartum care facilities shall be available.

g. There shall be capability to provide for resuscitation and stabilization of inborn neonates.

h. The facility shall have a policy for infant security and an organized program to prevent infant abductions.

i. The facility shall support breast feeding.

j. The facility shall have data collection and retrieval capabilities including current birth certificate in use, and shall cooperate and report the requested data to the appropriate supervisory agencies for review.

k. The facility shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.

l. The facility shall have written transport agreements. The transport service must be designed to be adequately equipped and have transport personnel with appropriate expertise for obstetrical and neonatal care during transport. Transport services shall meet appropriate local, state, and federal guidelines.

2. Personnel Requirements

a. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges. The physician shall be Board Certified or Board Eligible in obstetrics/gynecology or Family Practice Medicine. The physician has the responsibility of coordinating perinatal services with the pediatric chief of service.

b. The nursing staff must be adequately trained and staffed to provide patient care at the appropriate level of service. The facility shall utilize the guidelines for staffing as provided by the AAP and the ACOG in the current *Guidelines for Perinatal Care* (See Table 2-1 in §9515, Additional Support Requirements).

c. The unit shall provide credentialed medical staff to ensure the capability to perform emergency Cesarean delivery within 30 minutes of the decision to operate (30 minutes from decision to incision).

d. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in its use) and laboratory services shall be available on a 24-hour basis. Anesthesia services shall be available to ensure performance of a Cesarean delivery within 30 minutes as specified in Subparagraph c above.

e. At least one qualified physician or certified registered nurse midwife shall attend all deliveries, and at least one qualified individual capable of neonatal resuscitation shall attend all deliveries.

f. The nurse manager shall be a registered nurse (RN) with specific training and experience in obstetric care. The RN manager shall participate in the development of written policies, procedures for the obstetrical care areas, and coordinate staff education and budget preparation with

the chief of service. The RN manager shall name qualified substitutes to fulfill duties during absences.

3. Physical Plant

a. Obstetrical patients shall not be placed in rooms with non-obstetrical patients.

b. Each room shall have at least one toilet and lavatory basin for the use of obstetrical patients.

c. The arrangement of the rooms and areas used for obstetrical patients shall be such as to minimize traffic of patients, visitors, and personnel from other departments and prevent traffic through the delivery room(s).

d. There shall be an isolation room provided with hand washing facilities for immediate segregation and isolation of a mother and/or baby with a known or suspected communicable disease.

e. Any new construction or major alteration of obstetrical units shall have a facility to enable Cesarean section deliveries in the obstetrical unit.

B. Obstetrical Level II Unit

1. General Provisions

a. The role of an obstetrical Level II unit is to provide care for most obstetric conditions in its population, but not to accept transports of obstetrical patients with gestation age of less than 32 weeks or 1,500 grams if delivery of a viable infant is likely to occur.

b. Conditions which would result in the delivery of an infant weighing less than 1,500 grams or less than 32 weeks gestation shall be referred to an approved Level III or Level III regional obstetrical unit unless the patient is too unstable to transport safely. Written agreements with approved obstetrical Level III and/or obstetrical Level III regional units for transfer of these patients shall exist for all obstetrical Level II units.

c. The unit shall be able to manage maternal complications of a mild to moderate nature that do not surpass the capabilities of a board certified obstetrician/gynecologist.

d. The needed subspecialty expertise is predominantly neonatal although perinatal cases might be appropriate to co-manage with a perinatologist.

e. Ultrasound equipment shall be on site, in the hospital, and available to labor and delivery 24 hours a day.

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or an active candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist or pediatrician in charge of the neonatal intensive care unit (NICU).

b. A board-certified radiologist and a board-certified clinical pathologist shall be available 24 hours a day. Specialized medical and surgical consultation shall be readily available.

C. Obstetrical Level III Unit

1. General Provisions

a. There shall be provision of comprehensive perinatal care for high risk mothers.

b. The unit shall provide care for the most challenging of perinatal conditions. Only those conditions requiring a medical team approach not available to the perinatologist in an obstetrical Level III unit shall be transported to an obstetrical Level III regional unit.

c. Cooperative transfer agreements with approved obstetrical Level III regional units shall exist for the transport of mothers and fetuses requiring care unavailable in an obstetrical Level III unit or that are better coordinated at an obstetrical Level III regional unit.

d. Obstetric imaging capabilities to perform targeted ultrasound examination in cases of suspected abnormalities shall be available.

e. Genetic counseling and diagnostics shall be provided.

f. Ongoing educational opportunities shall be provided through organized educational programs.

g. This unit shall provide for and coordinate maternal transport with obstetrical Level I and II units.

2. Personnel Requirements

a. The chief of the obstetrical unit providing maternal-fetal medicine at a Level III unit shall assure that appropriate care is provided by the primary attending physician for high risk maternal patients and shall be:

- i. board-certified in maternal-fetal medicine; or
- ii. an active candidate for subspecialty certification in maternal-fetal medicine; or
- iii. a board-certified obstetrician with experience in maternal-fetal medicine and credentialing to care for high risk mothers.

b. If there is no hospital-based perinatologist, a written consultative agreement shall exist with an approved obstetrical Level III or Level III regional obstetrical unit with a hospital-based perinatologist. The agreement shall also provide for a review of outcomes and case management for all high risk obstetrical patients for educational purposes.

c. A board-certified anesthesiologist with special training or experience in maternal-fetal anesthesia services at a Level III unit shall direct obstetrical anesthesia services. Personnel, including certified registered nurse anesthetists (CRNAs), with credentials to administer obstetric anesthesia shall be in-house 24 hours a day.

D. Obstetrical Level III Regional Unit

1. General Provisions

a. The unit shall have the ability to care for both mother and fetus in a comprehensive manner in an area dedicated to the care of the critically ill parturient.

b. These units shall provide for and coordinate maternal and neonatal transport with Level I, II and III NICU units throughout the state.

2. Personnel Requirements

a. The chief of service at the Level III regional obstetrical unit must be a board-certified perinatologist.

b. The obstetrical Level III Regional unit shall have the following obstetrical specialties or subspecialties on staff and clinical services available to provide consultation and care to the parturient in a timely manner:

- i. maternal-fetal medicine;
- ii. cardiology;
- iii. neurology; and
- iv. hematology.

c. Subspecialists to provide consultation in the care of the critically ill parturient shall be on staff in the following areas:

- i. adult critical care;
- ii. cardiothoracic surgery;
- iii. nephrology;

- iv. pulmonary medicine;
- v. neurosurgery;
- vi. endocrinology;
- vii. urology;
- viii. infectious disease; and
- ix. gastroenterology.

d. Personnel qualified to manage obstetrical emergencies shall be in-house 24 hours per day, including CRNAs, with credentials to administer obstetrical anesthesia.

e. A lactation consultant shall be on staff to assist breast feeding mothers.

f. Registered nurses with experience in the care of high risk maternity patients shall be in house on a 24-hour basis.

g. A nutritionist and a social worker shall also be available for the care of these patients.

D.3. - 7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007).

§9511. Neonatal Intensive Care

A. This §9511 is applicable to those hospitals which provide obstetrical and neonatal services.

B. Levels of Care. There are four established neonatal levels of care units:

1. Neonatal Level I Unit;
2. Neonatal Level II Unit;
3. Level III NICU Unit; and
4. Level III regional NICU.

C. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a Level III regional unit must meet the requirements of the Level I, II, and III units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003), amended LR 33:286 (February 2007).

§9513. Neonatal Unit Functions

A. Level I Neonatal Unit

1. General Provisions

a. The unit shall have the capability for resuscitation and stabilization of all inborn neonates in accordance with Neonatal Resuscitation Program (NRP) guidelines. The unit shall stabilize unexpected small or sick neonates before transfer to the appropriate advanced level of care.

b. The unit shall maintain consultation and transfer agreements with an approved Level II or III as appropriate, and an approved Level III regional NICU, emphasizing maternal transport when possible.

c. There shall be a defined nursery area with limited access and security or rooming-in facilities with security.

d. Parent and/or sibling visitation/interaction with the neonate shall be provided.

e. The unit shall have the capability for data collection and retrieval.

2. Personnel Requirements

a. The unit's chief of service shall be a physician who is board-certified or board-eligible in pediatric or family practice medicine.

b. The nurse manager shall be a registered nurse with specific training and experience in neonatal care. The RN manager shall participate in the development of written policies and procedures for the neonatal care areas, and coordinate staff education and budget preparation with the chief of service. The RN manager shall name qualified substitutes to fulfill duties during absences.

c. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level I neonatal unit shall be 1:6-8. This ratio reflects traditional newborn nursery care. If couplet care or rooming-in is used, a registered nurse who is responsible for the mother should coordinate and administer neonatal care. If direct assignment of the nurse is also made to the nursery to cover the newborn's care, there shall be double assignment (one nurse for the mother-neonate couplet and one for just the neonate if returned to the nursery). A registered nurse shall be available at all times, but only one may be necessary as most neonates will not be physically present in the nursery. Direct care of neonates in the nursery may be provided by ancillary personnel under the registered nurse's direct supervision. Adequate staff is needed to respond to acute and emergency situations.

B. Neonatal Level II Unit

1. General Provisions

a. There shall be management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

b. There shall be neonatal ventilatory support, vital signs monitoring, and fluid infusion in the defined area of the nursery. Neonates requiring greater than 24-hour continuous ventilatory support shall be transferred to an approved Level III or Level III regional unit.

c. Neonates born at a Level II facility with a birth weight of less than 1,500 grams shall be transferred to an approved Level III or Level III regional NICU unit unless a neonatologist is providing on-site care in the hospital.

d. Neonates requiring transfer to a Level III or Level III regional NICU may be returned to an approved Level II unit for convalescence.

2. Personnel Requirements

a. A board-certified pediatrician with special interest and experience in neonatal care or a neonatologist shall be the chief of service.

b. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level II neonatal unit shall be 1:3-4 (See Table 2-1 of §9515, Additional Support Requirements).

C. Level III NICU

1. General Provisions

a. There shall be a written neonatal transport agreement with an approved Level III regional unit. There shall be an organized outreach educational program.

b. If the neonatologist is not in-house, there shall be a pediatrician who has successfully completed the Neonatal Resuscitation Program (NRP) or one neonatal nurse practitioner in-house for Level III NICU patients.

c. Direct consultation with a neonatologist shall be available 24 hours per day.

2. Personnel Requirements

a. The chief of service of a Level III NICU shall be a board-certified neonatologist. The following exceptions are recognized.

i. A board-certified pediatrician who is an active candidate for a subspecialty certification in neonatal medicine.

ii. In 1995, those physicians in existing units who were designated as the chief of service of the unit and who were not neonatal or perinatal board-certified, were granted a waiver by written application to the Office of the Secretary, Department of Health and Hospitals. This waiver shall be maintained as it applies only to the hospital where that chief of service's position is held. The physician cannot relocate to another hospital nor can the hospital replace the chief of service for whom the exception was granted and retain the exception.

b. Medical and surgical consultation shall be readily available and pediatric subspecialists may be used in consultation with a transfer agreement with a Level III regional NICU.

c. Registered nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level III NICU unit shall be 1:2-3 (See Table 2-1 of §9515, Additional Support Requirements).

D. Level III Regional NICU

1. General Provisions

a. Twenty-four hours per day in-house coverage shall be provided by a neonatologist, a second year or higher pediatric house officer, or a neonatal nurse practitioner. If the neonatologist is not in-house, there shall be immediate consultative ability with the neonatologist and he/she shall be available to be on-site in the hospital within 30 minutes.

b. The unit shall have a transport team and provide for and coordinate neonatal transport with Level I, Level II units and Level III NICUs throughout the state. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport.

c. The unit shall be recognized as a center of research, educational and consultative support to the medical community.

2. Personnel Requirements

a. The chief of service shall be a board-certified neonatologist.

b. Nurse to patient ratios may vary in accordance with patient needs. However, the ratio for a Level III regional NICU shall be 1:1-2 (See Table 2-1 in §9515, Additional Support Requirements).

c. The unit shall have the following pediatric specialties/subspecialties on staff and clinical services available to provide consultation and care to neonates in a timely manner:

- i. anesthesia;
- ii. pediatric surgery;
- iii. pediatric cardiology; and
- iv. pediatric ophthalmology.

d. Subspecialists to provide consultation in the care of the critically ill neonate shall be on staff in the following areas:

- i. pediatric neurology;
- ii. pediatric hematology;
- iii. genetics;
- iv. pediatric nephrology;
- v. pediatric endocrinology;
- vi. pediatric gastroenterology;
- vii. pediatric infectious disease;
- viii. pediatric pulmonary medicine;
- ix. orthopedic surgery;
- x. pediatric urologic surgery;
- xi. ENT surgery; and
- xii. cardiothoracic surgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007).

§9515. Additional Support Requirements

A. A Bioethics Committee shall be available for consultation with care providers at all times.

B. The following support personnel shall be available to provide consultation and care and services to Level II, Level III and Level III regional obstetrical, neonatal, and NICU units in a timely manner:

1. at least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy);

2. at least one occupational or physical therapist with neonatal expertise; and

3. at least one registered dietitian/nutritionist who has special training or experience in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

C. The following support personnel shall be immediately available to be on-site in the hospital for Level II, Level III and Level III regional obstetrical, neonatal, and NICU units:

1. qualified personnel for support services such as laboratory studies, radiological studies, and ultrasound examinations (these personnel shall be readily available 24 hours a day); and

2. registered respiratory therapists or registered nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

D. The staffing guidelines shall be those recommended by the current AAP/ACOG *Guidelines for Perinatal Care*. (See Table 2-1 below).

Table 2-1. Recommended Registered Nurse/Patient Ratios for Perinatal Care Services	
Nurse/Patient Ratio	Care Provided
Intrapartum	
1:2	Patients in labor
1:1	Patients in second stage of labor
1:1	Patients with medical or obstetric complications
1:2	Oxytocin induction or augmentation of labor
1:1	Coverage for initiating epidural anesthesia
1:1	Circulation for Cesarean delivery
Antepartum/ Postpartum	
1:6	Antepartum/postpartum patients without complications
1:2	Patients in postoperative recovery
1:3	Antepartum/postpartum patients with complications but in stable condition
1:4	Recently born infants and those requiring close observation
Newborns	
1:6-8	Newborns requiring only routine care
1:3-4	Normal mother-newborn couplet care
1:3-4	Newborns requiring continuing care
1:2-3	Newborns requiring intermediate care
1:1-2	Newborns requiring intensive care
1:1	Newborns requiring multi-system support
1:1 or Greater	Unstable newborns requiring complex critical care

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:288 (February 2007).

§9517. Neonatal Unit Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), repealed LR 33:288 (February 2007).

§9519. Medical Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003), repealed LR 33:288 (February 2007).

§9521. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2430 (November 2003), repealed LR 33:288 (February 2007).

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

0702#073

RULE

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

**Inpatient Hospital Services—Private Hospitals
Reimbursement Rate Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to increase the prospective per diem rate paid to private (non-state) hospitals, including long-term hospitals and hospital intensive neurological rehabilitation care units, for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

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

0702#068

RULE

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

**Inpatient Psychiatric Services—Private Hospitals
Reimbursement Rate Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient psychiatric hospital services to increase the prospective per diem rate paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals by 3.85 percent of the rate on file for July 31, 2006.

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

0702#069

RULE

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

**Medical Transportation Program—Emergency Ambulance
Services—Reimbursement Rate Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement of emergency ambulance transportation services to increase the base rate by 5 percent and ground mileage reimbursement rate for emergency ambulance transportation services by 17 percent of the rates in effect on August 31, 2006.

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

0702#072

RULE

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

**Professional Services Program—Physician Services
Reimbursement Rate Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 amends the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates paid to physicians for selected medical services provided to Medicaid recipients.

Outpatient Office Evaluation and Management Services

A. The reimbursement rate for outpatient office evaluation and management services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for outpatient office evaluation and management services, when provided by a primary care physician (PCP) and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Outpatient Office Consultation Services

A. The reimbursement rate for outpatient office consultation services provided by physicians shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Emergency Department Services

A. The reimbursement rate for emergency department services shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

B. The reimbursement rate for emergency department services, when provided by a PCP and the recipient is enrolled in the CommunityCARE Program, shall be increased to 80 percent of the 2006 Medicare Region 99 allowable where the current Medicaid reimbursement rate is less than that amount.

Preventive Medicine Services

A. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, shall be increased by 10 percent of the current Medicaid rate in effect on October 3, 2006.

B. The reimbursement rate for preventive medicine services for recipients, age 0 through 20, provided by the PCP or the recipient's KidMed provider, shall be increased by 15 percent of the current Medicaid rate in effect on October 3, 2006.

General/Integumentary System Codes

A. The reimbursement rate paid for CPT codes in the General/Integumentary System section (CPT codes 10021-19499) shall be increased to 70 percent of the 2006 Medicare Region 99 allowable where the current reimbursement rate is less than that amount.

Implementation 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

0702#071

RULE

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

Outpatient Hospital Services—Private Hospitals Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospitals services to increase the reimbursement rate paid to private (non-state) acute hospitals for cost-based outpatient services by 3.85 percent of the rate on file for July 31, 2006. Final reimbursement shall be 86.2 percent of allowable cost through the cost report settlement process. This change does not include the fee schedule amounts for outpatient laboratory services, outpatient rehabilitation services, outpatient surgery and outpatient clinic (facility fees).

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

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

0702#070

RULE

Department of Public Safety and Corrections State Uniform Construction Code Council

Uniform Construction Code
(LAC 55:VI.Chapters 1-11)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), R.S. 40:1730.26(1), R.S. 40:1730.34(B) and 40:1730.35(E) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce Rules, the Louisiana State Uniform Construction Code Council hereby promulgates the following Rule which will establish a new Part of the Louisiana Administrative Code.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

A. Anyone petitioning the Undersecretary, Department of Public Safety, for the adoption of, or change of, any rule shall submit in writing to the Council Administrator at 8181 Independence Boulevard, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

1. the name, address, telephone number and email address of the applicant;
2. a brief description of the facts supporting the applicant's request for the adoption of a rule or the change of a rule that has already been adopted;
3. suggested specific language or language setting forth the substance of the rule or rule change which is being requested;
4. an indication as to whether or not a public hearing is requested;
5. a copy of each and every document upon which the applicant bases his request for a rule or a citation of the information and where it can be easily obtained for review by this office.

B. Whenever the council administrator determines that a public hearing or public hearings should be held prior to the adoption of any rule or rule change, a notice of the meeting date and place and the agenda will be recorded in the *Louisiana Register*; however, whenever that is not possible, a copy of the meeting notice including the date, time, and place, and agenda of the meeting will be mailed to the official journals of the cities of Lafayette, Alexandria, Shreveport, Monroe, Lake Charles, Baton Rouge and New Orleans.

C. Within 90 days of the request for adoption of or change of a rule, the council administrator will notify the applicant and each individual who request a copy of either his denial of the application or notice of intent to adopt the requested rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:290 (February 2007).

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective, January 1, 2007, the following is hereby adopted as the Louisiana State Uniform Construction Code.

1. International Building Code, 2006 Edition, not including Chapter 1-Administration, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state.

2. International Existing Building Code, 2006 Edition, not including Chapter 1-Administration, and the standards referenced in that code for regulation of construction within this state.

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. Amendment of R301.2.1.1 (Design Criteria);
- b. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- c. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- d. item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

5. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

6. International Fuel Gas Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

7. National Electrical Code, 2005 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007).

Chapter 5. Enforcement of Louisiana State Uniform Construction Code

§501. General

A. Effective January 1, 2007, all municipalities and parishes shall enforce the Louisiana State Uniform Construction Code. Municipalities and parishes may establish agreements with other governmental entities or registered and certified third party providers to issue permits and enforce the state uniform construction code. No municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a licensed architect or engineer if the dwelling falls within the prescriptive codes of the Louisiana State Uniform Construction Code, except as required by Chapter 12 of the Louisiana State Plumbing Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007).

§503. Farm or Recreational Structures

A. Definitions

1. For the purposes of these regulations the words defined in this Section have the following meaning.

Farm Structure—a structure which is constructed on a farm, other than a residence or structure attached to it, for use on the farm including, but not limited to barns, sheds and poultry houses.

Private Outdoor Recreational Structure—a hunting or fishing camp not used as a residence nor attached to a residence.

B. Exemptions to State Uniform Construction Code

1. The governing authority of a parish or municipality may not enforce the Louisiana State Uniform Construction Code pertaining to the construction or improvement of a farm structure or private outdoor recreational structure. For private outdoor recreational structures only, the property owner of record, in applying for an exemption, shall execute an affidavit attesting to the property's or structure's exempt status. The affidavit shall be filed into the parish conveyance records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007).

Chapter 7. Certificates of Registration

§701. General

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a Certificate of Registration. The applicant shall apply on the application form prescribed by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A Certificate of Registration is valid for one year and expires on the last day of the month of issuance. Those possessing Certificates of Registration must timely renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007).

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. General

1. In order to obtain a Certificate of Registration from the council for a particular classification, an individual must meet the following qualifications.

B. Definitions

Building Code Enforcement Officer (BCEO)—a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Building Official—the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

Inspector—a BCEO, who under the authority of the building official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

Plans Examiner or Reviewer—a BCEO, who under the authority of the Building Official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

Third-Party Provider (TPP)—any individual, entity or an individual employed by an entity contracted by a municipality, parish or licensed contractor to act in the capacity of a BCEO.

C. BCEO Registration Classifications/Requirements

1. General Classifications

a. *Building Official (BO)*—requirements; possess a current ICC Certified Building Official certificate or a current ICC Master Code Professional certificate and have two years experience as an architect, engineer, inspector, plans examiner, contractor or superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

2. Specialty Classifications

a. Commercial Inspectors

i. Commercial Building Inspector Requirements—possess a current ICC Commercial Building Inspector certificate.

ii. Commercial Electrical Inspector Requirements—possess a current ICC Commercial Electrical Inspector certificate.

iii. Commercial Mechanical Inspector Requirements—possess a current ICC Commercial Mechanical Inspector certificate.

iv. Commercial Plumbing Inspector Requirements—possess a current ICC Commercial Plumbing Inspector certificate.

v. Commercial Energy Requirements—shall be enforced by the Office of the State Fire Marshal.

b. Commercial and Residential Plan Examiners or Reviewers

i. Building Plans Examiner Requirements possess a current ICC Commercial Building Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements—possess a current ICC Commercial Electrical Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements—possess a current ICC Commercial Mechanical Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements—possess a current ICC Commercial Plumbing Plans Examiner certificate.

v. Commercial Energy Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector Requirements—possess a current ICC Residential Inspector certificate.

ii. Residential Electrical Inspector Requirements—possess a current ICC Residential Electrical Inspector certificate.

iii. Residential Mechanical Inspector Requirements—possess a current ICC Residential Mechanical Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007).

§705. Third Party Providers

A. General

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party provider who is also performing work for the parish or municipality, shall also be council certified.

B. Insurance

1. All third party providers shall carry at least \$100,000 in general liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration.

C. Restrictions

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

D. Code Enforcement Services for Non-Governmental Entities

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

Chapter 9. Temporary Exemption to Certification Requirement

§901. Employment after January 1, 2007

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council. This provisional certificate of registration is valid for 12 months. Residential plan reviewers shall be granted an additional 12-month provisional certificate of registration commencing on the date of the first ICC residential plans examiner test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

§903. Employment prior to January 1, 2007

A. Certificates of Registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already employed in code enforcement on January 1, 2007 only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of 3 continuing education units for a core discipline as required in §703. Thereafter, anyone renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

Chapter 11. Disciplinary Proceedings

§1101. General

A. The council shall have the authority to suspend, revoke or deny renewal of Certificates of Registration upon any violation of R.S. 40:1730.21 et seq. after notice and proper hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

§1102. Informal Proceedings

A. Notice. If the council receives written information indicating that a person holding a Certificate of Registration (registrant) is violating or has violated any provision of R.S. 40:1730.21 et seq. or this Part, the council, after an investigation, may, in writing, order the person to immediately refrain from the conduct or violation.

B. Response. The registrant shall respond in writing to the council's informal notice within 10 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention or renewal of his or her Certificate of Registration. In lieu of providing a written statement, the registrant may request an informal conference with the council administrator and council chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

§1103. Formal Proceedings

A. Complaint. In the event that the matter is not resolved during the informal proceedings, the council shall file a formal complaint which then shall be forwarded to the registrant, via certified mail, to the address on file with the council.

B. Hearing. No hearing shall be conducted prior to 20 business days following the filing of the formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

§1105. Procedures

A. Hearings. All hearings conducted before the council or a designated committee shall be in accordance with the Administrative Procedure Act.

B. Notice. The hearing notice shall include:

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

C. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to

conduct such cross examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007).

§1107. Decisions and Orders

A. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by mail of the decision or order. A copy of the decision or order shall be sent via certified mail forthwith to each party and, if applicable, to his attorney of record. The parties by written stipulation may waive compliance with this Section. The council, in the event there is no contest, may eliminate compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:294 (February 2007).

§1109. Rehearings

A. A decision or order in a case of adjudication are subject to rehearing, reopening, or reconsideration by the council, within 10 days from the date of its entry. The grounds for such action shall be either that:

1. the decision or order is clearly contrary to the law and the evidence;
2. the party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the council granting it, shall set forth the grounds which justify such action. On reconsideration, reopening, or rehearing, the matter may be heard by the council, or it may be referred to a subordinate committee. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:294 (February 2007).

§1111. Judicial Review of Adjudication

A. A registrant who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the

scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling is immediately reviewable if review of the final council decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review may be instituted by filing a petition in the District Court of East Baton Rouge Parish within thirty days after mailing of notice of the final decision or, if a rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the council and all parties of record.

C. The filing of the petition does not itself stay enforcement of the council decision. The council may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within 30 days after the service of the petition, or within further time allowed by the court, the council shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the council, the court may order that the additional evidence be taken before the council upon conditions determined by the court. The council may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the council, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the council or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. in violation of constitutional or statutory provisions;
2. in excess of the statutory authority of the agency;
3. made upon unlawful procedure;
4. affected by other error of law;
5. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
6. not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of

evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the council has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:294 (February 2007).

Stephen J. Hymel
Undersecretary

0702#018

RULE

**Department of Revenue
Policy Services Division**

Corporation Income Tax (LAC 61:I.1122)

Under the authority of R.S. 47:287.83 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.1122 relative to the alternative minimum tax deduction.

The purpose of the amendment is to update the regulation to reflect changes in federal law since the original regulation was enacted.

D. Examples

Example 1

The ABC Corporation does not include its net income in a consolidated federal income return as provided by Section 1501 of the *Internal Revenue Code*. ABC files state and federal income tax returns on a calendar year basis. ABC Corporation's net income and other financial information used to file state and federal income tax returns for the four-year period ending December 31, 1987, include the following:

Taxable Periods	1984	1985	1986	1987
Federal net income or (loss)	\$ 2,000,000	\$ 4,000,000	\$ 5,000,000	\$ 600,000
Louisiana net income or (loss)	1,200,000	1,800,000	3,000,000	(1,000,000)
Federal income tax	800,000	1,600,000	2,000,000	240,000
Federal income tax deducted from Louisiana net income	467,280	706,240	1,171,200	-0-
State income tax deducted from federal net income but not Louisiana net income	57,500	86,000	144,000	-0-
Income tax apportionment ratio	55%	40%	50%	50%
Louisiana taxable income	732,720	1,093,760	1,828,800	-0-

ABC Corporation elects to carry their 1987 Louisiana net operating loss back to 1984 pursuant to R.S. 47:287.86. Federal income tax attributable to net income which is not taxed by Louisiana as a result of the net operating loss carryback is computed as follows:

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 11. Corporation Income Tax

§1122. Taxes Not Deductible

A. ...

B. Federal Alternative Minimum Tax. Federal alternative minimum tax attributable to tax preference items such as, but not limited to, accelerated depreciation, depletion, and intangible drilling and development cost is not deductible. Federal alternative minimum taxable net income from sources other than tax preference items is deductible to the extent that it is applicable to regular federal taxable income.

C. Net Operating Loss Carryback. Federal income tax deducted from Louisiana net income in taxable periods to which a net operating loss is carried back shall be computed to determine the amount of federal income tax attributable to net income which is taxed by the federal but which is not taxed by Louisiana as a result of a net operating loss carryback. Federal income tax attributable to net income which is not taxed by Louisiana as a result of a net operating loss carryback is the excess of allowable federal income tax deducted from Louisiana net income before the net operating loss carryback over the allowable deduction after the net operating loss carryback. The federal income tax attributable to net income which is not taxed by Louisiana shall be treated as a reduction to the net operating loss deduction. If the amount of the federal income tax attributable to the net income which is not taxed by Louisiana exceeds the Louisiana net operating loss deduction, such excess shall be treated as income in the year of the transaction that gave rise to the excess. These principles are illustrated in the following examples.

3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Ratio (line 3 divided by line 4)		8.4188%
6. Federal income tax, 1984		\$ 800,000
7. Allowable federal income tax deduction after the Louisiana net operating loss carryback (line 6 multiplied by line 5)		\$ 67,350
8. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
9. Federal income tax attributable to net income which is not taxed by Louisiana (line 8 minus line 7)		\$ 399,930
10. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
11. Federal income tax attributable to net income which is not taxed by Louisiana (from line 9)		\$ 399,930
12. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 11)		\$ 600,070

Example 2

Assume the same facts in Example 1 except that the ABC Corporation sustained a \$2,000,000 federal net operating loss in 1987 and elects to carry the federal loss back to 1984. Federal income tax after the net operating loss carryback is zero.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$2,000,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		-0-
7. Ratio (line 3 divided by line 6)		-0-
8. Federal income tax after the federal net operating loss carryback		-0-
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 multiplied by line 7)		-0-
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 9)		\$ 467,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 467,280
14. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		\$ 532,720

Example 3

Assume the same facts in Examples 1 and 2 except that the Louisiana and federal net operating losses in 1987 are \$350,000 and \$1,800,000 respectively. Federal income tax after the net operating loss carryback is \$80,000.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$350,000	
Adjustment		\$ 381,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 818,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$1,800,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		\$ 200,000
7. Ratio (line 3 divided by line 6)		100%
8. Federal income tax after the federal net operating loss carryback		\$ 80,000
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 times line 7)		\$ 80,000
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana, 1984 (line 10 minus line 9)		\$ 387,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$ 350,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 387,280
14. Louisiana net operating loss after deduction for the amount of federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		-0-
15. Additional Louisiana taxable income for 1987 due to excess of federal income tax attributable to net income which is not taxed by Louisiana over the Louisiana net operating loss (line 13 minus line 12)		\$ 37,280

E. Definitions. For the purposes of this Section, alternative minimum tax, regular federal income tax, alternative tax on capital gains, and regular tax on ordinary net income are defined as provided in §1123.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.83, R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:96 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:470 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 33:295 (February 2007).

Cynthia Bridges
Secretary

0702#054

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Coastwide Nutria Control Program (LAC 76:V.123)

The Wildlife and Fisheries Commission does hereby amend the incentive payment portion of the regulations on the Coastwide Nutria Control Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§123. Coastwide Nutria Control Program

A. The Department of Wildlife and Fisheries does hereby establish regulations governing participation in the Coastwide Nutria Control Program. The administrative responsibility for this program shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. The Coastwide Nutria Control Program objective is to provide economic incentive, through an incentive payment to participants, to encourage the harvest of up to 400,000 nutria annually from coastal Louisiana. The incentive payment shall be the amount set by the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Task Force. For the purpose of this program, coastal Louisiana is bounded on the north by Interstate 10 from the Louisiana-Texas line to Baton Rouge, Interstate 12 from Baton Rouge to Slidell, and Interstate 10 to the Louisiana-Mississippi line.

2 - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2205 (October 2002), amended LR 33:297 (February 2007).

Bryant O. Hammett, Jr.
Secretary

0702#036

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Grounds—Little Lake (LAC 76:VII.521)

The Wildlife and Fisheries Commission does hereby designate certain state-owned water bottoms within Jefferson and Lafourche Parishes as the Little Lake Public Oyster Seed Grounds. Authority to establish the Little Lake Public Oyster Seed Grounds is vested in the Wildlife and Fisheries Commission by R.S. 56:6(12) and R.S. 56:434(A).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§521. Public Oyster Seed Grounds—Little Lake

A. The Little Lake Public Oyster Seed Grounds is described as that portion of the state-owned water bottoms within the boundary as shown on a map by the Department of Wildlife and Fisheries, dated August 29, 2006, and more particularly described.

1. Beginning at the intersection of the western shoreline of Barataria Waterway and the northern shoreline of Bayou St. Denis at latitude 29 degrees 29 minutes 41.385 seconds North, longitude 90 degrees 01 minutes 12.443 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 32.297 seconds North, longitude 90 degrees 01 minutes 08.030 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 23.314 seconds North, longitude 90 degrees 01 minutes 10.035 seconds West; thence southerly to a point at latitude 29 degrees 29 minutes 09.521 seconds North, longitude 90 degrees 01 minutes 15.178 seconds West; thence westerly to a point at latitude 29 degrees 29 minutes 10.637 seconds North, longitude 90 degrees 01 minutes 29.713 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 33.134 seconds North, longitude 90 degrees 01 minutes 30.449 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 40.110 seconds North, longitude 90 degrees 03 minutes 27.833 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 36.574 seconds North, longitude 90 degrees 03 minutes 29.741 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 22.052 seconds North, longitude 90 degrees 03 minutes 56.413 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 20.369 seconds North, longitude 90 degrees 04 minutes 01.526 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.527 seconds North, longitude 90 degrees 04 minutes 16.811 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 19.340 seconds North, longitude 90 degrees 04 minutes 23.149 seconds West; thence southwesterly to a point at latitude 29 degrees 28 minutes 12.363 seconds North, longitude 90 degrees 04 minutes 28.498 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.253 seconds North,

longitude 90 degrees 04 minutes 33.578 seconds West; thence westerly to a point at latitude 29 degrees 28 minutes 13.533 seconds North, longitude 90 degrees 04 minutes 36.968 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 11.567 seconds North, longitude 90 degrees 04 minutes 38.407 seconds West; thence southerly to a point at latitude 29 degrees 28 minutes 05.627 seconds North, longitude 90 degrees 04 minutes 38.482 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 58.698 seconds North, longitude 90 degrees 04 minutes 38.568 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 55.110 seconds North, longitude 90 degrees 04 minutes 46.543 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 52.581 seconds North, longitude 90 degrees 05 minutes 06.066 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 48.538 seconds North, longitude 90 degrees 05 minutes 03.132 seconds West; thence easterly to a point at latitude 29 degrees 27 minutes 49.851 seconds North, longitude 90 degrees 04 minutes 45.184 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 37.031 seconds North, longitude 90 degrees 04 minutes 37.154 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 36.560 seconds North, longitude 90 degrees 04 minutes 36.658 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 24.833 seconds North, longitude 90 degrees 04 minutes 38.534 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 18.564 seconds North, longitude 90 degrees 04 minutes 37.351 seconds West; thence westerly to a point at latitude 29 degrees 27 minutes 23.151 seconds North, longitude 90 degrees 04 minutes 54.963 seconds West; thence southwesterly to a point at latitude 29 degrees 27 minutes 11.170 seconds North, longitude 90 degrees 05 minutes 08.473 seconds West; thence southerly to a point at latitude 29 degrees 27 minutes 06.634 seconds North, longitude 90 degrees 05 minutes 08.198 seconds West; thence southwesterly to a point on the southern shoreline of Little Lake at latitude 29 degrees 27 minutes 03.038 seconds North, longitude 90 degrees 05 minutes 14.223 seconds West; thence westerly along the shoreline of Little Lake to the intersection of the western shoreline of Little Lake and the southern shoreline of Bay L'ours at latitude 29 degrees 30 minutes 02.067 seconds North, longitude 90 degrees 12 minutes 02.839 seconds West; thence westerly along the shoreline of Bay L'ours to the intersection of the northern shoreline of Bay L'ours and the western shoreline of Little Lake at latitude 29 degrees 31 minutes 05.281 seconds

North, longitude 90 degrees 11 minutes 51.880 seconds West; thence northerly along the western shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 11.659 seconds North, longitude 90 degrees 10 minutes 13.934 seconds West; thence northerly along the western shoreline of Bayou Perot to a point on the western shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 10 minutes 08.000 seconds West; thence east to a point on the eastern shoreline of Bayou Perot at latitude 29 degrees 34 minutes 40.000 seconds North, longitude 90 degrees 09 minutes 20.000 seconds West; thence southerly along the eastern shoreline of Bayou Perot to the intersection of the eastern shoreline of Bayou Perot and the northern shoreline of Little Lake at latitude 29 degrees 33 minutes 55.686 seconds North, longitude 90 degrees 10 minutes 18.146 seconds West; thence southeasterly along the northern shoreline of Little Lake to the intersection of the northern shoreline of Little Lake and the western shoreline of Turtle Bay at latitude 29 degrees 31 minutes 57.674 seconds North, longitude 90 degrees 08 minutes 55.092 seconds West; thence northeasterly along the shoreline of Turtle Bay to the intersection of the eastern shoreline of Turtle Bay and the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 55.937 seconds North, longitude 90 degrees 06 minutes 28.544 seconds West; thence southeasterly along the northern shoreline of Little Lake to a point on the northern shoreline of Little Lake at latitude 29 degrees 31 minutes 28.031 seconds North, longitude 90 degrees 05 minutes 14.708 seconds West; thence southeasterly to the intersection of the eastern shoreline of Little Lake and the northern shoreline of Bayou St. Denis at latitude 29 degrees 31 minutes 20.272 seconds North, longitude 90 degrees 04 minutes 50.608 seconds West; thence southeasterly along the northern shoreline of Bayou St. Denis to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:297 (February 2007).

Earl P. King, Jr.
Chairman

0702#035

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Contaminated Seed Stock—Cheniere Rice (LAC 7:XIII.Chapter 3)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, proposes to adopt regulations governing the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. Foundation seed of Cheniere rice produced in 2003 has been found to have LL traits. The announcement also indicated that based on the scientific data reviewed, the USDA and the U.S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. Some rice importing countries have expressed concerns about genetically modified rice. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Contaminated Seed Stock and Other Propagating Stock

§301. Planting of Cheniere Rice and Other Varieties with LL Traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter:

1. the Cheniere variety of rice;
2. any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§303. Planting of Breeder, Foundation or Registered Cheniere Rice Seed Stock

A. Breeder, Foundation or Registered Cheniere rice seed may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§305. Planting of Breeder, Foundation or Registered Rice Seed of Other Varieties Stock

A. Breeder, Foundation or Registered seed of other varieties of rice where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice, other than Cheniere rice, is found to test positive for LL traits according to tolerances established by the department, but there is no need to declare the variety as a whole to be contaminated with LL traits then the variety may continue to be planted in Louisiana. However, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§307. Sampling of Rice Seed for the Detection of LL Traits

A. Samples of all Breeder, Foundation, Registered and Certified rice seed shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§309. Stop-Sale

A. If any lot of Breeder, Foundation, Registered or Certified rice seed that are subject to the requirements of this Chapter tests positive for LL traits according to tolerances established by the department then such seed shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

Family Impact Statement

The proposed adoption of Title 7 Part XIII. Chapter 3 regarding the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through the close of business on Friday, March 23, 2007, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Contaminated Seed Stock
Cheniery Rice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated cost to directly affected persons or non-governmental units is approximately \$215 per sample for sample testing. There will be approximately 150 samples taken with a one time approximate total cost to the Louisiana rice industry of \$32,250 for the 2007 crop season. The \$215 covers

all sampling and shipping costs which will be billed directly to the grower. Most sampling will be done in conjunction with normal testing procedures. The Department of Agriculture does not anticipate having many seed samples containing the LibertyLink 601 trait. Rice that is found to have the LL 601 trait will be channeled out of the seed chain. Rice growers will still be able to sell the rice to mills, possibly at a reduced rate depending on market value at the times.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Linda R. Chaney
Fiscal Director
0702#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated* LEAP and Assessment of Special Populations (LAC 28:CXI.1709-1729, 3306, and 3307)

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 118—Statewide Assessment Standards and Practices: Chapter 17, Integrated LEAP, and Chapter 33, Assessment of Special Populations*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding:

Addition of Achievement Level Descriptors for *iLEAP* in Chapter 17 which causes a reformatting of the Chapter beginning at Subchapter D, §1709 through the end of the Chapter.

Addition of language to Chapter 33, §3306.6.b and §3306.9 and §3307.C.1.d regarding *iLEAP* accommodations for Special Populations.

**Title 28
EDUCATION**

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

**Chapter 17. *Integrated* LEAP
Subchapter D. *iLEAP* Achievement Level Descriptors
§1709. Introduction**

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. They define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1711. Grade 3 Achievement Level Descriptors

A. Grade 3 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate both literal and inferential understanding of what they read by making inferences, generalizations, and predictions; drawing conclusions; extending ideas; and making connections between what they read and their own experiences; 3. identify story elements, literary devices, and author's purpose; 4. research a topic by locating, selecting, and evaluating appropriate information from multiple print and electronic sources for a specified purpose; 5. identify parts of a bibliographic entry using a model; 6. use critical and/or creative thinking in response to a writing task; 7. develop a response with a central idea, logical organization, thorough elaboration, and transitional words and/or phrases; 8. demonstrate an awareness of audience through use of effective vocabulary, sentence patterns, and personal style; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify words with multiple meanings using various strategies; 2. demonstrate understanding of what they read by making inferences, drawing conclusions, and identifying main ideas and cause/effect relationships; 3. identify story elements, literary devices, and an author's purpose for writing; 4. make connections between different elements within the text and their own experiences; 5. research a topic by locating information from a variety of print and electronic sources for a specified purpose; 6. identify parts of a bibliographic entry using a model; 7. use critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, logical organization, elaboration with supporting details, and transitions; 9. demonstrate audience awareness through use of selected vocabulary, varied sentence patterns, and a personal style; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic
<p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use knowledge of basic decoding skills to identify word meanings; 2. demonstrate understanding of what they read by locating specific details and information, identifying main ideas, making simple inferences, and drawing simple conclusions; 3. make obvious connections between elements within texts and their own experiences; 4. identify an author's purpose for writing, including informing; 5. research a topic by locating information from multiple commonly used print and electronic sources; 6. identify parts of bibliographic entries using a model; 7. use some critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, observable organization, supporting details, and some translations; 9. demonstrate audience awareness through use of grade-appropriate vocabulary and sentence patterns; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.
Approaching Basic
<p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of some grade-appropriate vocabulary; 2. demonstrate understanding of what they read, including identifying main events and details, making simple predictions, and sequencing events; 3. identify how elements within a text relate to each other and their personal experiences;

<ol style="list-style-type: none"> 4. research a topic by locating information in commonly used sources; 5. identify some parts of bibliographic entries using a model; 6. demonstrate a partial response to a writing task; 7. develop a response with a vague central idea, weak organization, and minimal detail; 8. demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary, simple sentences, and minimal evidence of personal style; and 9. demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. make connections between information in texts and their own experiences; 3. locate information in commonly used sources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style, and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 3 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use mathematical reasoning to connect procedures and concepts among different areas of content strands; 2. communicate thoughts, procedures, and solutions using mathematical language and symbols in complex real-world problems; 3. represent data in multiple formats; 4. use models to discuss probability; 5. apply strategies of measurement to solve real-world problems; 6. apply concepts of geometry to solve real-world problems; and 7. identify, extend, and explain complex patterns and relationships including growing patterns.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems by using the four basic operations; 2. select and use mathematical operations, words, and symbols to solve real-life problems; 3. categorize and sort objects based on qualitative or quantitative characteristics; 4. draw logical conclusions and make predictions based on representation of data; 5. select and use appropriate tools and units of measure; 6. compare and group two-and three-dimensional objects according to their attributes; and 7. identify and extend patterns and relations.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve multi-step real-life problems by using the four basic operations; 2. read mathematical words and symbols and understand their meanings; 3. make basic interpretations of data represented in tables, graphs, maps, advertisements, etc.; 4. demonstrate an understanding of basic probability concepts; 5. use models to compare whole numbers, represent fractions, and conceptualize multiplication and division; 6. measure objects using specified tools and units; 7. express working knowledge and vocabulary of two-and three-dimensional geometric objects; and 8. identify and extend patterns.

Approaching Basic

Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:

1. use basic strategies to solve single-step problems involving addition and subtraction;
2. recognize mathematical words and symbols;
3. match one-parameter data sets to representations as tables and charts;
4. identify measurement tools and units;
5. recognize basic two-dimensional shapes; and
6. identify and extend simple patterns.

Unsatisfactory

Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. use basic strategies to solve single-step problems involving addition and subtraction;
2. recognize mathematical words and symbols;
3. match one-parameter data sets to representations as tables and charts;
4. identify measurement tools and units;
5. recognize basic two-dimensional shapes; and
6. identify and extend simple patterns.

C. Grade 3 Science Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in science generally exhibit the ability to:

1. generate, conduct, and compare simple investigations based on testable questions; make accurate observations using appropriate tools and resources; draw and evaluate conclusions; and communicate ideas, procedures, and data appropriately;
2. explain what is known and what is unknown in scientific investigations and compare the effects of scientific discoveries on society;
3. compare, classify, and relate objects and substances to their appropriate uses based on their properties and physical states;
4. explain how forces are pushes or pulls and analyze the relationships between motion, forces, and the masses of objects;
5. compare common forms of energy and describe the connections between different forms of energy as they are used;
6. describe how similar structures and functions meet the needs of different organisms and classify organisms in multiple ways;
7. explain how organs of the digestive system function and describe how the components of the skeletal function;
8. explain patterns affected by the apparent movement of the Sun and Earth and differentiate the planets of the solar system;
9. describe climate patterns; explain the water cycle, erosion, and weathering, differentiate types of rocks, soil components, and fossils; explain how fossils are used to determine the age of rocks; and compare the living and nonliving components in ecosystems;
10. classify manufactured goods; identify sources of resources; and explain how resources can be replenished, depleted, and conserved.

Mastery

Students scoring at the Mastery level in science generally exhibit the ability to:

1. describe simple investigations based on questions; make observations using appropriate tools and resources; draw conclusions; and communicate ideas, procedures, and data in a variety of ways;
2. identify what is known and what is unknown in scientific investigations and explain the effects of scientific discoveries on society;
3. compare, classify, and relate objects and substances to their properties and explain how matter changes physical states; describe how forces are pushes or pulls and explain the relationships between the motion of objects and forces;
5. describe the characteristics of sound, light, and electricity and compare common forms of energy and their uses;
6. compare plant and animal structures and functions and classify organisms based on common characteristics;
7. describe the function of an organ in the digestive system and describe how the components of the skeletal system function;
8. describe patterns affected by the apparent movement of the Sun and Earth and identify, in order, the planets of the solar system;
9. describe climate patterns from recorded weather conditions, the water cycle, erosion, and weathering;
10. organize rocks by major types; compare soil components; identify fossil characteristics; and explain how fossils illustrate the past;
11. describe interrelationships of components of ecosystems and describe the effects of humans on organisms and the environment; and
12. classify manufactured goods by resource type and explain how resources can be replenished or depleted.

Basic

Students scoring at the Basic level in science generally exhibit the ability to:

1. identify testable questions and conduct simple investigations using directions;
2. use simple tools and resources to make and describe observations; draw conclusions based on data; and communicate results;
3. identify testable questions and recognize what is known and what is unknown in scientific investigations;
4. measure and describe properties of objects and substances and identify changes between the physical states of matter;
5. identify forces as pushes or pulls and describe motion;
6. identify the characteristics of sound, light, and electricity and common forms of energy and their uses;
7. identify plant and animal structures and functions and compare organisms based on common characteristics;
8. describe the roles of the digestive and skeletal systems;
9. describe patterns of change in position of the Sun and identify planets of the solar system;
10. describe precipitation, runoff, erosion, weathering, climate, and weather and give examples of each;
11. describe characteristics of rocks, identify major soil components; identify fossils; and give examples of how fossils illustrate the past;
12. identify living and nonliving components of an ecosystem and give examples of how humans affect the environment; and
13. identify examples of manufactured products and explain the differences between renewable and nonrenewable resources.

D. Grade 3 Social Studies Achievement Level Descriptors

Approaching Basic

Students scoring at the Approaching Basic level in science generally exhibit the ability to:

1. recognize some testable questions and conduct steps of an investigation, given explicit directions;
2. identify tools or resources needed to make and describe observations and describe the results of an experiment;
3. recognize that some questions are testable and some are not;
4. describe properties of objects and substances and identify freezing, melting, and boiling;
5. identify forces as pushes or pulls;
6. identify characteristics of sound, light, or electricity and common forms of energy or their uses;
7. identify plant and animal structures and describe common characteristics of organisms;
8. identify organs in the digestive system and/or components of the skeletal system;
9. identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system;
10. recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each;
11. identify differences in some rocks, recognize and describe soil; and define fossil and recognize one when it is presented;
12. identify basic components of an ecosystem and recognize how human activities affect the environment; and
13. identify examples of manufactured products and renewable and nonrenewable resources.

Unsatisfactory

Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. recognize some testable questions and conduct steps of an investigation, given explicit directions;
2. identify tools or resources needed to make and describe observations and describe the results of an experiment;
3. recognize that some questions are testable and some are not;
4. describe properties of objects and substances and identify freezing, melting, and boiling;
5. identify forces as pushes and pulls;
6. identify characteristics of sound, light, or electricity and common forms of energy or their uses;
7. identify plant and animal structures and describe common characteristics of organisms;
8. identify organs in the digestive system and/or components of the skeletal system;
9. identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system;
10. recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each;
11. identify differences in some rocks; recognize and describe soil; and define fossil and recognize one when it is presented;
12. identify basic components of an ecosystem and recognize how human activities affect the environment; and
13. identify examples of manufactured products and renewable and nonrenewable resources.

Advanced

Students scoring at the Advanced level in social studies generally exhibit the ability to:

1. analyze geographical data, physical characteristics, patterns of settlement, and the changing environment of Louisiana;
2. analyze spatial and cultural relationships between humans and the environment;
3. analyze charts, graphs, diagrams, and maps;
4. analyze governmental responsibilities at various levels, including state government;
5. analyze the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen;
6. analyze fundamental economic concepts;
7. compare various components of the economy, including the local and regional trade of goods and services produced in Louisiana;
8. differentiate among types of historical sources;
9. describe and analyze information presented in various graphic forms;
10. describe family life and analyze changes within society; and
11. describe and analyze historical figures, symbols, and events in Louisiana history.

Mastery

Students scoring at the Mastery level in social studies generally exhibit the ability to:

1. organize and interpret geographical data about Louisiana;
2. explain the physical characteristics, patterns of settlement, and changing environment of Louisiana;
3. compare spatial and cultural relationships between humans and the environment;
4. evaluate charts, graphs, diagrams, and maps;
5. describe governmental responsibilities at various levels, including state government;
6. describe the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen;
7. describe fundamental economic concepts;
8. explain various components of the economy, including the local and regional trade of goods and services produced in Louisiana;
9. categorize various types of historical sources and interpret information presented in various graphic forms;
10. explain family life and how it changes; and
11. describe historical figures, symbols, and events in Louisiana history.

Basic

Students scoring at the Basic level in social studies generally exhibit the ability to:

1. use geographical data to explain events related to Louisiana;
2. describe the physical characteristics, patterns of settlement, and changing environment of Louisiana;
3. describe spatial and cultural relationships between humans and the environment;
4. describe how charts, graphs, diagrams, and maps are used;
5. identify governmental responsibilities at various levels, including state government;
6. identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen;
7. identify some fundamental economic concepts and terms and recognize and describe various components of the economy, including the local and regional trade of goods and services produced in Louisiana;
8. identify types of historical sources and recognize information presented in various graphic forms;
9. describe family life and how it changes; and
10. identify the importance of historical figures, symbols, and events in Louisiana history.

Approaching Basic

Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:

1. identify geographical data related to events in Louisiana;
2. recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana;
3. recognize spatial relationships between humans and the environment;
4. identify features of charts, graphs, diagrams, and maps;
5. recognize governmental responsibilities at various levels, including state government;
6. identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen;
7. identify some fundamental economic concepts and terms and recognize components of the economy, including the local and regional trade of goods and services produced in Louisiana;
8. recognize that there are several types of historical sources and that historical information may be presented in various graphic forms;
9. recognize family life and how it changes; and
10. identify historical figures, symbols, and events in Louisiana history.

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data related to events in Louisiana;
2. identify features of charts, graphs, diagrams, and maps;
3. recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana;
4. recognize spatial relationships between humans and the environment;
5. recognize governmental responsibilities at various levels, including state government;
6. identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen;
7. identify some fundamental economic concepts and terms and recognize various components of the economy, including the local and regional trade of goods and services produced in Louisiana;
8. recognize that there are several types of historical sources and that historical information may be presented in various graphic forms;
9. recognize family life and how it changes; and
10. identify historical figures, symbols, and events in Louisiana history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§1713. Grade 5 Achievement Level Descriptors

A. Grade 5 English Language Arts Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:

1. identify meanings of a wide variety of words using a range of strategies;
2. interpret meanings of various story elements and literary devices and analyze an author's purpose and viewpoint;
3. extend ideas in what they read by making inferences, drawing conclusions, determining cause and effect, and making connections to their own life experiences;
4. research a topic by selecting and integrating information from multiple print and electronic sources;
5. identify accurate documentation of sources following a model;
6. use analytical, critical, and/or creative thinking in response to a writing task;
7. construct a response with a focused central idea, logical organization, and effective transitional words and phrases;

8. use vocabulary, language, and complex sentence structure designed to manipulate the intended audience, enhance meaning, and reflect personality; and
9. maintain consistent command of sentence formation, usage, mechanics, and spelling.

Mastery

Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:

1. identify word meanings using a variety of strategies;
2. interpret the meaning of various story elements and literary devices;
3. identify an author's purpose and viewpoint;
4. make connections between information in texts and their personal experiences;
5. use a variety of reasoning skills including identifying stated and implied main ideas, making inferences, and drawing conclusions;
6. research a topic by locating and selecting information from multiple print and electronic sources;
7. identify all parts of bibliographic entries following a model;
8. use analytical, critical, and/or creative thinking in response to a writing task;
9. construct a response with a clear central idea, a logical organizational pattern, a variety of supporting details, and transitions that unify;
10. demonstrate an awareness of audience through the use of vocabulary, language, and a variety of sentence types that clarify meaning; and
11. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.

Basic

Students scoring at the Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of grade-level words using various strategies;
2. demonstrate an overall understanding of what they read by identifying literal and inferential information and by making connections to their own experiences;
3. identify story elements, literary devices, and author's intent or purpose;
4. extend ideas in the text by making inferences and drawing conclusions;
5. use reasoning skills, including identifying stated and implied main ideas of a selection;
6. research a topic by locating information in commonly used print and electronic sources;
7. give credit for borrowed information following a model;
8. use critical and/or creative thinking in response to a writing task;
9. construct a response with a central idea, an observable organizational pattern, some supporting details, and simple transitions;
10. demonstrate audience awareness by using language and some sentence variety appropriate to the task and intended audience; and
11. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic

Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of commonly used words;
2. identify literary elements such as characters and themes, some literary devices, and the author's purpose;
3. demonstrate partial understanding of what they read by identifying stated main ideas and simple cause/effect relationships, making simple inferences, drawing simple conclusions, and making limited connections to their own experiences;
4. research a topic by locating some information in commonly used print and electronic sources;
5. identify some parts of a bibliographic entry following a model;
6. demonstrate a partial response to a writing task;
7. construct a response with a weak central idea, weak organization, and few supporting details;
8. demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary and sentence structure; and
9. demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.

Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. make interpretations and connections between information in texts and their own experiences; 3. locate information in commonly used sources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 5 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. analyze and evaluate the most efficient strategies and appropriate procedures to solve complex multi-step problems; 2. translate between real-world problem settings and mathematical expressions and sentences; 3. draw conclusions from data represented in various forms; 4. compare and contrast concrete models and numerical values for probabilities; 5. use a coordinate grid to illustrate transformations and symmetries; 6. model and solve real-life problems involving connections among the concepts and skills in the six content strands; 7. communicate mathematical thinking using appropriate terminology and notation; and 8. create, extend, and describe a variety of patterns.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems using whole numbers; 2. connect conceptual models and pictures with mathematical language and operations; 3. use appropriate strategies for calculating, comparing, and estimating measurements; 4. use models and drawings to describe and interpret basic geometric transformations and symmetries; 5. identify and plot points on a coordinate grid; 6. organize and display data using a variety of tables and graphs; 7. represent probabilities as common fractions and recognize that probabilities fall between 0 and 1; 8. solve multi-step problems and determine the reasonableness of answers; and 9. extend and describe a variety of patterns.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve real-life problems using whole numbers; 2. use estimation strategies and mental math to determine reasonable values and solutions; 3. identify positive solutions to inequalities on a number line; 4. choose tools necessary to measure accurately and estimate measurements; 5. identify basic geometric transformations and symmetries; 6. identify points on a coordinate grid; 7. organize and display data using tables and graphs and represent probabilities as common fractions; 8. determine operations necessary to solve multi-step problems; and 9. complete missing elements in a variety of patterns.

Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns.

C. Grade 5 Science Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and describing experimental designs; 2. select appropriate tools and resources for data collection; analyze data; identify patterns; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. explain how science is advanced through mathematics, technology, communication, and the work of others; 5. compare/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare motion and predict future positions of objects and explain how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms; classify common organisms; and relate cell components to their functions; 8. compare adaptations, metamorphosis, photosynthesis, and respiration in organisms and describe different types of disease transmission; 9. explain why it takes different amounts of time for natural events to occur and compare objects in the solar system; 10. compare the atmosphere, hydrosphere, climate, and weather and explain the water cycle; 11. distinguish between common soils, rocks, and minerals and the processes that prevent or cause erosion; 12. describe different naturally occurring cycles and how changes affect organisms and compare communities within ecosystems; and 13. identify and describe the impact of human activities and common pollutants on local and global ecosystems.

Mastery
<p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. explain investigations by generating testable questions and identifying variables; 2. select tools and resources for data collection; analyze data; identify patterns; and make inferences; 3. communicate experimental procedures, data, and analyses; 4. describe how science is advanced through mathematics, technology, communication, and the work of others; 5. identify/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare, calculate, and graph motion and describe how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms, classify common organisms, and describe cell components and their functions; 8. describe adaptations, metamorphosis, photosynthesis, and respiration in organisms and identify different types of disease transmission; 9. estimate the range of time in which natural events occur and describe the characteristics and movements of objects in the solar system; 10. describe the atmosphere, hydrosphere, climate, weather, and the water cycle; 11. identify rocks, minerals, and components of common soils and the processes that affect erosion; 12. describe different naturally occurring cycles and where they are found in ecosystems and compare communities within ecosystems; and 13. identify and describe the impact of human activities on local ecosystems and identify common pollutants found in water, air, and soil.
Basic
<p>Students scoring at the Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. describe an investigation and identify its variables; 2. select tools and resources correctly to collect data; analyze data; and recognize patterns; 3. communicate experimental data and analyses; 4. know and describe how science is continually tested and advanced and that it begins with a review of the work of others; 5. identify/describe properties and phases of matter, the formation of substances, the parts of atoms, and types and sources of energy; 6. calculate and graph motion and identify how changes in a light source and an object alter shadows; 7. identify organizational levels of living things, classify common organisms, and describe cell components and their functions; 8. identify stages of metamorphosis of amphibians, photosynthesis, respiration in plants, and that diseases are transmitted in different ways; 9. identify short- and long-term natural events and identify objects in the solar systems based on their characteristics and movements; 10. identify components of the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle; 11. identify common rocks and minerals and components of various soils and recognize processes that affect erosion; 12. identify or describe different naturally occurring cycles, the needs of an organism, and organisms in different ecosystems; and 13. identify and describe the impact of human activities on parts of an ecosystem and identify examples of water and air pollution.

Approaching Basic
<p>Students scoring at the Approaching Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. describe an investigation; 2. recognize tools and resources to collect data and know that patterns in data are affected by natural events; 3. communicate experimental data and recognize statements that are not supported by evidence; 4. describe that science is continually advancing and know that investigations generally include the work of others; 5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy; 6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows; 7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components; 8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted; 9. identify objects in the solar system based on their characteristics and movements; 10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle; 11. identify common rocks and minerals; recognize that soil is comprised of different things; and 12. recognize a process that affects erosion; 13. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and 14. identify human activities that impact the environment and list examples of various kinds of water and pollution.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. describe an investigation; 2. recognize tools and resources to collect data and know that patterns in data are affected by natural events; 3. communicate experimental data and recognize statements that are not supported by evidence; 4. describe that science is continually advancing and know that investigations generally include the work of others; 5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy; 6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows; 7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components; 8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted; 9. identify objects in the solar system based on their characteristics and movements; 10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle; 11. identify common rocks and minerals; recognize that soil is comprised of different things; and recognize a process that affects erosion; 12. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and 13. identify human activities that impact the environment and list examples of various kinds of water and pollution.

D. Grade 5 Social Studies Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> analyze, describe, interpret, and use geographical data and tools to explain early American history; analyze the physical structure and natural resources of the United States in terms of regions; locate major landforms and geographic features on a map of the United States; describe and analyze the governmental, economic, and social forces that contribute to migration; describe and compare the impact of the natural environment on human activity; analyze economic activities of American Indian cultures; analyze the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations; interpret information from varied historical sources and analyze issues and viewpoints presented in graphic or narrative form; analyze the impact of European and African settlements in the Americas through the colonial era and explain how cultures change; analyze the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and describe and differentiate among ancient American empires.
Mastery
<p>Students scoring at the Mastery level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> interpret and use information from geographical data and tools to explain early American history; explain the impact of the physical structure and natural resources of the United States in terms of regions; locate major landforms and geographic features on a map of the United States; explain the governmental, economic, and social forces that contribute to migration; explain the impact of the natural environment on human activity; describe economic activities of American Indian cultures; describe the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations; describe varied historical sources and issues and viewpoints presented in graphic or narrative form; describe the impact of Europeans and African settlements in the Americas through the colonial era and explain how cultures change; describe the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and describe ancient American empires.
Basic
<p>Students scoring at the Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> use geographical data and tools to explain early American history; describe the physical structure and natural resources of the United States in terms of regions; locate major landforms and geographic features on a map of the United States; describe the governmental, economic, and social forces that contribute to migration; describe the impact of the natural environment on human activity; identify examples of economic activities of American Indian cultures; identify the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations; identify varied historical sources and issues and viewpoints presented in graphic or narrative form; identify European and African settlements in the Americas through the colonial era and explain how cultures change;

<ol style="list-style-type: none"> identify the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and identify various aspects of ancient American empires.
Approaching Basic
<p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify geographical data and tools relating to early American history; recognize the physical structure and natural resources of the United States in terms of regions; locate major landforms and geographic features on a map of the United States; identify governmental economic and social forces that contribute to migration; recognize the impact of the natural environment on human activity; recognize the economic activities of American Indian cultures; recognize the economic interdependence of the thirteen original colonies and the economic motivations for early explorations; recognize types of historical sources and issues and viewpoints presented in graphic or narrative form; recognize some European and African settlements in the Americas through the colonial era and explain how cultures change; recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and recognize ancient American empires.
unsatisfactory
<p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> identify geographical data and tools relating to early American history; recognize the physical structure and natural resources of the United States in terms of regions; locate major landforms and geographic features on a map of the United States; identify governmental, economic, and social forces that contribute to migration; recognize the impact of the natural environment on human activity; recognize the economic activities of American Indian cultures; recognize the economic interdependence of the thirteen original colonies and the economic motivations for the early explorations; recognize types of historical sources and issues and viewpoints presented in graphic or narrative form; recognize some European and African settlements in the Americas through the colonial era and explain how cultures change; recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and recognize ancient American empires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1715. Grade 6 Achievement Level Descriptors

A. Grade 6 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify meanings of a wide variety of words using a range of strategies; demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning and identifying implied main ideas and supporting details; analyze complex story elements and literary devices and interpret an author's purpose for writing; research a topic by locating and integrating appropriate information from print and electronic sources;

<ol style="list-style-type: none"> 5. identify all parts of a bibliographic entry following a model; 6. use analytical, critical, and/or creative thinking in response to a writing task; 7. construct a response with a sharply focused central idea, effective and logical organization relevant details and information, and a variety of transitions; 8. use vivid words, language, and complex sentence structure to influence the intended audience, enhance meaning, and reflect individual personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate understanding of what they read using a variety of strategies, including making inferences, drawing conclusions, determining main ideas, comparing and contrasting, and predicting; 3. interpret story elements and literary devices; 4. identify an author's implied purpose for writing; 5. research a topic by locating and selecting appropriate information from print and electronic sources; 6. identify all parts of a bibliographic entry following a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a clearly stated central idea, logical organization, and a variety of details and transition; 9. select vocabulary, language, and sentence variety to engage the intended audience and reflect individual personality; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic
<p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using a variety of strategies, including context clues; 2. identify story elements, literary devices, including imagery, and an author's stated purpose for writing; 3. use knowledge of their distinctive characteristics to identify elements of various genres, including fiction, nonfiction, or poetry; 4. demonstrate understanding of information in what they read using basic strategies and simple reasoning skills to analyze grade-appropriate texts, identify stated main ideas and supporting details, and predict the outcome of a story or situation; 5. research a topic by locating information in a variety of commonly used electronic and print reference sources such as newspapers, magazines, brochures, maps, and legends; 6. identify parts of a bibliographic entry for commonly used sources following a model; 7. use some critical and/or creative thinking in response to a writing task; 8. construct a response with a central idea, observable organization, some supporting details, and some transitions appropriate to the task; 9. demonstrate some audience awareness by using simple sentences and appropriate wording; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic
<p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words; 2. demonstrate partial understanding of what they read by identifying literal information and stated main ideas, making limited connections to their own experiences, and drawing conclusions; 3. identify some story elements, literary devices, and the author's stated purpose; 4. research a topic by locating information in commonly used print and electronic resources; 5. identify some parts of a bibliographic entry for commonly used sources following a model; 6. demonstrate a partial response to a writing task; 7. construct a response with an unclear central idea, incomplete organizational pattern, limited supporting details, and simple or no transitions; 8. show minimal audience awareness by using simple or inappropriate vocabulary, language, and sentence structure and little personal style; and 9. demonstrate inconsistent command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. interpret texts and make connections between information in texts and their own experiences; 3. locate information in commonly used resources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 6 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems involving positive numbers; 2. use basic number and number theory concepts to determine and describe the relationship between numbers in problem settings; 3. explain procedures involved in solving multi-step problems; 4. use computational strategies to determine and compare measurements of two-dimensional shapes and measures of rate; 5. use appropriate statistical measures and patterns in data to describe trends and make predictions; 6. describe polyhedra using their basic properties; 7. apply concepts, properties, and relationships of basic two-dimensional figures in real-life situations; and 8. use, illustrate, and apply basic concepts of probability.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use models to solve problems involving ratios, proportions, and percents; 2. translate verbal phrases into algebraic expressions and vice versa; 3. demonstrate an intuitive sense of relative sizes of common units of measurement; 4. make predictions regarding tessellations with geometric shapes; 5. apply concepts and properties of basic two-dimensional figures in real-life situations; 6. extend and construct complex arithmetic and geometric patterns presented in multiple formats (tables, charts, sequences, etc.); and 7. use and illustrate basic concepts of probability.

Basic
Students scoring at the Basic level in Mathematics generally exhibit the ability to: <ol style="list-style-type: none"> 1. estimate and solve real-life problems involving addition and subtraction of fractions and decimals; 2. solve simple proportions using models; 3. find perimeter and area of simple geometric figures graphed on a coordinate grid; 4. name and describe basic two- and three-dimensional geometric shapes; 5. use substitution to evaluate simple algebraic expressions; 6. extend and describe simple arithmetic and geometric patterns; 7. use tools to determine linear measurements in relation to geometric shapes; and 8. recognize basic concepts of probability.
Approaching Basic
Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to: <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph.
Unsatisfactory
Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph.

C. Grade 6 Science Achievement Level Descriptors

Advanced
Students scoring at the Advanced level in science generally exhibit the ability to: <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and evaluating experimental designs; 2. select a variety of appropriate tools and resources for data collection; analyze data; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. describe and explain how science is advanced through mathematics, technology, communication, and the work of others; 5. identify faulty reasoning, information, communications, or statements that misinterpret or are not supported by evidence; 6. determine mass, volume, and density and recognize that density does not change with the amount of a substance; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical properties and changes and relate the structure and movement of matter to temperature; 9. identify, describe, and compare substances in common materials and chemical reaction and predict the mass of their products; 10. analyze graphs of motion; infer how motion is related to applied forces; and predict future positions and speed of objects; 11. describe, compare, and give examples of different forms of energy, energy changes and interactions, and production and use risks; 12. categorize energy types and evaluate the risks and benefits of their use and production on the environment and economy; and 13. explain how people can conserve and sustain resources and evaluate both the short- and long-term effects of these actions.

Mastery
Students scoring at the Mastery level in science generally exhibit the ability to: <ol style="list-style-type: none"> 1. explain investigations by generating testable questions, identifying variables, and comparing experimental designs; 2. select appropriate tools and resources for data collection and analyze data to make inferences and predict trends; 3. communicate experimental procedures, data, and analyses through appropriate methods; 4. describe how science is improved through mathematics, technology, communication, testing, and the work of others; 5. identify faulty reasoning and statements that misinterpret or are not supported by evidence; 6. determine the mass, volume, and density of different amounts of a variety of substances; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical changes and differentiate between physical and chemical properties of a substance; 9. identify and describe substances in materials and chemical reactions and relate phase changes of water to changes in water temperature; 10. compare motion and predict future positions and speed of objects and describe forces acting on objects and predict their effects; 11. describe and give examples of different energy forms, energy changes and interactions, and energy production and use risks; 12. identify and categorize energy types and determine their uses and effects on the environment and economy; and 13. identify, describe, and categorize ways people can conserve and sustain resources.
Basic
Students scoring at the Basic level in science generally exhibit the ability to: <ol style="list-style-type: none"> 1. describe investigations by generating testable questions and identifying variables; 2. select appropriate tools and resources to collect and analyze data to evaluate explanations and models and to make inferences; 3. communicate experimental procedures, data, and analyses; 4. recognize that science is improved by mathematics, technology, and the work of others and is continually tested, revised, and advanced; 5. identify faulty reasoning and statements that misinterpret or are not supported by evidence; 6. determine mass and volume and compare the masses of the same volumes of different substances; 7. identify the average atomic masses of given elements, using the periodic table; 8. identify physical and chemical properties and changes and describe the temperatures at which changes of the phase of water occurs; 9. identify substances in common materials and chemical reactions; 10. compare and construct graphs of motion and identify and describe forces acting on objects; 11. describe different forms of energy, transformations, and interactions with matter and identify risks associated with energy use; and 12. identify and categorize energy types and identify and describe ways people can conserve and sustain resources.

Approaching Basic

Students scoring at the Approaching Basic level in science generally exhibit the ability to:

1. describe an investigation and identify its variables;
2. select tools and resources to collect and use data to evaluate explanations and models;
3. communicate experimental data and explanations;
4. describe that science is continually tested, advanced, and improved by the work of others;
5. recognize statements that are not supported by evidence;
6. determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table;
7. identify physical and chemical properties or changes and identify substances in common materials;
8. recognize that phase changes of water occur at different temperatures;
9. identify and compare graphs of motion and identify forces acting on objects;
10. give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and
11. identify categories of energy types and examples of how people can reuse, recycle, and reduce resources.

Unsatisfactory

Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. describe an investigation and identify its variables;
2. select tools and resources to collect and use data to evaluate explanations and models;
3. communicate experimental data and explanations;
4. describe that science is continually tested, advanced, and improved by the work of others;
5. recognize statements that are not supported by evidence;
6. determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table;
7. identify physical and chemical properties or changes and identify substances in common materials;
8. recognize that phase changes of water occur at different temperatures;
9. identify and compare graphs of motion and identify forces acting on objects;
10. give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and
11. identify categories of energy types and examples of how people can reuse, recycle, and reduce resources.

D. Grade 6 Social Studies Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in social studies generally exhibit the ability to:

1. apply geographical data and tools, including latitude and longitude, to real-world scenarios;
2. analyze how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3. analyze the cultural impact of migration on world history;
4. analyze the impact of the natural environment on humans in ancient societies;
5. explain how aspects of Greek and Roman governments have influenced the U.S. government;
6. analyze historical examples of fundamental economic concepts and how they motivated human interaction;
7. analyze information on timelines and synthesize information taken from multiple historical source documents;
8. analyze causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9. analyze the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and

10. analyze human continuity and change from the time of river valley civilizations through the early Middle Ages.

Mastery

Students scoring at the Mastery level in social studies generally exhibit the ability to:

1. manipulate geographical data and tools, including latitude and longitude, to explain real-world scenarios;
2. explain how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3. explain the cultural impact of migration on world history;
4. explain the impact of the natural environment on humans in ancient societies;
5. describe aspects of Greek and Roman governments that influenced the U.S. government;
6. explain historical examples of fundamental economic concepts and how they motivated human interaction;
7. evaluate and manipulate timelines and interpret the differences among multiple historical source documents;
8. interpret causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9. interpret the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and
10. interpret human continuity and change from the time of river valley civilizations through the early Middle Ages.

Basic

Students scoring at the Basic level in social studies generally exhibit the ability to:

1. use geographical data and tools, including latitude and longitude, to describe real-world scenarios;
2. describe how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3. describe the cultural impact of migration on world history;
4. describe the impact of the natural environment on humans in ancient societies;
5. identify aspects of Greek and Roman governments that influenced the U.S. government;
6. describe historical examples of fundamental economic concepts and how they motivated human interaction;
7. relate information on timelines to historical events and describe information available from multiple historical source documents;
8. describe causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9. describe the origins, spread, and effects of major world religions and their empires on Europeans, Asian, and African civilizations; and
10. describe human continuity and change from the time of river valley civilizations through the early Middle Ages.

Approaching Basic

Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:

1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios;
2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3. identify the cultural impact of migration on world history;
4. recognize the impact of the natural environment on humans in ancient societies;
5. recognize some aspects of Greek and Roman governments that influenced the U.S. government;
6. recognize historic examples of fundamental economic concepts and how they motivated human interaction;
7. identify historical timelines and multiple historical source documents;
8. identify causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and
10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages.

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios;
2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3. identify the cultural impact of migration on world history;
4. recognize the impact of the natural environment on humans in ancient societies;
5. recognize some aspects of Greek and Roman governments that influenced the U.S. government;
6. recognize historic examples of fundamental economic concepts and how they motivated human interaction;
7. identify historical timelines and multiple historical source documents;
8. identify causes and effects, characteristics, and motivations of historical events in narrative form;
9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and
10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1717. Grade 7 Achievement Level Descriptors

A. Grade 7 English Language Arts Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:

1. identify meanings of words using a variety of strategies, including knowledge of base words and roots;
2. demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning, identifying implied main ideas and supporting details, and comparing and contrasting literary elements;
3. analyze and interpret complex story elements, literary devices, elements of various genres, and author's purpose;
4. research a topic by selecting and integrating information from multiple print and electronic sources;
5. identify all parts of a bibliographic entry following a model;
6. develop a creative, effective and insightful response to a writing task;
7. construct a response with a clearly stated central idea, logical organization, effective and thorough elaboration, and a variety of transitional words and phrases;
8. show audience awareness by selecting vocabulary, language, and sentence structures to engage the audience, enhance meaning, and reflect individual voice or personality; and
9. maintain consistent command of sentence formation, usage, mechanics, and spelling.

Mastery

Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:

1. identify word meanings using a variety of strategies;
2. analyze what they read using a variety of reasoning skills, including deductive reasoning;
3. identify story elements, literary devices, and effect of an author's bias or perspective;
4. use knowledge of the distinctive characteristics of various genres to identify elements;
5. research a topic by locating and selecting information from multiple print and electronic sources;
6. identify all parts of a bibliographic entry following a model;
7. use analytical, critical, and/or creative thinking in response to a writing task;

8. construct a response with a focused central idea, logical organization, sufficient elaboration, and effective transitions;
9. show audience awareness by using language and sentences selected to engage the audience and reflect individual personality; and
10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.

Basic

Students scoring at the Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of grade-level words using a variety of strategies;
2. demonstrate understanding of what they read by using basic strategies, including stated main idea and supporting details;
3. identifying cause-effect relationships; sequencing events; and predicting the outcome of a story or situation;
4. identify story elements, including character motivation or plot sequence, some literary devices, and an author's purpose;
5. classify and interpret elements of various genres, including fiction, nonfiction, and poetry;
6. research a topic by locating information in commonly used reference sources;
7. identify parts of a bibliographic entry for commonly used sources following a model;
8. demonstrate an appropriate response to a writing task;
9. construct a response with a central idea, an appropriate organizational pattern, necessary details, and simple transitions;
10. demonstrate limited audience awareness by using simple sentences and vocabulary; and
11. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic

Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of commonly used words using a variety of strategies, including context clues;
2. demonstrate some understanding of what they read in grade-appropriate texts using simple strategies such as making predictions;
3. identify basic story elements and some literary devices;
4. identify some elements of various genres, including fiction, nonfiction, or poetry;
5. research a topic by locating information in commonly used resources;
6. identify some parts of a bibliographic entry following a model;
7. demonstrate a limited response to a writing task;
8. construct a response with an unclear central idea, a weak organizational pattern, minimal supporting details, and simple or no transitions;
9. show limited audience awareness through the use of simple or inappropriate vocabulary and sentences; and
10. demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.

Unsatisfactory

Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. demonstrate an understanding of what they read;
2. make interpretations and extensions of ideas in texts;
3. make connections between information in texts and their own experiences;
4. locate information in commonly used sources;
5. develop an appropriate response to a writing task;
6. construct a response with a focused central idea, observable organization, and sufficient supporting details;
7. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and
8. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 7 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. translate problems into and solve two-step equalities and inequalities; 2. evaluate algebraic expressions containing exponents and square roots; 3. apply proportional reasoning to solve complex problems including applications and comparisons involving positive rational numbers; 4. understand and draw conclusions based on the relationship between measures of polygons and circles, such as change in perimeter vs. change in area and change in radius vs. change in circumference; 6. determine trends and make predictions based on various displays of discrete and continuous data; 7. describe basic exponential sequences and patterns and describe and apply rules used to determine function outputs, given their inputs; 8. order and compare measurements within and between measurement systems, including temperature; and 9. apply concepts of transformations involving reflections and translations on a coordinate grid.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve multi-step problems involving non-negative rational numbers and negative integers; 2. evaluate simple algebraic expressions using substitution; 3. describe the angle and measurement properties of polygons and circles; 4. graph solutions of equations and inequalities and make comparisons of positive rational numbers on a number line; 5. determine area and perimeter of simple composite geometric shapes; 6. describe rules used to determine various arithmetic and geometric sequences; 7. describe and interpret a variety of graphs that display discrete and continuous data; 8. determine experimental probability; and 9. order measurements within and between measurement systems.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve one- and two-step equations and inequalities; 2. calculate circumference and area of circles; 3. estimate and compute equivalent fractions, percents, and decimals; 4. recognize and extend patterns involving fractions and negative numbers; 5. convert between common measurements in the same system; 6. draw and identify angles and measurements in simple polygons and circles; 7. demonstrate a conceptual understanding of the differences between discrete and continuous data; 8. compute simple probabilities and use basic mathematical terms associated with probability, such as event and favorable outcomes; and 9. recognize geometric transformations.
Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve single-step problems involving positive rational numbers; 2. match algebraic equations and inequalities to verbal statements; 3. order measurements within the same system; 4. identify points in all four quadrants of a coordinate grid; 5. interpret discrete data from a variety of graphs; and 6. extend simple number patterns.

Unsatisfactory

<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. solve single-step problems involving positive rational numbers; 2. match algebraic equations and inequalities to verbal statements; 3. order measurements within the same system; 4. identify points in all four quadrants of a coordinate grid; 5. interpret discrete data from a variety of graphs; and 6. extend simple number patterns.
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C. Grade 7 Science Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. analyze investigations by researching and evaluating testable questions, dependent and independent variables, and experimental designs; 2. select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; 3. communicate related research, experimental procedures, data, and analyses in a variety of appropriate methods; 4. explain how science is tested, revised, and advanced through problem solving, mathematics, technology, and communications; 5. compare functions of plant and animal cell structures (i.e., organelles) and explain why the life cycles of plants and animals differ; 6. analyze how the cell processes of osmosis, diffusion, respiration, and photosynthesis are necessary for an organism's survival; 7. describe the growth and development of humans from infancy to old age and various factors affecting this development; 8. analyze how the failure of organs or systems affects health and how methods of transferring genetic information impact an organism; 9. analyze factors that affect relationships between organisms in ecosystems and describe how adaptation help species survive; 10. analyze the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities; 11. compare, describe, or analyze ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and 12. compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms.
Mastery
<p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare investigations by identifying and evaluating testable questions, variables, and experimental designs; 2. select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication; 5. describe functions of plant and animal cell structures (i.e., organelles) and compare the life cycles of plants and animals; 6. compare the cell processes of osmosis and diffusion and respiration and photosynthesis; 7. classify organisms using a dichotomous key and describe the growth and development of humans from infancy to old age; 8. relate the functions of organs, systems, and overall health in sustaining life and describe methods of transferring genetic information; 9. describe and compare relationships between organisms in ecosystems and explain how adaptations help species survive; 10. compare the roles of components in ecosystems, the resources humans derive from ecosystems, and impact of human activities; 11. identify, describe, or explain ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and

12. compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms.
Basic
Students scoring at the Basic level in science generally exhibit the ability to:
1. describe investigations by comparing or recognizing testable questions, variables, and experimental designs;
2. select appropriate tools and resources for data collection and analyze data to develop explanations, make inferences, and predict trends;
3. communicate experimental procedures, data, and analyses through appropriate methods;
4. describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication;
5. differentiate between plants and animals by their cell structures (i.e., organelles) and describe the life cycles of plants and animals;
6. describe the cell processes of osmosis, diffusion, respiration, and photosynthesis;
7. classify organisms using a dichotomous key and describe human growth and development;
8. describe the functions of organs and organ systems and identify methods of transferring genetic information;
9. describe relationships between organisms in ecosystems and how adaptations help species survive;
10. identify the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities;
11. identify and describe ecosystems by using the movement of energy and the effects of limiting factors carrying capacity; and
12. describe and explain the nitrogen and carbon cycles.
Approaching Basic
Students scoring at the Approaching Basic level in science generally exhibit the ability to:
1. describe an investigation by identifying testable questions and variables;
2. select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences;
3. communicate experimental procedures, data, and analyses;
4. describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science;
5. identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals;
6. identify the cell processes of osmosis, diffusion, respiration, and photosynthesis;
7. classify organisms using a dichotomous key and know that different factors affect human growth or development over time;
8. identify functions of organs and identify the role of genetic information in an organism;
9. identify relationships between organisms in ecosystems and recognize adaptations;
10. identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact;
11. identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and
12. identify parts of the nitrogen and carbon cycles.
Unsatisfactory
Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:
1. describe an investigation by identifying testable questions and variables;
2. select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences;
3. communicate experimental procedures, data, and analyses;
4. describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science;
5. identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals;
6. identify the cell processes of osmosis, diffusion, respiration, and photosynthesis;
7. classify organisms using a dichotomous key and know that different factors affect human growth or development over time;

8. identify functions of organs and identify the role of genetic information in an organism;
9. identify relationships between organisms in ecosystems and recognize adaptations;
10. identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact;
11. identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and
12. identify parts of the nitrogen and carbon cycles.

D. Grade 7 Social Studies Achievement Level Descriptors

Advanced
Students scoring at the Advanced level in social studies generally exhibit the ability to:
1. apply geographical data and tools and analyze the impact of the United States' physical structure on historical events;
2. analyze cultural aspects of the development of the United States and the effects of natural resources on regional differences;
3. analyze the structure and purposes of government in the world and in the United States;
4. analyze how ancient governments influenced American democracy and culture;
5. analyze the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6. analyze the nature of U.S. citizen rights and responsibilities in society;
7. analyze ideas found in the Mayflower Compact and the Declaration of Independence;
8. analyze Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9. interpret graphic and narrative sources of information;
10. analyze and interpret the contributions of significant figures and events in U.S. history from 1763 to 1860; and
11. analyze national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.
Mastery
Students scoring at the Mastery level in social studies generally exhibit the ability to:
1. interpret and manipulate geographical data and tools and explain the impact of the United States' physical structure on historic events;
2. explain the cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3. explain the structure and purposes of government in the world and in the United States;
4. explain how ancient governments influenced American democracy and culture;
5. explain changes in the American political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6. explain aspects of U.S. citizen rights and responsibilities in society;
7. explain ideas found in the Mayflower Compact and the Declaration of Independence;
8. explain Mercantilism's role in colonization and conflict and how U.S. economic activity contributed to international interdependence;
9. interpret graphic and narrative sources of information;
10. explain the contributions of significant figures and events in U.S. history from 1763 to 1860; and
11. explain aspects of national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.

Basic
<p>Students scoring at the Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use geographical data and tools to explain and describe the impact of the United States' physical structure on historical events; 2. describe cultural aspects of the development of the United States and the impact of natural resources on regional differences; 3. describe the structure and purposes of government in the world and in the United States; 4. explain how ancient governments influenced American democracy and culture; 5. describe changes in the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; 6. describe aspects of U.S. citizen rights and responsibilities in society; 7. explain ideas found in the Mayflower Compact and the Declaration of Independence; 8. describe Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; 9. explain graphic sources of information and describe the importance of information obtained from narrative sources of information; 10. describe contributions of significant figures and events in U.S. history from 1763 to 1860; and 11. describe national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.
Approaching Basic
<p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools and describe the impact of the United States' physical structure on historical events; 2. recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences; 3. identify the structure and purposes of government in the world and in the United States; 4. identify how ancient governments influenced American democracy and culture; 5. recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; 6. describe aspects of U.S. citizen rights and responsibilities in society; 7. describe ideas found in the Mayflower Compact and the Declaration of Independence; 8. define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; 9. identify historical information in graphic form and identify various narrative sources of information; 10. identify significant personalities and events from 1763 to 1860; and 11. identify national continuity and change from the Early National Period through the beginning of the American Civil War.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools and describe the impact of the United States' physical structure on historical events; 2. recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences; 3. identify the structure and purposes of government in the world and in the United States; 4. identify how ancient governments influenced American democracy and culture; 5. recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; 6. describe U.S. citizen rights and responsibilities in society; 7. describe ideas found in the Mayflower Compact and the Declaration of Independence;

<ol style="list-style-type: none"> 8. define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; 9. identify historical information in graphic form and identify various narrative sources of information; 10. identify significant personalities and events from 1763 to 1860; and 11. identify national continuity and change from the Early National Period through the beginning of the American Civil War.
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1719. Grade 9 Achievement Level Descriptors

A. Grade 9 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the <i>Advanced</i> level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of a wide variety of general and technical words using a full range of strategies; 2. demonstrate literal and inferential understanding of what they read by making inferences, predictions, and generalizations; interpreting cause/effect relationships; reasoning inductively and deductively; and making connections of ideas to real-life experiences; 3. analyze, including comparing and contrasting, complex story elements, literary devices, ideas, and an author's purpose and viewpoint; 4. research a topic by selecting and evaluating relevant information from a variety of print and electronic sources; 5. identify accurate parenthetical citations and bibliographic entries using a model; 6. use analytical, critical, and/or creative thinking in response to a writing task; 7. construct a response with a clear central idea, logical and cohesive organization, thorough elaboration with a variety of supporting details; and a variety of varied, effective transitions; 8. demonstrate an awareness of audience through rich creative vocabulary and sentence structure that reflects voice or personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the <i>Mastery</i> level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of a variety of words using a variety of strategies; 2. demonstrate understanding of what they read using a variety of strategies, such as making inferences, predictions, and generalizations; drawing conclusions; determining cause/effect relationships; and reasoning inductively and deductively; 3. interpret and compare/contrast complex story elements, literary devices, ideas, and an author's purpose and viewpoint; 4. use knowledge of the distinctive characteristics of various genres to interpret elements; 5. research a topic by selecting and analyzing information from multiple print and electronic sources; 6. identify accurate parenthetical citations and bibliographic entries using a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a central idea, logical organization, relevant elaboration, and varied, effective transitions; 9. demonstrate an awareness of audience through varied vocabulary and sentence structure; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.

B. Grade 9 Mathematics Achievement Level Descriptors

Basic
<p>Students scoring at the <i>Basic</i> level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using various strategies; 2. demonstrate understanding of what they read by identifying ideas and information from texts using various strategies such as sequencing; making simple inferences, predictions, and generalizations; drawing conclusions; and identify stated cause/effect relationships; 3. identify and compare story elements, literary devices, main ideas, and an author's purpose and viewpoint; 4. identify the distinctive characteristics of various genres; 5. research a topic by selecting relevant information from a variety of print and electronic sources; 6. identify accurate bibliographic entries using a model; 7. demonstrate some evidence of critical and/or creative thinking in response to a writing task; 8. construct a response with a central idea, some conscious organization, some supporting information, and simple transitions; 9. demonstrate audience awareness through some variety in vocabulary and sentence structure; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.
Approaching Basic
<p>Students scoring at the <i>Approaching Basic</i> level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words; 2. demonstrate partial understanding of what they read using strategies such as identifying simple sequences, drawing simple conclusions, making predictions and simple generalizations, and identifying stated cause/effect relationships; 3. identify simple literary elements, devices, main ideas, and an author's stated purpose; 4. research a topic by locating and selecting some information from print and electronic sources; 5. identify accurate bibliographic entries for commonly used sources using a model; 6. demonstrate a limited response to a writing task; 7. construct a response with a weak central idea, some evidence of organization, minimal details, and few transitions; 8. demonstrate a limited awareness of audience through selection of simple or inappropriate vocabulary, and lack of sentence variety; and 9. demonstrate little or no command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory
<p>Students scoring at the <i>Unsatisfactory</i> level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. identify simple story or literary elements, and elements of an author's style; 3. make simple or broad connections between texts and personal experiences; 4. locate information in commonly used sources; 5. develop an appropriate response to a writing task; 6. construct a response with a focused central idea, an observable organizational pattern, and sufficient supporting details; 7. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 8. demonstrate acceptable command of sentence formation usage, mechanics, and spelling.

Advanced
<p>Students scoring at the <i>Advanced</i> level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate, simplify, and solve problems involving scientific notations; 2. apply proportional reasoning to model and solve real-life problems involving direct and inverse variation; 3. use a variety of methods to solve problems involving 2 X 2 systems of linear equations; 4. graphically represent the solution of a 2 X 2 system of linear inequalities; 5. determine appropriate units and scales to use when solving measurement problems; 6. perform translations and line reflections in the coordinate plane; 7. translate fluently between tabular, graphical, and algebraic representations of functions; 8. compare, contrast, and describe characteristics of linear functions and basic families of functions; and 9. solve problems involving indirect measurement and express results in terms of the degrees of accuracy and precision.
Mastery
<p>Students scoring at the <i>Mastery</i> level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate and simplify algebraic expressions involving order of operations with rational numbers; 2. apply proportional reasoning to model and solve real-life problems involving direct variation; 3. represent real-life situations as linear equations or inequalities and find solutions; 4. graphically represent 2 X 2 systems of equations and identify the solution; 5. make measurements based on the degree of precision or accuracy needed; 6. use points to describe translations and line reflections; 7. understand the relationship of the constants and coefficients in a linear function to the graph of the function; and 8. identify and describe the characteristics of families of linear functions.
Basic
<p>Students scoring at the <i>Basic</i> level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. represent numbers as exponential expressions with positive, integral exponents; 2. recognize and graph linear equations and use appropriate terminology to describe and interpret slope, intercept, point, intersection, etc.; 3. understand the language of algebra and make appropriate translations between verbal and symbolic representations; 4. choose appropriate common units (U.S. and metric) to make measurements; 5. draw translations and line reflections in a coordinate system; 6. solve multi-step equations and inequalities in one variable; and 7. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations.
Approaching Basic
<p>Students scoring at the <i>Approaching Basic</i> level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. perform basic operations with positive rational numbers; 2. locate points on a coordinate grid; 3. use calculators to evaluate polynomials for given values of the variables; 4. make measurements using common (U.S. and metric) measurement units; and 5. follow and interpret processes expressed in flow charts.

Unsatisfactory

Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. perform basic operations with positive rational numbers;
2. locate points on a coordinate grid;
3. use calculators to evaluate polynomials for given values of the variables;
4. make measurements using common (U.S. and metric) measurement units; and
5. follow and interpret processes expressed in flow charts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Editor's Note: The following Subchapter is being repromulgated to show new placement.

Subchapter E. *i*LEAP Assessment Structure **§1721. Content Standards**

A. The *i*LEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:

§1723. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.
 - a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
 - b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
 - c. Louisiana English language arts standards measured by the NRT components include the following.

- i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

- ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.

- iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

- iv. Standard 2. Students write competently for a variety of purposes and audiences.

- v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:

- a. writing; and

- b. using information resources;

- c. Louisiana English language arts standards measured by the CRT components include the following:

- i. Standard 2. Students write competently for a variety of purposes and audiences;

- ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

- B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.

1. The (NRT) ITED Core Battery components and standards measured include the following:

- a. vocabulary;

- b. reading comprehension; and

- c. language: revising written materials.

- d. Louisiana English language arts standards measured include the following:

- i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;

- ii. Standard 2. Students write competently for a variety of purposes and audiences;

- iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;

- iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and

- v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

2. The Criterion-Referenced (CRT) Components and standards measured include the following:

- a. writing; and

- b. using information resources;

- c. Louisiana English language arts standards measured by the CRT components include the following:

- i. Standard 2. Students write competently for a variety of purposes and audiences;

- ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:

§1725. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

1. The NRT Component includes the following:

- a. multiple-choice items that assess Concepts and Estimation; and
- b. multiple-choice items that assess Problem Solving and Data Interpretation.

2. The CRT Component includes the following:

a. multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs;

b. constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

1. The NRT Component includes the following:

a. multiple-choice items that assess Math Concepts and Problem-Solving.

2. The CRT Component includes the following.

a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.

b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;

2. Strand A: Algebra

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement

a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry

a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions

a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:268 (February 2007), repromulgated LR 33:

§1727. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), repromulgated LR 33:

§1729. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;
2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:
 - a. Geography; and
 - b. History.
3. Grade 7 assesses three of the four social studies strands. They are as follows:
 - a. Geography;
 - b. History; and
 - c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G: Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C: Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E: Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H: History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE; Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:269 (February 2007), repromulgated LR 33:

Chapter 33. Assessment of Special Populations

§3306. Approved Accommodations for Special Education and Section 504 Students.

A. - A.6.a ...

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests

include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *iLEAP* grades 3, 5, 6, and 7, Reading Comprehension of *iLEAP* grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7 - 8.a. ...

9. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *iLEAP* grades 3, 5, 6, and 7, Reading Comprehension of *iLEAP* grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

10. - 10.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:263 (February 2007), amended LR 33:

§3307. Limited English Proficient Students

A. - C.1.c. ...

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *iLEAP* grades 3, 5, 6, and 7, Reading Comprehension of *iLEAP* grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., April 11, 2007, 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 118—Statewide Assessment Standards and Practices—Integrated LEAP and Assessment of Special Populations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule consolidates into *Bulletin 118* the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections at the state or local governmental levels.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0702#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws—Committee Membership (LAC 28:V.221)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its bylaws (R.S. 17:3021-3025 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. (SG0783NI)

Title 28

EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission

Subchapter C. Membership and Officers of the Committee

§221. Membership

A. The committee shall be composed of 10 members, eight of whom shall be appointed by the Louisiana Association of Student Financial Aid Administrators (LASFAA) from its membership, subject to confirmation by the Louisiana Student Financial Assistance Commission. The criteria for LASFAA's selection of members shall be defined by that organization but said criteria shall ensure that appointees adequately represent LASFAA's membership. The term of all members appointed by LASFAA and confirmed by the commission shall be for two years and members may not serve two consecutive terms, provided that beginning in 2006, a member may serve up to, but no more than, two consecutive terms if so recommended by the LASFAA President and approved by a majority of the Advisory Committee Members. Beginning in October 1997, 50 percent or four of the non-ex officio members of the committee shall be appointed annually to provide for staggered terms of the regular membership. The executive director of the Office of Student Financial Assistance shall be an ex officio, nonvoting member of the committee. The president of LASFAA shall be an ex officio, voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:

Interested persons may submit written comments on the proposed changes (SG0783NI) until 4:30 p.m., March 12, 2007, 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: Bylaws—Committee Membership

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units due to the proposed 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)

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
0702#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Incorporation by Reference—2006
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(MM001ft)

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 Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #MM001ft).

This proposed Rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2006; and 40 CFR 117.3, 136, 266 (Appendices I-IX and XI-XIII), 302.4, 401, 405-415, and 417-471, July 1, 2006, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding regulations in 10 CFR 71, Appendix A, January 1, 2006, and 40 CFR Parts 117.3, 136, 266 (Appendices I-IX and XI-XIII), 302.4, 401, 405-415, and 417-471, July 1, 2006. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal

counterparts. The basis and rationale for this proposed Rule are to mirror the federal regulations in order to maintain equivalency.

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 I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2006, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2006, Table 302.4—List of Hazardous Substances and Reportable Quantities.

A.2. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2006, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2006, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2006, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099. Appendix E, respectively.

Appendix E. Risk-Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2006, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2006, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299. Appendix, Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must Be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2006, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2006, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2006, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2006, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2006, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2006 CFR, unless otherwise noted.

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 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2006, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401, 405-415, and 417-471, July 1, 2006, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:

Part XV. Radiation Protection

**Chapter 15. Transportation of Radioactive Material
§1517. Incorporation by Reference**

A. 10 CFR Part 71, Appendix A, January 1, 2006, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:

A public hearing will be held on March 28, 2007, 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. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM001ft. Such comments must be received no later than March 28, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. 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 MM001ft. This regulation is available on the Internet at: www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0702#040

NOTICE OF INTENT

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

Limited Liability Companies (LAC 46:I.1705)

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 gives notice that rulemaking procedures have been initiated for the amendment of LAC

46:I.1705 pertaining to the practice of architecture in this state by limited liability companies. The existing Rule permits limited liability companies to practice architecture in this state and sets forth the rules applicable to such practice. Although the existing Rule does not specifically provide that a limited liability company shall pay an initial registration fee or a renewal fee, the board has historically charged such fees. The proposed Rule codifies the fees presently charged to a limited liability company practicing architecture in this state (a \$50 registration fee and thereafter a \$50 renewal fee annually); provides that architectural service is rendered on behalf of the limited liability company must be performed by or under the direct supervision of a member who is licensed to practice architecture in this state, who is actively involved in the practice of architecture and whose primary occupation and employment is with that limited liability company, and whose name and seal shall appear on all contract drawings and specifications requiring the services of an architect; and makes other minor changes in the existing Rule so that its requirements will be the same as those requirements pertaining to the practice of architecture in this state by partnerships. The proposed amendments have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

**Chapter 17. Professional Architectural Corporations,
Architectural-Engineering Corporations,
and Limited Liability Companies**

§1705. Limited Liability Companies

A. An architect may practice architecture in a lawfully constituted limited liability company. The limited liability company must comply with the laws pertaining to limited liability companies, including particularly R.S. 12:1301 et seq., and these rules.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state in a limited liability company without first receiving a certificate from the board authorizing the limited liability company to do so. The certificate must be renewed annually.

C. A limited liability company soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. Any person seeking authority for a limited liability company to practice architecture in this state shall obtain an application from the board's website or request an application from the board. The applicant is required to complete the application fully, providing all requested information pertaining to the names of the limited liability company and all of the members, and return same to the executive director. The applicant is required to pay initially a \$50 registration fee and thereafter a \$50 renewal fee annually. Upon receipt of such application and fee, the board shall either approve said application and issue a certificate to the limited liability company authorizing it to practice architecture in this state, or disapprove said application advising the applicant of the reasons therefor.

E. Architectural services rendered on behalf of a limited liability company must be performed by or under the direct supervision of a member who is duly licensed to practice architecture in this state, who is actively involved in the practice of architecture and whose primary occupation and employment is with that limited liability company, and whose name and seal shall appear on all contract drawings and specifications requiring the services of an architect.

F. The member licensed in this state who performs such architectural services or directly supervises such services will be responsible to this board for all acts and conduct of such limited liability company.

G. It will be the responsibility of all architects named in the application to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrants' licenses.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:572 (April 2003), amended LR 33:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Limited Liability Companies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no estimated implementation cost (savings) to state or local governmental units associated with this proposed rule amendment.

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 amendment. The board has historically charged a limited liability company an initial registration fee of \$50.00 and thereafter a renewal fee of \$50.00 annually, and the proposed rule merely codifies this long-standing practice.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated cost and/or economic benefits to directly effected persons or non-governmental groups associated with this proposed rule amendment. The board has historically charged a limited liability company an initial registration fee of \$50.00 and thereafter a renewal fee of \$50.00 annually, and the proposed rule merely codifies this long-standing practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule amendment.

Mary "Teeny" Simmons
Executive Director
0702#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Partnerships (LAC 46:I.1707)

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 gives notice that rulemaking procedures have been initiated for the adoption of LAC 46:I.1707 pertaining to the practice of architecture in this state by partnerships. The proposed Rule, which is new, provides that an architect may practice architecture in a lawfully constituted partnership; sets forth the procedures to be followed by any person seeking authority for a partnership to practice architecture in this state; provides that the applicant is required to pay initially a \$50 registration fee and thereafter a \$50 renewal fee annually; provides that architectural service rendered on behalf of a partnership must be performed by or under the direct supervision of a partner who is duly licensed to practice architecture in this state, who is actively involved in the practice of architecture and whose primary occupation and employment is with that partnership, and whose name and seal shall appear on all contract drawings and specifications requiring the services of an architect; and provides that the partner who performs or supervises the performance of such architectural services will be responsible to the board for all acts and conduct of the partnership. The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

**Chapter 17. Professional Architectural Corporations,
Architectural-Engineering Corporations,
and Limited Liability Companies**

§1707. Partnerships

A. An architect may practice architecture in a lawfully constituted partnership. The partnership must comply with the laws pertaining to partnerships, including particularly Louisiana Civil Code Articles 2801 et seq., and these rules. A foreign partnership must comply with the requirements of R.S. 9:3421 et seq., including filing for registry with the Secretary of State in the Central Registry for Contracts of Partnership created by R.S. 9:3401. A limited liability partnership must comply with the requirements of R.S. 9:3431 et seq., including filing the information required by R.S. 9:3432 with the Secretary of State.

B. No person, firm, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state in a partnership without first receiving a certificate from the board authorizing the partnership to do so. The certificate must be renewed annually.

C. A partnership soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. Any person seeking authority for a partnership to practice architecture in this state shall obtain an application

from the board's website or request an application from the board. The applicant is required to complete the application fully, providing all requested information pertaining to the names of the partnership and all of the partners, and return same to the executive director. The applicant is required to pay initially a \$50 registration fee and thereafter a \$50 renewal fee annually. Upon receipt of such application and fee, the board shall promptly either approve said application and issue a certificate to the partnership authorizing it to practice architecture in this state, or disapprove said application advising the applicant of the reasons therefore.

E. Architectural services rendered on behalf of a partnership must be performed by or under the direct supervision of a partner who is duly licensed to practice architecture in this state, who is actively involved in the practice of architecture and whose primary occupation and employment is with that partnership, and whose name and seal shall appear on all contract drawings and specifications requiring the services of an architect.

F. The partner licensed in this state who performs such architectural services or directly supervises such services will be responsible to this board for all acts and conduct of such partnership.

G. It will be the responsibility of all architects named in the application to advise the board of any organizational change that would relate to the authorization granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrants' licenses.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 33:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Partnerships

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency estimates that the cost of implementing this new rule will be approximately \$2,500.00 for fiscal year 2007-2008, \$1,000.00 for fiscal year 2008-2009, and \$1,000.00 for fiscal year 2009-2010. These additional costs will result from the increased workload and expenses of preparing and processing the necessary forms, postage, and long distance telephone charges.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency estimates that it will collect additional revenues from the registration and renewal fees paid by partnerships practicing architecture in this state in the amounts of approximately \$5,000.00 during fiscal year 2007-2008, \$5,500.00 during fiscal year 2008-2009, and \$6,000.00 during fiscal year 2009-2010.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Partnerships that practice architecture in this state will be required to pay initially a \$50.00 registration fee and thereafter a \$50.00 renewal fee annually. This fee will compensate the agency for its cost of implementing and handling the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director
0702#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Telecommunications Management

Telecommunications Coordinator (LAC 4:IX.303)

In accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Telecommunications Management hereby proposes to amend LAC Title 4, Part IX, Chapter 3, Section 303, Telecommunications Coordinator. In accordance with Act 1183 of 1999, the Office of the Governor, Division of Administration, Office of Telecommunications Management has given written consideration to the proposed Rule's impact on family.

Title 4

ADMINISTRATION

Part IX. Telecommunications

Chapter 3. State Agencies' Responsibilities

§303. Telecommunications Coordinator

A. All agencies shall appoint one or more representatives to be designated as the agency Telecommunications Coordinator(s). The Telecommunications Coordinator shall be recognized by the Office of Telecommunications Management as the agency's authorized representative for approving and coordinating telecommunications activity. The appointment of the Telecommunications Coordinator authorizes that person, on behalf of the agency, to make changes and additions for telecommunications equipment and services and to obligate related funds. Communications concerning policy and operating procedures will be directed to agencies through their respective Telecommunications Coordinator(s). As multiple Telecommunications Coordinators may be appointed to represent an agency, a Telecommunications Coordinator may be designated to have responsibility for voice only, data only, or both voice and data.

B. Training designed to instruct the Telecommunications Coordinator on the procedural aspects of interfacing with the Office of Telecommunications Management and the design and operation of various telecommunications systems will be

furnished by the Office of Telecommunications Management upon request by agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999), LR 33:

Family Impact Statement

The proposed Rule should have no impact on any family as defined in R.S. 49:972.D or on family formation, stability, and autonomy. In accordance with R.S. 49:972.C, the written family impact statement will be kept on file in the Office of Telecommunications Management. No preamble was prepared for this Notice of Intent.

Interested persons may direct inquiries until 5 p.m., March 10, 2007, to J.D. Liford, Assistant Director, Office of Telecommunications Management, P.O. Box 94280, Baton Rouge, LA 70804-9280, telephone (225) 342-7744.

Derald Kirkland
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Telecommunications Coordinator

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James D. Liford
Assistant Director
0702#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Licensure and Fees
(LAC 46:XXX.III.306, 415, 419, 706, 710, and 1506)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.306, 415, 419, 706, 710, and 1506. No preamble

has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

**§306. Requirements of Applicants for Licensure by
Credentials**

A. - A.2. ...

3. has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,000 hours per year for the preceding three years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301; the applicant completing the residency program must apply for licensure within 180 days of graduation from said specialty program or fellowship or work full-time as a dentist for three years before licensure;

a. the requirement of practicing full-time as a dentist at a minimum of 1,000 hours per year for the preceding three years may be waived if the applicant agrees to teach full-time for two years in an accredited dental education program within the state of Louisiana. However, this license shall be rescinded should the dentist fail to complete his or her two year agreement with the school or institution;

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board:

1. ...
 - a. Licensing of dental applicants who have successfully completed an examination administered by another jurisdiction which is accepted by the board \$300
2. - 17. ...
18. retired volunteer dental license \$50
19. application and permitting for enteral conscious sedation office permit \$100
20. application and permitting for enteral conscious sedation personal permit \$100
21. renewal of enteral conscious sedation permit for adult patients \$50
22. renewal of enteral conscious sedation permit for pediatric patients \$50

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations (Dental Hygienist)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. ...
 - a. Licensing of dental hygiene applications who have successfully completed an examination administered by another jurisdiction which is accepted by the board \$150

2. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials (Hygienists)

A. - A.2. ...

3. has been in active practice or full-time dental hygiene education for a minimum of one year immediately prior to applying for licensure:

- a. the requirement of practicing full-time as a dental hygienist at a minimum of one thousand hours per year for the preceding year may be waived if the applicant agrees to teach full-time for two years in an accredited dental education program within the state of Louisiana. However, this license shall be rescinded should the dental hygienist fail to complete his or her two year agreement with the school or institution;

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:

§710. Administration of Local Anesthesia for Dental Purposes

A. - F. ...

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. providing satisfactory documentation via affidavit provided by the board evidencing the administration of local anesthesia for a period of not less than six months upon a minimum of fifty patients with no adverse complications;

2. substantiating the adequacy of training via affidavit provided by the board in the administration of local anesthesia; and

3. agreeing in writing via affidavit provided by the board to administer local anesthesia as provided by these rules.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 27:1892 (November 2001), LR 28:1779 (August 2002), LR 30:2306 (October 2004), LR 33:

Chapter 15. Anesthesia/Analgesia Administration **§1506. Conscious Sedation with Enteral Drugs**

A. - D. ...

E. For adult patients, the licensee must provide proof of current certification in cardiopulmonary resuscitation Course "C," Basic Life Support for the Health Care Provider as defined by the American Heart Association or is equivalent. For pediatric patients, the licensee must provide proof of current certification in Pediatric Life Support (PALS), or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:793

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 33:

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of promulgation of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the promulgation of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure and Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to increase administrative costs of the Board by approximately \$30,000 in FY 07-08 and subsequent fiscal years for the evaluation of applications for new licenses. Additionally, there will be a one-time cost of \$500 in FY 06-07 for publication of the proposed rule in the Louisiana Registry. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for notification of such rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to increase the revenue collections of the Board by approximately \$30,000 in FY 07-08 and subsequent fiscal years and will be used to offset a minimal

increase in administrative costs associated with the application process, and granting various permits and licenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Dentists and dental hygienists will be able to obtain a license in Louisiana at a reduced rate by taking an examination approved by another jurisdiction (approximately 20-30); dentists seeking a retired volunteer dental license will pay a one-time \$50 fee for that license (approximately 10-20); dentists administering enteral conscious sedation will be required to pay \$100 for the application fee and \$50 per biennial renewal period for the renewal of their permits to administer enteral conscious sedation (approximately 300). There are no other associated costs for dentists and hygienists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
0702#016

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Restricted Licensure and Permits
(LAC 46:XLV.402, 403, and 405)

Notice is hereby given in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and the provisions of the Louisiana Administrative Procedure Act, intends to amend its rules governing the licensure of physicians LAC 46:XLV, Subpart 2, Chapter 3, §§402, 403 and 405. The proposed Rule amendments will facilitate the processing of restricted provisional temporary permits by eliminating delays, costs, and other administrative burdens attendant to the processing and issuance of restricted provisional temporary permits for: visiting physicians, who are invited by Louisiana licensed physicians to assist in the evaluation, diagnosis and/or treatment of specific patients in this state who require their expertise; for visiting professors who are invited by a medical school or other accredited medical institution to provide graduate medical education or instruction to Louisiana physicians and graduate medical students who will benefit from their training in this state; and for physicians serving in a preceptorship or enrolled in short-term post-graduate medical residency training program in a medical school or other accredited institution in this state, by allowing the board to forgo collecting and processing criminal history record information, eliminating the need for a personal appearance, and facilitating the board's use of electronic technology for processing forms, applications, and verifications of licensure status in other states. With respect to visiting physicians and visiting professors, who provide a valuable service to the citizens of this state by attending to Louisiana patients and educating Louisiana physicians, the proposed amendments also allow the board to waive the fee for the approximate 20-30

anticipated number of annual applicants for these categories of restricted temporary permits.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

**§402. Provisional Temporary Permit Pending Results
of Criminal History Record Information**

A. - C. ...

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:

§403. Visiting Physician Permits

A. - A.2.b. ...

c. a written recommendation by a physician licensed under this Chapter attesting to the professional qualifications of the visiting physician assuming responsibility for his professional activities and patient care, and specifying when and where such activities or care will be provided.

3. Repealed.

B. The board may issue a visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to serve on the faculty of the medical school or institution, provided that such invited physician:

1. - 2.a. ...

b. a completed application on forms furnished by the board;

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state;

d. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity; and

e. verification satisfactory to the board that the applicant is currently certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) in the subject area of the proposed educational program.

3. Repealed.

C. The board may issue a foreign exchange visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to participate in an exchange of faculty between

the applicant's medical school and a medical school or other accredited medical institution within the state of Louisiana approved by the board, provided that such invited physician:

1. - 2.b. ...

c. a completed application on forms furnished by the board;

d. ...

e. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity.

3. Repealed.

D. - F. ...

G. The term *accredited medical institution*, as used in this Subchapter, means an institution that sponsors one or more educational programs in the relevant subject area of post-graduate medical training that is accredited by the Accreditation Council of Graduate Medical Education (ACGME).

H. The term *visiting professor* as used in this Subchapter, shall apply to visiting physicians who are invited by a medical school or an accredited medical institution approved by the board to serve as instructors in the proposed educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1278, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:843 (June 2001), LR 33:

§405. Short-Term Residency Permit

A. - A.5. ...

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program conducted by a Louisiana medical school or other accredited medical institution to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-5, who is currently enrolled and in good standing in an accredited graduate medical education program and who possesses a current unrestricted license to practice medicine or engage in medical training duly issued by any state and provided that:

1. - 2.a. ...

b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and

c. a letter from the physician under whom he will be serving in the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Repealed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments until 4 p.m., March 19, 2007, to Rita

Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130).

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Restricted Licensure and Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total \$552, which costs will be absorbed within the board's budget during FY 2007, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed amendments will result in a minimal annual reduction in the board's self-generated revenue collections, estimated at approximately \$2,000-3,000. Otherwise, there will be no other effect on the revenue collections of the board or those of any other state or governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendments will eliminate delays, costs, and other administrative burdens attendant to the processing and issuance of restricted provisional temporary permits for visiting physicians, who are invited by Louisiana licensed physicians to assist in the evaluation, diagnosis and/or treatment of specific patients in this state who require their expertise, for visiting professors, who are invited by a medical school or other accredited medical institution to provide graduate medical education or instruction to Louisiana physicians and graduate medical students who will benefit from their training in this state, and for physicians serving in a preceptorship or enrolled in a short-term post-graduate medical residency training program in a medical school or other accredited institution in this state. The proposed amendments will allow these applicants and the board to forgo submission, collection and processing criminal history record information, which typically takes ninety days and is impractical with respect to the restricted provisional nature of these temporary permits given that applicants are in the state but for a brief period of time, often as little as one day to attend to a single patient but in no event more than ninety days and, further, because these individuals will be vouched for and performing under the inviting Louisiana physician (visiting physician), or medical school or institution (visiting professors, short-term residency/preceptorship). In addition, the proposed rule amendments will eliminate the need for a personal appearance (short term residency and preceptorship permits), and facilitate the board's use of electronic technology for processing forms, applications, and conducting its own verification of licensure status in other states and for the other purposes specified in the proposed amendments. Inasmuch as visiting physicians and professors provide a valuable service to the citizens of this state by attending the Louisiana patients and educating Louisiana physicians, the proposed amendments also allows the board to waive the \$100 fee for the approximate 20-30 anticipated number of annual applicants for these categories of restricted temporary permits. Louisiana citizens who receive healthcare

services from physicians issued restricted provisional temporary permits under the proposed rule amendments, and Louisiana physicians, graduate medical students who receive instruction and training (and in turn their current and future patients who are citizens of this state) will receive an unquantifiable benefit by virtue of the expertise of visiting physicians and/or professors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0702#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Retail Food Establishments

(LAC 51:XXIII.305, 1307, 1311, 1901, 1911, and 3505)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer acting through the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, pursuant to the authority in R.S. 40:4(A)(1)(a), R.S. 40:5, R.S. 40:5.5, and R.S. 40:5.5.1 intends to amend Title 51 (Public Health—Sanitary Code), Part XXIII (Retail Food Establishments). The specific Sections proposed to be amended are §§305, 1307, 1311, 1901, 1911, and 3505. One purpose of such proposed amendments is to amend the code requirements so that they comport with the requirements of Act 647 of the 1999 Regular Session, Act 370 of the 2003 Regular Session, and Act 608 of the 2004 Regular Session. The substance of these particular legislative Acts relate to exempting certain types of food establishments from compliance with the Food Safety Certificate requirements. Another purpose is to amend the code requirements so that it comports with the requirements of Act 384 of the 2006 Regular Session. The substance of this particular legislative Act requires food establishments which have a self-service buffet to post a sign encouraging patrons to wash their hands prior to self-service and defines what types of food establishments are exempt therefrom. In addition, other proposed amendments will assist in clarifying other food establishment regulations as well as assisting in the effort to conform Louisiana's retail food establishment regulations with the latest recommendations of the 2001 United States Food and Drug Administration (FDA) Model Food Code.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XXIII. Retail Food Establishments

Chapter 3. General Requirements

§305. Food Safety Certification

[formerly paragraph 23:002-2]

A. The owner or a designated employee of each food establishment shall hold a "food safety certificate" from the department exclusively on behalf of that food establishment. The certificate shall be required to be renewed every five years.

1. For the purposes of this Section and §1901.D only, the term *food establishment* as defined in §101 of this Part shall additionally not include the following:

- a. private clubs where food is prepared and served exclusively for member consumption;
- b. religious or charitable food sales;
- c. any establishment that heats or prepares boudin or sausage for personal consumption;
- d. a bar or lounge that serves beverages only;
- e. temporary and seasonal establishments;
- f. nursing facilities;
- g. public, private, or parochial schools;
- h. elderly nutrition meal sites which do not prepare meals; and
- i. child care facilities.

2. The owner or a designated food service employee of a child care facility shall be required to complete one hour of food safety training each year as part of the three hours of mandatory yearly training required under the requirements of LAC 51:XXI.301.A.9. When the owner or a designated food service employee of a child care facility holds a valid Food Safety Certificate issued under the provisions of this Section, the holder of said certificate will be credited with three years of the mandatory yearly training required under LAC 51:XXI.301.A.9.

B. - C.3.a. ...

C.3.b. a \$25 fee for each certificate.

EXCEPTION: All state and local government employees are exempt from this fee.

C.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(21), and R.S. 40:5.5(C)(D)(E)(F)(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:316 (February 2002), amended LR 28:1409 (June 2002), LR 33:

Chapter 13. Temperature

§1307. Hot Holding Temperatures

[formerly paragraph 22:09-4]

A. Food stored for hot holding and service shall be held at a temperature of 135°F (57°C) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.6 of this Chapter the minimum hot holding temperature shall be 130°F (54°C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a) and R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002), LR 33:

§1311. Cooling

[formerly paragraph 22:09-6]

A. ...

B. Cooked potentially hazardous food shall be cooled:

1. to 70°F (21°C) from 135°F (57°C) within two hours of cooking or hot holding; and

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a) and R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002), LR 33:

Chapter 19. Food Display and Service

§1901. General

[formerly paragraph 22:12-1]

A. - C. ...

D. Food establishments which have a self-service buffet shall provide a sign posted at the location of the self-service buffet which encourages individuals to wash their hands prior to serving themselves. This requirement shall not be applicable to those types of food establishments which are not included in the definition of *food establishment* as per §§101.A and 305.A.1 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(21), and R.S. 40:5.5.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002), LR 33:

§1911. Special Requirements for Highly Susceptible Populations

A. - A.2.ii. ...

3. the following foods may not be served or offered for sale in a ready to eat form:

a. raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

b. a partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs that are made from raw shell eggs, and meringue; and

c. raw seed sprouts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a) and R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002), LR 33:

Chapter 35. Insects and Rodent Control

§3505. Openings

[formerly paragraph 22:24-3]

A. Openings to a portion of the building that is part of the food establishment, or retail food store/market, or to the outdoors shall be protected against the entry of insects and rodents by:

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(20)(21), and R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002), LR 33:

Family Impact Statement

1. The Effect on the Stability of the Family. There will be no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. There will be no effect on the functioning of the family.

4. The Effect on the Family Earnings and Family Budget. There will be no effect on family earnings or budget.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule.

There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

The Department of Health and Hospitals, Office of Public Health will conduct a public hearing at 10 a.m. on Tuesday, March 27, 2007, in Room 371 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, March 30, 2007 at COB, 4:30 p.m., and should be addressed to Ms. Tenney Sibley, Administrator, Retail Food Program, Sanitarian Services Section, Center for Environmental Health Services, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street, Room 167, Baton Rouge, LA 70802.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Retail Food Establishments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will allow the Office of Public Health to update Title 51 (Public Health—Sanitary Code), Part XXIII (Retail Food Establishments) to clarify requirements for Retail Food Establishments and/or comply with the latest recommendations of the 2001 United States Food and Drug Administration (FDA) Model Food Code.

There are no implementation costs anticipated other than the \$350 cost of printing the Notice of Intent and the Rule in the Louisiana Register. The Agency has sufficient funds to cover this cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is minimal effect on revenue collections as a result of this rule because DHH-OPH has already internally and informally adopted the policy of exempting state and local government employees from paying the \$25.00 certification fee several years ago. This rulemaking will make DHH's policy on this issue official.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a positive economic benefit to those retail food establishments that are owned or operated by state and local government employees because this rule will exempt them from paying the \$25 certification fee.

There will be a minimal cost to food establishments that operate a self-service buffet because they will be required to post a sign recommending for patrons to wash their hands before serving themselves.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated as a result of promulgation of this regulation.

Sharon Howard
Assistant Secretary
0702#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Seafood Preparation and Handling
(LAC 51:IX.305 and 323)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer acting through the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, pursuant to the authority in R.S. 40:4(A)(1), R.S. 40:4(A)(6), R.S. 40:5, and R.S. 40:5.3, intends to amend and revise Title 51, Part IX (Marine and Fresh Water Animal Food Products). The proposed changes will result in code provisions which are consistent with the National Shellfish Sanitation Program (NSSP) Model Ordinance. The NSSP is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

Title 51

PUBLIC HEALTH—SANITARY CODE

**Part IX. Marine and Fresh Water Animal Food
Products**

**Chapter 3. Preparation and Handling of Seafood for
Market**

**§305. Sewage Disposal on Shellfish Boats
[formerly paragraph 9:007]**

A. Owners of all vessels in which persons are engaged in the handling of shellfish from the planting or growing grounds, shall provide their vessels with suitable receptacles of adequate size and type having a capacity of at least 2 gallons for each person on the boat, in which the extract, both solid and liquid, of persons using such boats, shall be received. The contents of such receptacles shall be disposed of either by means of the sewerage system of a municipality, by incineration, or by burial in the ground at points sufficiently removed from the banks of streams or tidal waters to prevent the pollution of the waters thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1), R.S. 40:4(A)(6), R.S. 40:5(2)(3)(5)(7)(9)(15)(17)(19)(20)(21), and R.S.40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002), amended LR 33:

**§323. Tags
[formerly paragraph 9:051]**

- A. - B.3 ...
- 4. harvest area as defined by Office of Public Health;
- 5. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15)(17)(19)(20)(21), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 28:1591 (July 2002), amended LR 33:

Family Impact Statement

- 1. The Effect on the Stability of the Family. None.

- 2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None.
- 3. The Effect on the Functioning of the Family. None.
- 4. The Effect on the Family Earnings and Family Budget. None.
- 5. The Effect on the Behavior and Personal Responsibility of Children. None.
- 6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None.

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than March 9, 2007, by 4:30 p.m., to David Guilbeau, Commercial Seafood Program Administrator, Office of Public Health, 628 N. Fourth Street-P.O. Box 4489 Baton Rouge, LA 70821.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Seafood Preparation and Handling

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will remove the exemption that allows vessel owners engaged in shellfish activities from having a waste receptacle on board when harvesting occurs within two hours. This exemption would coincide with the National Shellfish Sanitation Program (NSSP). The proposed rule change would also clarify the existing language that must be provided by oyster harvesters on oyster tags. This language will change from the verbiage, "most precise identification of harvest site" to "harvest area number." No cost is associated with this change.

There is no implementation costs anticipated other than the \$102 cost of printing the Notice of Intent and the Rule in the Louisiana Register. The agency has sufficient funds to cover this cost.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be minimal costs associated with this rule change since small vessels will only be required to maintain a 5-gallon waste bucket as a receptacle.

There are no anticipated economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no effect on competition and employment anticipated as a result of promulgation of this regulation.

Sharon Howard
Assistant Secretary
0702#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

All Inclusive Care for the Elderly
(LAC 50:XXIII.501, 505 and 1301)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services proposes to amend LAC 50:XXIII.501, 505 and 1301 in the Medical, Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish the Program of All Inclusive Care for the Elderly (PACE) in accordance with federal regulations in Title 42 Section 460 of the Code of Federal Regulations (*Louisiana Register*, Volume 30, Number 2). The Program of All Inclusive Care for the Elderly was established to provide prepaid, capitated, comprehensive health care services designed to: 1) enhance the quality of life and autonomy of frail, older adults; 2) maximize dignity of, and respect for, older adults; 3) enable frail, older adults to live in the community as long as medically and socially feasible; and 4) preserve and support the older adult's family unit.

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services now proposes to amend the provisions governing PACE recipient eligibility to remove the requirement that eligibility decisions be approved by the state administering agency and to revise PACE disenrollment criteria. This proposed Rule will also amend the provisions governing the reimbursement methodology for PACE to allow for service area specific rates instead of one statewide rate and to clarify when the obligation for patient liability begins.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIII. All Inclusive Care for the Elderly

Chapter 5. Recipient Enrollment

§501. Eligibility

A. - C.6. ...

D. A PACE organization shall assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that he or she meets all requirements for PACE eligibility.

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004), amended LR 33:

§505. Disenrollment

A. A PACE organization shall submit proposed denial of enrollment determinations of applicants for health and safety reasons and all involuntary disenrollments of participants to DHH for review prior to notifying applicants/participants of such adverse decisions. The department shall review denials

of PACE enrollment eligibility and disenrollments in a timely manner.

B. - B.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004), amended LR 33:

Chapter 13. Reimbursement

§1301. Payment

A. - B. ...

C. Medicaid payment to a PACE organization on behalf of a Medicaid-eligible participant shall be a prospective monthly capitated amount that is equal to or less than the amount that would otherwise have been paid under the state plan if the participant was not enrolled under the PACE program.

1. Initially, each site specific upper payment limit shall be calculated for each state fiscal year using service area data, by zip code, from actual paid fee-for-service claims for populations who are age 55 or older in nursing facilities and in home and community based waiver and state plan services that utilize nursing facility level of care and serve people age 55 or older.

2. Site specific upper payment limits and Medicaid premiums for PACE shall be periodically calculated in accordance with the approved State Plan methodology for such calculation, including trending of historical data. Premiums for every PACE organization in the state will be based on upper payment limits.

3. ...

4. No retroactive capitated payments shall be made.

D. - D.2. ...

E. Medicaid payment to a PACE organization shall be made for each Medicaid-eligible participant who is identified on Medicaid files as linked to the PACE provider and is enrolled for the subsequent month.

1. Enrolled participants are those who have signed an enrollment agreement and who have been linked by Medicaid to the PACE provider.

E.2. - I. ...

J. A Medicaid PACE participant, who is in a nursing facility reimbursed by PACE on his/her behalf, shall be responsible for payment of patient liability.

1. ...

2. The patient liability obligation for Medicaid participants begins the day it is determined by the PACE provider that the nursing facility stay is permanent.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by encouraging greater provider participation in

PACE which will assist aging individuals with their acute and long-term care needs and enable them to remain in the community as long as possible.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, March 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: All Inclusive Care for the Elderly

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$476 (\$238 SGF and \$238 FED) will be expended in FY 06-07 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 06-07. It is anticipated that \$238 will be expended in FY 06-07 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 amend the provisions governing the Program of All Inclusive Care for the Elderly (PACE) to: 1) remove the requirement that recipient eligibility decisions be approved by the Department; 2) revise PACE disenrollment criteria; 3) amend PACE reimbursement methodology to allow for service area specific rates instead of one statewide rate (anticipated to be budget neutral); and 4) clarify when the obligation for patient liability begins. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 06-07, FY 07-08 and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0702#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 90—Payment of Pharmacy and Pharmacist Claims (LAC 37:XIII.Chapter 115)

Under the authority of Louisiana Insurance Code, R.S. 22:250.51 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Insurance hereby gives notice of his intent to adopt Regulation 90 to establish standards and procedures to be used for the timely payment and processing of claims submitted by a pharmacist or pharmacy for reimbursement from health insurance issuers, their agents, or any party responsible for payment of prescription drugs, other products and supplies, and pharmacist services.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 115. Regulation 90—Payment of Pharmacy and Pharmacist Claims

§11501. Purpose

A. The purpose of Regulation 90 is to implement R.S. 22:250.51-62 relative to the making of the prompt and correct payment for prescription drugs, other products and supplies, and pharmacist services covered under insurance or other contracts that provide for pharmacy benefits. It is the intent of the legislature that payments for covered prescription drugs, other products and supplies, and pharmacist services provided by pharmacists and pharmacies are paid timely. It is also the intent of the legislature that the provisions of this Part shall be interpreted to achieve these ends. Additionally, these statutory provisions establish the intent of the legislature to assure that pharmacists and pharmacies who submit claims for covered prescription drugs, other products and supplies, and pharmacist services are paid timely and payments are based on calculations that reflect nationally recognized pricing references such as average wholesale price and maximum allowable cost.

B. To carry out the intent of the legislature and assure full compliance with the applicable statutory provisions, this regulation sets forth the standards for payment of claims for prescription drugs, pharmaceutical products and pharmacists services on behalf of health insurance issuers including, health maintenance organizations, to pharmacies and pharmacists and supersedes current regulations on uniform claim forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11503. Scope and Applicability

A. Except as otherwise specifically provided, the requirements of Regulation 90 apply to all health insurance issuers including health maintenance organizations that offer coverage in their insurance contracts for pharmacy services in accordance with the statutory requirements of Part VI-F of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950, R.S. 22:250.51 et seq. Additionally, Regulation 90 applies to all contracts between a pharmacist and/or,

pharmacy and/or a health insurance issuer, its agent, or any other party responsible for reimbursement for prescription drugs, other products and supplies, and pharmacist services. Any and all contracts entered into after July 1, 2005 shall be required to be in compliance with R.S. 22:250.51 et seq. Additionally, Regulation 90 shall apply to all contracts in existence prior to July 1, 2005. Regulation 90 shall include but not be limited to those contracts that contain any automatic renewal provisions, renewal provisions that renew if not otherwise notified by a party, any provision that allows a party the opportunity to opt out of the contract, evergreen contracts, or rollover contracts and therefore these contracts shall be required to come into compliance. Regulation 90 shall apply to all contracts as enumerated above as of the first renewal date, first opt out date, first rollover date or first annual anniversary on or after July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11505. Definitions

Agent—a person or entity designated by a health insurance issuer to act on behalf of, or in place of, a health insurance issuer for purposes of the payment and adjudication of claims for prescription drugs, other products and supplies, and pharmacist services.

Commissioner—the Commissioner of Insurance

Covered Benefits—benefits available to a covered person under an insurance policy, benefit plan, or other contract for coverage of pharmacy benefits. The term also includes any covered prescription drugs, other products and supplies, and pharmacist services.

Covered Person—an insured, enrollee, member, or subscriber. In the case of a minor, the term includes an insured or legal guardian authorized to act in the best interest of such minor and therefore acts on behalf of the covered person.

Date upon Which a Correctly Completed Uniform Claim Is Furnished—the date the non-electronic uniform claim form is received by the health insurance issuer, health maintenance organization, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will use the postmark date of claims to determine if the date of receipt reasonably reflects the date claims are actually received by the health insurance issuers.

Date upon Which an Electronic Claim Is Adjudicate—the date an electronic claim is determined to be payable by the health insurance issuer, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will review the date the electronic claim was submitted and adjudicated by health insurance issuers.

Department—the Louisiana Department of Insurance.

Evergreen Contract—includes but is not limited to the following:

1. a contract for an initial fixed term that contains a provision extending the terms of the existing contract beyond its expiration date, for a definite or indefinite period of time, and is terminable at the option of a party with notice provided to the other party within a specified period of time;

2. perpetual agreements that contain an initial fixed term and terminable only by written notice from a party given within a specified period of time;

3. a contract with an initial term that is extended beyond its expiration date and terminable only by written notice from a party;

4. a contract that continues in perpetuity for either a definite or indefinite period of time that is terminable at the option of a party after giving required notice;

5. a contract with an initial term that is extended beyond its expiration date and continues in perpetuity until its duration specified in the contract or terminable only by written notice from a party.

Just and Reasonable Grounds Such as Would Put a Reasonable and Prudent Businessman on His Guard—an articulable set of facts, as opposed to mere speculation or assumption, that fully complies with established jurisprudence. For health insurance issuer examinations, the department will reasonably determine whether denials are based on an articulable set of facts.

Rollover—includes but is not limited to the following:

1. a contract for an initial fixed term that expires and is on or after expiration of the original fixed term, rolled over by affirmative action of a party to form a new contract or amend the existing contract for an additional period of time;

2. a contract that is formed or amended by affirmative action of a party on or after the expiration date of the existing contract;

3. a contract that can be rolled over by affirmative action of a party at any time after the existing contract's original terms or any extension of it that was entered into prior to (or after) its original expiration date;

4. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the contract, after the expiration or extension of the existing contract, to either form a new contract or amend the contract for an additional specified term;

5. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the contract, after expiration of the existing contract, to either form or amend the contract for an additional specified term.

Paid Date—the date a claim is adjudicated and any amount due and payable is released by the health insurance issuer, its agent, or other third party that makes payment directly to the pharmacy, pharmacist, member, enrollee, subscriber or policyholder. Any difference between the date of adjudication and the date the payment is released is required to be documented in the health insurance issuer's claim handling procedures filed with the department.

Prohibited Billing Activities—those activities outlined in R.S. 22:250.41 et. seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33.

§11507. Claim Handling Procedures for Non-Electronic Claims

A. Pursuant to R.S. 22:250.53.B, health insurance issuers or health maintenance organizations are required to submit to the Department, for approval, a "Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance,

processing, payment of non-electronic claims and procedures in place to ensure compliance with R.S. 22:250.41 et seq. The Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims shall include, but not be limited to, the following:

1. a process for documenting the date of actual receipt of non-electronic claims; and

2. a process for reviewing non-electronic claims for accuracy and acceptability.

B. The filing of the Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims document shall indicate compliance by a health insurance issuer or health maintenance organization with the filing requirements of R.S. 22:250.53. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to be not in compliance with the substantive requirements of R.S. 22:250.53.

C. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11509. Claim Handling Procedures for Electronic Claims

A. Pursuant to R.S. 22:250.54, health insurance issuers and health maintenance organizations are required to submit to the Department, for approval, a "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of electronic claims and procedures in place to ensure compliance with R.S. 22:250.54 et seq. The "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" shall include, but not be limited to, the following:

1. a process for electronically dating the time and date of actual receipt of electronic claims;

2. a process for reviewing electronic review of transmitted claims for accuracy and acceptability; and

3. a process for reporting all claims rejected during electronic transmission and the reason for the rejection.

B. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

C. The filing of the "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" document shall indicate compliance by a health insurance issuer and health maintenance organization with the filing requirements of R.S. 22:250.54. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to not be in compliance with the substantive requirements of R.S. 22:250.54.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11511. State of Emergency

A. Pursuant to any Executive Order issued by the governor transferring authority to the department on matters pertaining to insurance, and pursuant to the plenary authority

vested in the commissioner under Title 22, the department shall be authorized to issue emergency regulations during a state of emergency that suspends and/or interrupts any of the provisions found in Title 22 or take any or all such action that the commissioner deems necessary in reference to provisions in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11513. Severability Clause

A. If any Section or provision of Regulation 90 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions that can be given effect without the invalid sections or provisions or application, and for these purposes, the Sections or provisions of this regulation and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11515. Effective Date

A. Regulation 90 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

A public hearing on the proposed regulation will be held on March 27, 2007, at 10 a.m. at 1702 North Third Street at the Poydras Building in Plaza Hearing Room. All interested persons may submit data, views, or arguments, orally or in writing to Claire Lemoine, 1702 North Third Street, Baton Rouge, LA 70802. All comments must be submitted no later than 4:30 p.m. on March 27, 2007.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 90—Payment of Pharmacy and Pharmacist Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

DOI does not expect any implementation costs as a result of the adoption of this regulation. Any additional work will be absorbed by existing DOI staff. DOI does not anticipate any costs to Group Benefits as a result of this regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase or decrease in revenue as a result of Regulation 90.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The regulation will assure prompt payment of claims for prescription drugs, other products and supplies and pharmacist services, but DOI has no way of estimating the economic benefit of prompt payment upon pharmacies and pharmacists, nor any additional costs insurers may incur.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
Management & Finance
0702#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Fees (LAC 46:LVII.517)

Editor's Note: This Notice of Intent is being re-published due to an error upon submission. The original Notice of Intent may be viewed on page 166 in the January 2007 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, Board of Private Investigator Examiners, hereby gives notice of its intent to amend LAC 46:LVII.517, Fees.

In particular, the Department of Public Safety and Corrections hereby gives notice of its intent to amend the Board of Private Investigator Examiners' current fees assessed, in addition to fees provided by R.S. 37:3516.

Title 46

**PROFFESIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

**Chapter 5. Application, Licensing, Training,
Registration and Fees**

§517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

1. for licensee or any business entity employing more than one investigator:

- a. - c. ...
- d. transfer of agent \$ 50;

2. for private investigator employed by a company or corporation, or apprentice investigator:

- a. - d. ...
- e. transfer of agency \$ 50;

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993), amended LR 33:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A) (1) (a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby provides the Family Impact Statement.

Amendment of the current LAC 46:LVII.517, Fees, by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, will have no effect on the stability of the family, on the authority and right of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings, and family

budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the in the proposed Rule amendment

Interested parties may submit written comments until 5 p.m., February 9, 2007, to Jonathan Holloway, Sr., General Counsel for Board of Private Investigator Examiners, P.O. Box 80777, Baton Rouge, LA 70898.

Douglas J. Chauvin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an anticipated increase of revenue to the Louisiana State Board of Private Investigators in the amount of \$2,700 in FY07. This estimate is based upon a total of 108 assessments which are anticipated for FY07 at the rate of \$50 per assessment which double the previous fee. This increase should remain relatively constant in subsequent fiscal years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will result in an increase in the transfer fee from \$25 to \$50 to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jonathan Holloway
General Counsel
0702#090

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inmate Mail and Publications
(LAC 22:1.313)

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, hereby gives notice of its intent to repeal the contents of §313, entitled "Correspondence and Packages: Adult Inmates" and repromulgate it with the title of "Inmate Mail and Publications".

Certain publications have indicated that the inmate mail system has not been effectively monitored. As a result, threats of inmates identified as terrorist and other high-risk inmates are using the mail and verbal communications to conduct terrorist or criminal activities while incarcerated. Therefore, the department determined that failure to adopt an amended version of this regulation as an Emergency Rule

would result in a negative impact on the public's health safety and welfare. Therefore, the Emergency Rule was adopted on January 5, 2007. This publication gives notice of the department's intent to make the Rule final, pursuant to R.S. 49:950 et seq.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§313. Inmate Mail and Publications

A. Purpose. To establish the secretary's policy regarding inmate mail privileges, including publications, at all adult institutions.

B. Applicability. Chief of operations, assistant secretary, regional wardens, and wardens. It is each warden's responsibility to implement this regulation and convey its contents to the inmate population and affected employees.

C. Notice. Staff at each reception and diagnostic center or unit handling initial reception and diagnostic functions shall inform each inmate in writing promptly after arrival of the department's policy for handling of inmate mail, utilizing the Notification of Mail Handling Form (Attachment A.) This form will be filed in the inmate's record.

1. The current inmate population in DPS&C facilities is required to complete Attachment A upon the issuance of this revision to department regulations.

2. Pending full implementation of the canteen/package initiative, institutions are authorized to follow the existing regulation concerning packages.

D. Definitions

DPS&C Facility—includes, for the purpose of this regulation, state operated prison facilities, Winn Correctional Center and Allen Correctional Center.

Farm Mail Correspondence—inmate to inmate mail when housed at the same institution.

Indigent Inmates—those who do not have sufficient funds in the appropriate account(s) at the time of their request for indigent services and/or supplies to fully cover the cost of the requested services or supplies.

Nudity—pictorial depiction of buttocks, genitalia or female breasts (with the nipple or areola exposed).

Privileged Correspondence—mail to or from:

- a. identifiable courts;
- b. identifiable prosecuting attorneys;
- c. identifiable probation and parole officers, Parole Board and Pardon Board;
- d. state and local executive officers;
- e. identifiable attorneys;
- f. secretary, deputy secretary, chief of staff, undersecretary, assistant secretary, other officials and administrators of grievance systems of the department;
- g. local, state, or federal law enforcement agencies and officials.

Publication—book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, magazine/newspaper clipping, article printed from the Internet, plus other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

Sexually Explicit Features—the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. A publication will not be prohibited solely because it contains pictorial nudity that has a medical, educational or anthropological purpose.

Sexually Explicit Material—any book, pamphlet, magazine, or printed matter however reproduced, which contains any picture, photograph, drawing or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, sadomasochistic abuse, bestiality and homosexuality. Explicit sexual material also includes that which contains detailed verbal descriptions or narrative accounts of deviant sexual behavior. (A publication will not be prohibited solely because it contains pictorial nudity that has a medical, educational or anthropological purpose).

E. Policy. It is the secretary's policy that inmates may communicate with persons or organizations subject to the limitations necessary to protect legitimate penological objectives, (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), to prevent the commission of a crime, or to protect the interests of crime victims.

F. Inmate Correspondence. Inmates may write and receive letters subject to the following provisions.

1. Frequency. There shall be no limit placed on the number of letters an inmate may write or receive at personal expense and no limit placed on the length, language, or content except when there is reasonable belief that limitation is necessary to protect public safety, or institutional order, including restrictions relative to what may be reasonably stored in space provided and security. Inmates in segregation can write and receive letters on the same basis as inmates in general population.

2. Timely Handling. All mail, incoming and outgoing, shall be handled without unjustified delay. Letters should generally not be held more than 48 hours. This does not prohibit the holding of mail for inmates who are temporarily absent from the institution and does not include weekends and holidays or emergency situations. When mail is received for an inmate who has been transferred to another institution or released, the institution where the mail is received should attempt to forward the mail to him. The collection and distribution of mail is never to be delegated to an inmate. Mail will be given directly to the receiving inmate by an employee.

3. Correspondence. An inmate may write to anyone except:

a. victim of any criminal offense for which the inmate has been convicted or for which disposition is pending, except in accordance with specific procedures established by the warden in conjunction with the Crime Victims Services Bureau;

b. any person under the age of 18 when the person's parent or guardian objects verbally or in writing to such correspondence;

c. any person whom the inmate is restrained from writing to by court order;

d. any person who has provided a verbal or written request to not receive correspondence from an inmate;

e. any other person, when prohibiting such correspondence is generally necessary to further the substantial interests of security, order, or rehabilitation.

4. Costs of Correspondence. Each inmate shall pay personal mailing expenses, except an indigent inmate. An indigent inmate shall have access to postage necessary to send two personal letters per week, postage necessary to send out approved legal mail on a reasonable basis and basic supplies necessary to prepare legal documents. A record of such access shall be kept and the indigent inmate's account shall reflect the cost of the postage and supplies as a debt owed in accordance with department regulations. Stationery, envelopes and stamps shall be available for purchase in the canteen.

5. Outgoing General Correspondence and Farm Mail

a. Review, Inspection and Rejection. Outgoing general correspondence and farm mail shall not be sealed by the inmate and may be read and inspected by staff. The objectives to be accomplished in reading outgoing mail differ from the objectives of inspection. In the case of inspection, the objective is primarily to detect contraband. The reading of mail is intended to reveal, for example, escape plots, plans to commit illegal acts, or plans to violate institution rules or other security concerns. Outgoing general correspondence and farm mail may be restricted, confiscated, returned to the inmate, retained for further investigation, referred for disciplinary proceeding or forwarded to law enforcement officials, if review discloses correspondence or materials which contain or concern:

- i. the transport of contraband in or out of the facility;
- ii. plans to escape;
- iii. plans for activities in violation of facility or department rules;
- iv. information which, if communicated, would create a clear and present danger of violence and physical harm to a human being;
- v. letters or materials written in code or a foreign language when the inmate understands English, (unless the warden or designee determines that the recipient is not fluent in English);
- vi. mail which attempts to forward unauthorized correspondence to a third party;
- vii. threats to the safety and security of staff, other inmates or the public, facility order or discipline or rehabilitation, (including racially inflammatory material);
- viii. sexually explicit material;
- ix. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Notice of Rejection. The inmate sender shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the Incoming/Outgoing General Correspondence and Farm Mail Notice of Rejection Form (Attachment B). Any further delay in notification will be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the Administrative Remedy Procedure.

c. Limitations on Restrictions. Any restrictions imposed on outgoing general correspondence and farm mail

shall be unrelated to the suppression of expression and may not be restricted solely based on unwelcome or unflattering opinions. Communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest or inmate will be rejected. This shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.

d. Procedures for Mailing. Outgoing general correspondence and farm mail shall be inserted into the envelope and left unsealed by the inmate. All outgoing correspondence shall include:

- i. a complete legible name and address of the party the correspondence is being sent to;
- ii. the inmate's name, DOC number, housing unit, and the address of the institution which shall be written or typed on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing general correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution.

6. Incoming General Correspondence

a. Review, Inspection, and Rejection. All incoming general correspondence must contain the return address of the sender and the name and DOC number of the inmate. All mail to inmates must indicate that the sender is aware that the intended recipient is an inmate. All incoming general correspondence shall be opened and inspected for contraband, cash, checks, and money orders and is subject to being read. Any stick on label or stamp may be removed if it appears to contain contraband. All incoming general correspondence may be rejected if such review discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or concern:

- i. the transport of contraband in or out of the facility;
- ii. plans to escape;
- iii. plans for activities in violation of facility or department rules;
- iv. plans for criminal activity;
- v. violations of this regulation or unit rules;
- vi. letters or materials written in code;
- vii. threats to the safety and security of staff, other inmates, or the public, facility order, or discipline, or rehabilitation, (including racially inflammatory material);
- viii. sexually explicit material;
- ix. greeting cards larger than 8" x 10" and greeting cards containing electronic or other non-paper parts, cards constructed in such a way as to permit concealment of contraband;
- x. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

(a). Incoming general correspondence containing any of the foregoing may be restricted, confiscated, returned to the sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

b. Notice of Rejection. The inmate shall be notified within three working days, in writing, of the correspondence

rejection and the reason therefore on the Incoming/Outgoing General Correspondence and Farm Mail Notice of Rejection Form (Attachment B). Any further delay in notification will be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the Administrative Remedy Procedure.

7. Monetary Remittances

a. Incoming. Funds cannot be sent to inmates from other inmates or the families of other inmates. Funds cannot be sent to inmates from ex-inmates or their families, or employees and their families, except to purchase hobbycraft items properly supported by a hobbycraft agreement. Funds cannot be sent to inmates from unidentifiable sources. Exceptions to the above are only allowed with prior approval of the warden.

i. Money from permissible sources may be accepted in the following forms:

- (a). postal, bank, or commercially issued money orders;
- (b). government checks;
- (c). bank cashier checks;
- (d). checks drawn on federal, state, and local governments, political subdivisions, or public officials;
- (e). checks drawn on reputable commercial accounts;
- (f). Automated Clearing House (ACH) transfers generated by authorized vendors approved by the secretary, such as Western Union.

ii. Money will not be accepted in the following forms:

- (a). cash received in the mail will be returned to the sender via regular or certified mail or agency check (type dependent on the amount of cash to be mailed);
- (b). personal checks received in the mail will be returned to the sender via regular mail;
- (c). checks payable to multiple parties will be returned to the sender via regular mail. (If approved by the warden or designee, the inmate may endorse the check prior to its return).

b. Upon discovery of cash, personal or multiple party checks in the mail, the inmate will be sent a Monetary Remittances Notice of Rejection Form (Attachment C) within three working days describing the contents of the mail, the date of its receipt and advising that he has seven working days to provide return postage. If return postage is not provided within seven working days, the postage will be provided by the unit. The inmate's banking account will be charged if funds are available. If funds are not available, a debt owed will be established pursuant to department regulations.

8. Identification of Privileged Correspondence. It is the responsibility and duty of institutional staff to verify the legitimacy of the official listed on the envelope. For purposes of this regulation, "identifiable" means that the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, then the letter is to be treated as general correspondence and an appropriate inquiry made into the inmate's intent in addressing the envelope as privileged mail.

9. All outgoing privileged correspondence shall include:

a. a complete legible name and address of the party the correspondence is being sent to;

b. the inmate's name, DOC number, housing unit, and the address of the institution on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing privileged correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution.

i. Outgoing privileged correspondence may be posted sealed, and will not be opened and inspected without express authorization from the warden or deputy warden as specified in Paragraph F.11.

10. Incoming Privileged Correspondence. All incoming privileged correspondence must contain the return address of the sender and the name and DOC number of the inmate. All incoming privileged correspondence shall be opened in the presence of the inmate to whom it is addressed and inspected for the presence of cash, checks, money orders and contraband and to verify as unobtrusively as possible, that the correspondence does not contain material that is not entitled to the privilege. It may be opened and inspected outside the inmate's presence in the circumstances outlined in Paragraph F.11 of this Section.

a. Inspection and Rejection. When, in the course of inspection, cash, checks, or money orders are found, they shall be removed and forwarded to the business office who will verify the legitimacy of the transaction in accordance with department regulations.

b. If material is found that does not appear to be entitled to the privilege or if any of the circumstances outlined in Paragraph F.11 exist, the mail may be restricted, confiscated, returned to sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

c. Notice of Rejection. The inmate shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the Privileged Correspondence Notice of Rejection Form (Attachment D) describing the reason for the rejection and advising that he has seven working days to determine the disposition of the correspondence. Rejections are appealable through the Administrative Remedy Procedure.

d. Accidental Opening. If privileged correspondence is opened accidentally, outside the presence of the inmate, the envelope shall be immediately stapled or taped closed and the envelope marked "Accidentally Opened" along with the date and employee's initials. An unusual occurrence report will be completed.

11. Mail Precautions. The wardens and deputy wardens are authorized to open and inspect incoming and outgoing privileged mail outside the inmate's presence in the following circumstances:

a. letters that are unusual in appearance or appear different from mail normally received or sent by the individual or public entity;

b. letters that are of a size or shape not customarily received or sent by the individual or public entity;

c. letters that have a city and/or state postmark that is different from the return address;

d. letters that are leaking, stained, or emitting a strange or unusual odor or have a powdery residue;

e. when reasonable suspicion of illicit activity has resulted in a formal investigation and such inspection has been authorized by the secretary or designee.

12. Inmate Organizations. Inmate organizations must pay the postage costs for all of their outgoing mail. All outgoing mail must be approved by the inmate organization sponsor.

G. Procedures for Publications

1. Publications (see definition in Subsection D) may be read and inspected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the institution, all printed matter must be received directly from the publisher. Multiple copies of publications for any one individual inmate are not allowed. Samples inserted in publications will be removed prior to delivery. Upon the effective date of the canteen/package initiative, books must be purchased through the canteen and will no longer be allowed to be sent through the mailroom.

2. Newspaper and magazine clippings (xerox copies allowed) as well as articles printed from the Internet are considered publications for the purpose of review pursuant to this regulation. However, they are not required to originate from the publisher. A limit of five clippings/articles may be received within a piece of regular correspondence and the quantity received may be further limited by what can be reasonably reviewed for security reasons in a timely manner. Multiple copies of the same clippings/articles for any one individual inmate are not allowed. Inclusion of clippings/articles in regular correspondence may delay the delivery.

3. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution or maintenance of an environment free of sexual harassment), or if the refusal is necessary to prevent the commission of a crime or to protect the interests of crime victims. This would include but not be limited to the following described categories.

a. Security Issues

i. Maps, road atlas, etc., that depict a geographic region that could reasonably be construed to be a threat to security;

ii. writings that advocate, assist or are evidence of criminal activity or facility misconduct;

iii. instructions regarding the ingredients or manufacturing of intoxicating beverages or drugs;

iv. information regarding the introduction of, or instructions in the use, manufacture, storage, or replication of weapons, explosives, incendiaries, escape devices or other contraband;

v. instructs in the use of martial arts;

vi. racially inflammatory material or material that could cause a threat to the inmate population, staff, and security of the facility;

vii. writings which advocate violence or which create a danger within the context of a correctional facility.

b. Sexually Explicit Material. It is well established in corrections that sexually explicit material causes operational concerns. It poses a threat to the security, good order and discipline of the institution and can facilitate criminal activity. Examples of the types of behavior that result from sexually explicit material include non-consensual sex, sexual molestation of other inmates or staff, masturbation or exposing themselves in front of staff and inappropriate touching or writing to staff or other forms of sexual harassment of staff and/or inmates.

i. Sexually explicit material can portray women (or men) in dehumanizing, demeaning and submissive roles, which, within an institutional setting, can lead to disrespect and the sexual harassment of female (or male) correctional staff. Lack of respect and control in dealing with inmates can endanger the lives and safety of staff and inmates.

ii. The viewing of sexually explicit material undermines the rehabilitation of offenders as it can encourage deviant, criminal sexual behavior. Additionally, once sexually explicit material enters an institution, it is impossible to control who may view it. When viewed by an incarcerated sex offender, it can undermine or interrupt rehabilitation efforts.

iii. Publications that depict nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one time issues will not be allowed.

c.i When screening publications for acceptability, the following categories shall be utilized:

(a). Category 1—presumption of non-acceptability;

(b). Category 2—those that need to be reviewed on a case-by-case basis prior to allowing them to be delivered to the recipient and subject to review by the regional warden;

(c). Category 3—presumption of acceptability.

ii. Publications can be added, deleted or moved from one category to another at the discretion of the secretary at any time.

iii. See Attachments E, F, and G for the current listing of publications in each category. When an institution receives a Category 2 publication which has not already been ruled on by the regional wardens, the mailroom will send the inmate a Notice of Pending Review of Publication Form (Attachment H) and forward the publication to their regional warden who will determine acceptability. When an institution suspends delivery of an issue of a Category 3 publication, the regional warden is notified. The mailroom will send the inmate a Notice of Pending Review of Publication Form (Attachment H). The regional wardens will determine if the publication should be moved to Category 2. When magazines are received that are not currently listed, the regional warden will be notified.

d. Procedures When Publication Is Refused. The inmate shall be notified within three working days of the refusal and the reason therefore on the Publications Notice of Rejection Form (Attachment I) describing the reason for the rejection and advising that he has seven working days to determine the publication's disposition. Rejections are appealable through the Administrative Remedy Procedure.

The institution should retain possession of the disputed item(s) until the exhaustion of administrative and judicial review.

H. Procedures for Photographs, Digital or Other Images

1. Inmates will not be allowed to receive or possess photographs or digital or other images that interfere with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs, digital or other images which expose the genitals, genital area (including pubic hair), anal area, cheeks of the buttocks or female breasts (or breasts which are designed to imitate female breasts). These areas must be covered with garments which cannot be seen through.

2. Lingerie will not normally be acceptable whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses alone may be sufficient cause of rejection regardless of the type of clothing worn.

3. Each institution shall develop a procedure that serves to reasonably restrict an inmate's possession of multiple copies of the same photograph or digital or other image.

4. Hard backed and laminated photographs or digital or other images that are subject to alteration or modification may be rejected.

5. The term *photograph* includes other images such as those created by a digital imaging device or e-mails.

6. The inmate shall be notified within three working days, in writing, of the photograph rejection and the reason therefore on the Photographs Notice of Rejection Form (Attachment J) describing the reason for the rejection and advising that he has seven working days to determine the photograph's disposition. Rejections are appealable through the Administrative Remedy Procedure.

I. Appendices

1. Attachment A

Louisiana Department of Public Safety and Corrections

NOTIFICATION OF MAIL HANDLING

I. GENERAL CORRESPONDENCE TO BE RETURNED TO THE POSTAL SERVICE

I have read or had read to me, the foregoing notice regarding mail. I do not want my general correspondence opened and read; therefore, I request that the Department of Public Safety and Corrections return my general correspondence to the postal service. I understand that privileged correspondence will be delivered to me.

Printed Name DOC No. Date

Signature

II. GENERAL CORRESPONDENCE TO BE OPEN, READ AND DELIVERED

I have read or had read to me, the foregoing notice regarding mail. I wish to receive my general correspondence. I understand that the Department of Public Safety and Corrections may open and read my general correspondence. I also understand that privileged correspondence will be delivered to me.

Printed Name DOC No. Date

Signature

REFUSAL TO SIGN

Inmate _____, _____ (DOC No.), refused to sign this form and was advised by me that the Department of Public Safety and Corrections retains the authority to open and read all general correspondence. The inmate was also advised that refusing to sign this form will be interpreted as an indication that the inmate does not wish to receive general correspondence. Such correspondence will be returned to the postal service.

Staff member signature Date

c: Inmate file

2. Attachment B

**Louisiana Department of Public Safety and Corrections
Incoming/Outgoing General Correspondence and Farm Mail**

NOTICE OF REJECTION

Name DOC No. Location

Your correspondence to/from _____ has been:

- _____ Restricted
- _____ Confiscated
- _____ Returned to Sender
- _____ Retained for further investigation
- _____ Referred for disciplinary proceedings
- _____ Forwarded to law enforcement officials

Because review disclosed information concerning:

- _____ The transport of contraband in or out of the facility
- _____ Plans to escape
- _____ Plans for activities in violation of facility or Department rules
- _____ Plans for criminal activity
- _____ Information which, if communicated, would create a clear and present danger of violence and physical harm to a human being
- _____ Letters or materials written in code or foreign language
- _____ Mail which attempts to forward unauthorized correspondence to a third party
- _____ Threats to the safety and security of staff, other inmates, or the public, facility order, or discipline, rehabilitation or racially inflammatory material
- _____ Sexually explicit material
- _____ Information which would jeopardize legitimate penological interests
- _____ Procedures for mailing were not followed
- _____ Greeting cards larger than 8" x 10" or containing electronic or other non-paper parts
- _____ Other

Mailroom Officer's Signature Date

3. Attachment C

**Louisiana Department of Public Safety and Corrections
Monetary Remittances**

NOTICE OF REJECTION

Name DOC No. Location

<i>Discover</i>	<i>Slam</i>
<i>Easy Rider</i>	<i>Smithsonian</i>
<i>Ebony</i>	<i>Smooth</i>
<i>Entertainment Weekly</i>	<i>Source</i>
<i>Entrepreneur</i>	<i>Southern Sporting</i>
<i>ESPN</i>	<i>Southwest Art</i>
<i>Esquire</i>	<i>Spin</i>
<i>Essence</i>	<i>Sporting News</i>
<i>Family Circle</i>	<i>Sports Illustrated</i>
<i>Field & Stream</i>	(including swimsuit issue)
<i>Fitness</i>	<i>Star</i>
<i>Flex</i>	<i>Street Trucks</i>
<i>For Him Magazine (FHM)</i>	<i>Stuff</i>
<i>Fortune</i>	<i>The National Enquirer</i>
<i>Fur, Fish & Game</i>	<i>The New Yorker</i>
<i>Globe</i>	<i>The Pastel Journal</i>
<i>Gourmet</i>	<i>The Source</i>
<i>Guideposts</i>	<i>Thoroughbred Times</i>
<i>Hot Rod</i>	<i>Tiger Rag</i>
<i>Hot Rod Bikes</i>	<i>Time</i>
<i>House & Garden</i>	<i>Truck Trend</i>
<i>Interview</i>	<i>T.V. Guide</i>
<i>Jet</i>	<i>US</i>
<i>King</i>	<i>U.S. News and World Report</i>
<i>Kiplinger's Personal Finance</i>	<i>Vanity Fair</i>
<i>Louisiana Game & Fish</i>	<i>Vibe</i>
<i>Louisiana Sportsman</i>	<i>Vibe Vixen</i>
<i>Men's Fitness</i>	<i>W</i>
<i>Military Heritage</i>	<i>Wired</i>
<i>Motor Trend</i>	<i>Writer's Digest</i>
<i>Mustangs & Fast Foods</i>	<i>WW Raw</i>
<i>Muscle & Fitness</i>	<i>WWF Smackdown</i>
<i>National Geographic</i>	<i>XXL</i>

- _____ Printed matter must be received directly from the publisher
- _____ Contains maps, road atlas, etc., that depict a geographic region that could be reasonably construed to be a threat of security
- _____ Contains writing that advocates, assists, or are evidence of criminal activity or facility misconduct
- _____ Contains instruction regarding the ingredients or manufacturing of intoxicating beverages or drugs
- _____ Contains information regarding the introduction of, or instructions in the use, manufacture, storage, or replication of weapons, explosives, incendiaries, escape devises or other contraband
- _____ Instructs in the martial arts
- _____ Contains racially inflammatory material
- _____ Contains writings which advocate violence or which create a danger within the context of a correctional facility.
- _____ Contains nudity or sexually explicit material

_____ Mailroom Officer's Signature _____ Date _____ Postage Due

THIS FORM MUST BE COMPLETED AND RETURNED TO THE MAILROOM WITH DISPOSITION WITHIN SEVEN WORKING DAYS. IF YOU WISH TO RETURN TO SENDER, "REFUSED" WILL BE STAMPED ON THE PUBLICATION AND POSTAGE WILL NOT BE REQUIRED. THE PUBLICATION WILL BE RETURNED TO SENDER via 3rd CLASS MAIL. IF YOU WISH TO MAIL HOME, PLEASE PROVIDE POSTAGE AND THE ADDRESS. IT IS YOUR RESPONSIBILITY TO CONTACT THE PUBLISHER TO CANCEL YOUR SUBSCRIPTION. THIS IS THE ONLY NOTICE YOU WILL RECEIVE.

8. Attachment H

**Louisiana Department of Public Safety and Corrections
Publication**

NOTICE OF PENDING REVIEW

Printed Name _____ DOC No. _____ Location _____
 The publication _____ received in the mailroom on _____
 Name of Publication _____ Date _____
 has been forwarded to the Regional Warden for review and determination of acceptability.

Mailroom Officer _____ Date _____

Do Not Write Below This Line (Mailroom Use Only)

Notice sent to inmate _____ Date _____
 Forwarded to Regional Warden _____ Date _____
 Decision from Regional Warden received _____ Date _____
 Publication forwarded to inmate _____ Date _____
 Notice of Publication Rejection sent _____ Date _____

9. Attachment I

**Louisiana Department of Public Safety and Corrections
Publications**

NOTICE OF REJECTION

Name _____ DOC No. _____ Location _____
 The publication, _____, was received
 on _____ and was rejected for the following reason(s):

- _____ I wish to return to sender
- _____ I wish to destroy publication
- _____ I wish to mail home to the following address:

_____ Inmate's Signature and DOC No. _____ Witnessed By: (Officer's Signature)

DO NOT WRITE BELOW THIS LINE (FOR MAILROOM USE ONLY)

Letter to inmate _____ Date _____
 Rejected item(s) returned per inmate's request _____ Date _____
 Rejected item(s) destroyed per inmate's request _____ Date _____

_____ Mailroom Officer's Signature _____ Date

10. Attachment J

**Louisiana Department of Public Safety and Corrections
Photographs**

NOTICE OF REJECTION

Name _____ DOC No. _____ Location _____

The mailroom has refused photographs for the following reason(s) in accordance with Department Regulation No. C-02-009 "Inmate Mail and Incoming Publications":

- _____ Exposed genitals _____ Lingerie
- _____ Expose genital areas _____
- _____ (pubic hair, anal area, buttocks) _____ Suggestive poses
- _____ Genitals or genital areas are _____ Hard backed
- _____ covered by transparent materials _____ photograph(s)

Swimwear worn during activities in which swimwear is not normally worn _____ Multiple copies of same photograph _____
 Other _____ Security threat group _____

 Mailroom Officer's Signature Date Postage Due

If you wish to have the rejected item removed and destroyed with the permitted letter sent to you, sign below:

 Inmate's Signature and Witnessed By:
 DOC No. (Officer's Signature)

If you wish to mail the rejected item to sender and have the permitted letter sent to you, sign below and send required posted requested.

 Inmate's Signature and Witnessed By:
 DOC No. (Officer's Signature)

If the letter had no return address or an incomplete address, you must fill out a complete return address below if you wish this rejected item returned.

 This form must be returned to the mailroom with disposition within seven working days.

DO NOT WRITE BELOW THIS LINE (FOR MAILROOM USE ONLY)

 Letter to inmate Date _____
 Rejected item(s) returned per inmate's request Date _____
 Rejected item(s) destroyed per inmate's request Date _____

 Mailroom Officer's Signature Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5th Cir. 1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Repeal and repromulgation of the current LAC 22:1.313 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit their comments in writing to Melinda L. Long, Attorney for Secretary Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on March 12, 2007.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inmate Mail and Publications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units. Although additional effort will be needed by employees to meet this requirement, no additional costs are anticipated.

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.

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)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux
 Undersecretary
 0702#078

Robert E. Hosse
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT

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

**Prison Enterprises—Responsibilities and Functions
 (LAC 22:I.1101)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of Section 1101, Responsibilities and Functions of Prison Enterprises.

The purpose of the aforementioned regulation is to establish and outline the functions and responsibilities of the Division of Prison Enterprises.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 11. Prison Enterprises

§1101. Responsibilities and Functions

A. Purpose. To establish and outline the functions and responsibilities of the Division of Prison Enterprises.

B. Applicability. Chief of operations, undersecretary, assistant secretary, wardens, the Director of Prison Enterprises and the Director of Probation and Parole. Each Unit Head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

Agriculture—cultivation of soil, production of crops, raising of livestock and management of natural resources.

Aquacultural—cultivation of natural produce of water such as fish and shellfish and their by-products.

Crops—food and fiber products that cover a broad range of goods from both processed and unprocessed bulk commodities. This includes but is not limited to soybeans, corn, wheat, rice, cotton, vegetables grasses and their by-products.

Industrial Enterprise—a manufacturing, distribution, production, assembly or warehousing operation that accommodates the direct or indirect exchange of goods.

Livestock—animals reared in an agricultural setting to make or produce food or to be used for labor and their by-products. This includes but is not limited to cattle, bulls, pigs, horses and birds.

Marketing—the process or technique of promoting, selling and distributing a product or service.

Open Market—the area of economic activity in which buyers and sellers come together and the forces of supply and demand affect prices, including agreements entered into by private treaty.

Service Industries—provision of inmate services for labor such as janitorial, bulk mailings, assembly and other labor-intensive work that utilizes Prison Enterprises' resources to accommodate customer requests.

Silvicultural—controlling the establishment, growth, composition, health and quality of forests and woodlands and their by-products through management, harvest and planting.

D. Policy

1. It is the secretary's policy that the Division of Prison Enterprises is responsible for developing and implementing policy and procedures for agricultural, aquacultural, crops, industrial enterprises, livestock, marketing, service industries and silvicultural programs that will utilize the department's resources to lower the cost of incarcerating inmates, provide work opportunities for inmates, and provide products and services to state and local agencies other political subdivisions, open market customers and other targeted customers.

E. General

1. The Director of Prison Enterprises is responsible for the following:

a. establishment and operation of all agricultural, aquacultural, crops, industrial enterprises, livestock, marketing, service industries and silvicultural programs;

b. development of budgets and plans of operation for all Prison Enterprises programs within the state;

c. procurement of all raw goods, supplies, commodities, breeding livestock, inventories, services, studies or experimental work in accordance with the Louisiana Procurement Code, Procurement of Services Rules and Regulations, Executive Orders, rules established by administrative Law and all other applicable state and federal law;

d. purchase of commodities, including but not limited to agriculture commodities, prison industry commodities, and other commodities available from other state, federal and foreign governmental agencies in accordance with R.S. 15:1157(C);

e. sale of all Prison Enterprises products, commodities, livestock, and services through appropriate venues, including but not limited to direct sales to non-profit

entities, governmental entities (i.e., other local, parish, state, federal and foreign governments), sealed bids, open market sales, private entities, auctions and other targeted customers in accordance with R.S. 15:1157(C).

2. Functional supervision at the field level relative to interface with unit activities and security requirements will be under the jurisdiction of the warden in accordance with ACA Standard 4-4006.

3. All funds received from the sale of products and services shall be deposited immediately upon receipt into the state treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1156.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 33:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Promulgation of the current LAC 22:I:1101 by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule rescission.

Interested persons may submit their comments in writing to Melinda L. Long, Attorney for Secretary Richard L. Stalder, LA Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on March 12, 2007.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Prison Enterprises Responsibilities and Functions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no estimated cost or savings to state or local governmental units.

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.

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)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux
Undersecretary
0702#079

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of the State Fire Marshal

Boiler Construction, Maintenance,
Inspection and General Use
(LAC 55:V.Chapter 50)

In accordance with the provisions of R.S. 49:950 et seq., 23:531 and 51:1424 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the regulation of boilers.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 50. Boiler Construction, Maintenance, Inspection and General Use

Subchapter A. General Provisions

§5001. Preface

A.1. The objective of these rules and regulations is to promote safe and efficient boiler practices for the construction, repair, alteration, operation and inspection of all boilers, and to provide for inspection during fabrication, assembly, modification, repair or alteration of those pressure vessels which are required by the owner or user to:

- a. meet American Society of Mechanical Engineers (ASME) rules for construction, and the National Board Inspection Code (NBIC) rules for repair; and
- b. be stamped as meeting those rules; thereby insuring better protection of life and property.

2. To this end we invite the cooperation of all boiler and pressure vessel manufacturers, owners, users, operators and insurance companies.

B. It is intended that these rules and regulations will effect reasonable and adequate regulations governing the construction, maintenance, inspection and use of boilers, and provide for the inspection during fabrication, repair or alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

C. These rules and regulations are not designed to provide an inspection program for unfired pressure vessels, except as provided for by the Act, however, inspections will be provided when requested by the owner or user. They are intended to promote uniform standards for the design, fabrication, repair, alteration and inspection of steam and hot water boilers, and the inspection during fabrication, repair or alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5002. Application

A.1. The rules and regulations herein promulgated apply to all boilers subject to the provisions of the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections 531 through 545, (Except boilers exempted by

R.S. 23:540), and to those pressure vessels that are required by the owner or user to:

- a. meet ASME and NBIC requirements; and
- b. be stamped as meeting those rules, as provided

for by R.S. 23:531.

2. These rules and regulations shall conform as nearly as practicable to the ASME Boiler and Pressure Vessel Codes; Section I Power Boilers, 2004 Edition, 2005 Addendum; Section IV Heating Boilers, 2004 Edition, 2005 Addendum; Section V Non Destructive Examination, 2004 Edition, 2005 Addendum; Section VI-Recommended Rules for the Care and Operation of Heating Boilers, 2004 Edition, 2005 Addendum; Section VII Recommended Guidelines for the Care of Power Boilers, 2004 Edition, 2005 Addendum; Section VIII Pressure Vessels to the extent the rules and regulations apply, 2004 Edition, 2005 Addendum; Section IX - Welding and Brazing Qualifications, 2004 Edition, 2005 Addendum; ASME B31.1 Power Piping, 2004 Edition, 2005 Addendum; ASME C.S.D.-1 Controls and Safety Devices for Automatically Fired Boilers, 2004 Edition (with the exception of Part CM-Testing and Maintenance), 2005 Addendum; and NFPA 54 National Fuel Gas Code, 2002 Edition, adopted by the council of the American Society of Mechanical Engineers; and the National Board Inspection Code, 2004 Edition, 2005 Addendum.

B. Where the application of a rule would cause expense materially out of proportion to the increase of safety secured thereby, or would be unreasonable under the facts of the particular case, and safety can be secured in other ways, the assistant secretary may, upon adequate showing by the owner or user, grant an exemption of the rule complained of under such requirements as will secure a reasonable condition of safety.

C. The rules providing for inspection of new and existing installations shall apply to all boilers subject to the provisions of Act 264 of the Regular Session of 1938, as continued or substituted for by Title 23, Chapter 5, Part III, of the Louisiana Revised Statutes of 1950, regardless of whether inspected by an inspector employed by the Department of Public Safety or by an insurance company inspector, and shall apply to all boilers whether stationary or portable, insofar as is practical.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5003. Definitions

Act—regulations affecting boilers, as enacted, amended and reenacted by the Legislature of Louisiana, herein referred to as the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections R.S. 23:531 through R.S. 23:545.

Alteration—a change in any item described on the original Manufacturers Data Report that effects the pressure containing capability of the boiler or pressure vessel. Non-physical changes such as an increase in maximum allowable working pressure (internal or external) or design temperature shall be considered an alteration. A reduction in minimum temperature such that additional mechanical test are required shall also be considered an alteration.

ASME—the American Society of Mechanical Engineers.

ASME Code—the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code

published by that society, including addenda and code cases, approved by its council and adopted by the assistant secretary, shall hereafter be known as the "Louisiana Boiler Construction Code." A copy of this code will be on file at the State of Louisiana, Department of Public Safety, Office of State Fire Marshal, Boiler Inspection Section, Baton Rouge, Louisiana.

Assistant Secretary—as used herein shall be the Fire Marshal for the State of Louisiana.

Authorized Inspection Agency—one of the following:

1. A department or division established by a jurisdiction which has adopted and does administer one or more sections of the ASME Code, one of which shall be Section I as a legal requirement, and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors. For these rules this shall be the Boiler Inspection Section, Office of State Fire Marshal, State of Louisiana.

2. An insurance company which has been licensed or registered by the appropriate authority of a state of the United States or a Province of Canada, to write and does write boiler and pressure vessel insurance, and to provide inspection service of boilers and pressure vessels that they insure in such state or province, and whose inspectors meet the requirements of *Authorized Inspector* above.

Authorized Inspector—an inspector who holds a current commission as an inspector of boilers and other pressure vessels, issued by the National Board of Boiler and Pressure Vessel Inspectors; a certificate of competency and commission as a boiler inspector, issued by the Boiler Inspection Section, Office of State Fire Marshal, State of Louisiana.

Boiler—a vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself, by the direct application of heat, that is heat resulting from the combustion of fuel, electrical elements, nuclear fuel, or waste gases. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, would be exempted from jurisdictional inspection requirements.) The term boiler shall include the following:

1. *Power Boiler*—a boiler in which steam is generated at a pressure of more than 15 psig.

2. *High Pressure/High Temperature Water Boiler*—a water boiler intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250° F.

3. *Heating Boiler*—a steam boiler operating at pressures not exceeding 15 psig, or a hot water boiler operating at pressures not exceeding 160 psig or temperatures not exceeding 250° F.

4. *Electric Boiler*—a power boiler or a hot water heating or supply boiler in which the source of heat is electricity.

5. *Miniature Boiler*—a power boiler or a high-temperature water boiler which does not exceed the following limits:

- a. 16 inch inside diameter of shell;
- b. 20 square feet heating surface (not applicable to electric boilers);

c. 5 cubic feet gross volume exclusive of casing and insulation;

d. 100 psig maximum allowable working pressure.

6. *Steam Heating Boiler*—a steam boiler for operation at pressures not exceeding 15 psig, used for heating purposes.

7. *Hot Water Heating Boiler*—a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig and/or a temperature of 250° F at or near the boiler outlet.

8. *Hot Water Supply Boiler*—a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or a temperature not exceeding 250° F at or near the boiler outlet.

9. *Potable Water Boiler*—a vessel in which water is heated and withdrawn for use external to itself at pressures not exceeding 160 psig and temperatures not exceeding 210° F. This shall include hot water heaters (fired and electric), supplying potable hot water, 50 gallons and over in capacity; coil water heaters and fired jacketed kettles.

10. *Portable Boiler*—a boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another.

11. *Heat Recovery Boiler*—a vessel or system of vessels comprised of one or more heat exchanger surfaces used for the recovery of waste heat (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements).

12. *Unfired Steam Boiler*—an unfired vessel intended for operation at a pressure in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements).

13. *Waste Heat Boiler*—an unfired vessel or system of unfired vessels intended for operation in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are exempted from jurisdictional inspection requirements.)

Certificate Inspection—an inspection, the report of which is used by the chief inspector as justification for issuing, withholding or revoking the inspection certificate. This certificate inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible.

1. *Internal Inspection*—as complete an examination as can be made of the internal and external surface of a boiler or pressure vessel while it is shut down and manhole plates,

hand hole plates or other inspection opening closures are removed as required by the inspector.

2. *External Inspection*—an inspection made when a boiler or pressure vessel is in operation, if possible.

Certificate of Competency—a certificate issued to a person who has passed the examination prescribed by the assistant secretary.

Certificate of Inspection—a certificate issued by the chief inspector for the operation of a boiler or pressure vessel as required by the Act.

Commission-National Board—the commission issued by the National Board of Boiler and Pressure Vessel Inspectors to a holder of a certificate of competency who desires to make shop inspections or field inspections in accordance with the National Board Bylaws and whose employer submits the inspector application to the national board for such commission.

Condemned Boiler or Pressure Vessel—a boiler or pressure vessel that has been inspected and declared unsafe, or disqualified by legal requirements, by an inspector and a stamping or marking designating its condemnation has been applied by the chief inspector, deputy or special inspector.

Existing Installation—includes any boiler constructed, installed, placed in operation, or contracted for before July 7, 1938 and any pressure vessel (when required by the Act) before July 16, 1975.

Inspector—the chief inspector, any deputy inspector or special inspector.

1. *Chief Inspector*—the chief boiler and pressure vessel inspector, appointed under the Act.

2. *Deputy Inspector*—any inspector, employed by this state and appointed by the assistant secretary under the provisions of the Act.

3. *Special Inspector*—an inspector holding a Certificate of Competency, and who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers or pressure vessels in this state.

Jurisdiction—a state, commonwealth, county or municipality of the United States or a province of Canada, which has adopted one or more sections of the ASME Code, or other codes and standards accepted by the National Board of Boiler and Pressure Vessel Inspectors, and maintains a duly constituted department, bureau or division for the purpose of enforcement of such Code.

National Board—the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions, who are charged with the enforcement of the provisions of the ASME Code.

National Board Inspection Code—the manual for boiler and Pressure vessel inspectors published by the National Board of Boiler and Pressure Vessel Inspectors, from which copies may be obtained.

New Boiler or Pressure Vessel—includes all boilers constructed, installed, placed in operation or contracted for after July 7, 1938, or pressure vessels (when requested) after July 16, 1975.

Non-Standard Boiler or Pressure Vessel—a boiler or pressure vessel that does not bear the ASME stamp, the API-ASME stamp, or the stamp of any jurisdiction which has adopted a standard of construction equivalent to that required by these rules.

Owner or User—any person, firm or corporation legally responsible for the safe installation, operation and maintenance of any boiler or pressure vessel within this jurisdiction.

Pressure Vessel—a vessel in which the pressure is obtained from an external source, or by the application of heat from an indirect source, or from a direct source other than those boilers defined herein, and shall be those vessels within the scope of Section VIII of the ASME Code.

PSIG—pounds per square inch gauge.

Reinstalled Boiler or Pressure Vessel—a boiler or pressure vessel removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

Repair—the work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition, provided there is no deviation from the original design.

Repair/Pressure Relief Valve—the replacement, re-machining or cleaning of any critical part, lapping of seat and disk or any other operation which may affect the flow passage, capacity function or pressure retaining ability of the valve. Disassembly, reassembly and/or adjustments which affect the pressure relief valve function are also considered repair

Second Hand Boiler or Pressure Vessel—a boiler or pressure vessel that has changed both locations and ownership since its primary use.

Standard Boiler or Pressure Vessel—a boiler or pressure vessel which bears the stamp of the state, the ASME stamp, the API-ASME stamp, both the ASME and National Board stamp, or the stamp of another jurisdiction which has adopted a standard of construction equivalent to that required by this state.

Water Heater—a vessel in which water is heated by combustion of fuel or electricity, for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210° F as well as storage vessels connected to the water heater (also defined as a potable water boiler).

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

Subchapter B. Administration

§5006. Boilers to Comply with Code Requirements

A. No boiler shall be installed in this state unless it has been constructed, inspected and stamped in conformity with the ASME Code and registered with the National Board except:

1. those exempt by the Act;
2. those existing installations (see §5003.Definitions).
3. those potable water heaters exempted by Part HLW-101, Section IV of the ASME Code, that are required by the Act, to comply with these rules and regulations. (Those heaters must be designed and constructed according to Underwriters Laboratories or other Nationally Recognized Standards, and shall bear their label on the completed unit);
4. those approved as "Louisiana Special."

B. Louisiana Special. If, due to a valid impediment to compliance with the original code of construction, a boiler cannot bear the required construction code and national

board stamping, details in the English language and United States customary units of the proposed construction, material specifications and calculations, approved by a registered professional engineer experienced in boiler systems design, shall be submitted to the chief inspector by the owner or user and approval as "Louisiana Special" obtained before construction is started.

C. A boiler having a standard or special stamping of another state that has adopted a standard of construction equivalent to that required for Louisiana, may be accepted by the assistant secretary. The owner/user desiring to install such a boiler shall make application for the installation of same and shall file with the application of a manufacturers data report covering the construction of the boiler in question and a copy of the approval for construction from the state in which the boiler was fabricated.

D. The stamping, ASME, NB, or Standard Label, shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable cover is provided and identifies the stamping as beneath the cover, or a suitable record is kept of the location of the stamping so that it may be readily uncovered.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5007. Inspections

A. Upon completion of installation, all boilers shall be inspected by an inspector commissioned to inspect boilers in this state, and shall be inspected thereafter as follows.

1. Power boilers shall receive an internal certificate inspection annually, with the exception of those covered by R.S. 23:536.A, and may receive an external inspection while under pressure at approximately six months following the internal inspection.

2. High temperature and high pressure water boilers shall receive an external inspection annually, with an internal inspection done every six years based on the date of manufacture.

3. Low Pressure Boilers and Potable Water Boilers shall receive a certificate inspection biennial as follows.

a. Steam heating boilers shall receive an internal inspection every two years where construction permits, otherwise, a thorough external inspection shall be performed.

b. Hot water heating and hot water supply boilers shall receive an external inspection every two years and where construction permits an internal inspection every six years based on the date of manufacture.

c. All potable water boilers/water heaters shall receive an external inspection, including the functions of all controls and devices, at the initial installation; except those located in privately owned residences. Those potable water boilers/water heaters 50 gallons in capacity and larger (including any attached storage vessels) and/or 100,000 BTU/HR heat input, shall be issued a state jurisdiction number and a certificate to operate. Those heaters issued an operating certificate will require an external inspection every two years thereafter.

B. In addition to a certificate inspection being conducted in accordance with R.S. 23:536 in a commercial laundromat, as defined by R.S. 47:305.17 the state inspector shall verify

that hot water is being supplied to each machine at a minimum temperature of 120° F or a sign shall be placed on the machine indicating that hot water is not available.

C. Upon application from the owner or user with the recommendation of a deputy inspector or special inspector, the chief inspector may authorize an extension of the internal inspection period, as provided for by the Act.

§5008. Second-Hand Installations to Comply with New Installation Requirements

A. In any case where a second-hand boiler is installed, that is, both the ownership and location of which is changed, all fittings and appliances must comply with the applicable ASME Code section for new installations.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5009. Application of State Serial Numbers

A. Upon completion of the installation of a boiler, or at the time of the initial certificate inspection of an already installed boiler that has not been inspected and decaled according to these rules. A decal with the state serial number shall be placed in a conspicuous location on the boiler/water heater for identification.

B. Pressure vessels when requested to be inspected by the owner or user shall have securely attached one of the decals provided by the boiler inspection section containing the state serial number, and shall be decaled under the same pressure and temperature guidelines provided for boilers by these rules and regulations.

C. State serial numbers that have been decaled or otherwise attached to a boiler shall not be defaced or removed except as provided for by these rules and regulations, and shall not be covered by insulation or other material.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5010. Examination for an Inspectors Certificate of Competency

A. Examination for an inspectors certificate of competency shall be held at the Office of the State Fire Marshal or any other location to be selected by the chief inspector, four times each year, namely the first Wednesday and 1/2 day Thursday in the months of March, June, September and December. An applicant for an examination shall have education and experience equal to at least one of the following:

1. from an accredited school, a degree in engineering plus one year of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

2. an associate degree in mechanical technology plus two years of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

3. a high school education or the equivalent plus three years of experience:

a. in high-pressure boiler and pressure vessel construction or repair; or

b. in charge of high-pressure boiler operation; or

c. in the inspection of high-pressure boilers and pressure vessels.

B. Applications for examination shall be in writing on a form to be furnished by the chief inspector stating the education of the applicant, a list of the applicant's employers, the applicant's period of employment and position held with each employer. Applications containing willful falsifications or untruthful statements shall be cause for rejection. Applications shall be submitted to the chief inspector at least 45 days prior to the date of examination. If the applicants education and experience are acceptable to the chief inspector, the applicant shall be given a written examination prepared by the National Board of Boiler and Pressure Vessel Inspectors or the American Petroleum Institute, as applicable, dealing with the construction, maintenance and repair of boilers and pressure vessels and appurtenances, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements, a certificate of competency will be issued by the chief inspector, when the applicant is employed on a full-time basis by an authorized inspection organization (see §5003. Definitions). Upon the expiration of 90 days, an applicant who failed to pass the examination will be permitted to take another written examination and applicant's acceptance or rejection will be determined on the basis of this examination.

C. An NDE Level II examiner of ASME code boilers and pressure vessels may be credited one year towards the experience requirements above provided the applicant has five years of documented experience in that position and meets all other requirements.

D. A quality control inspector of ASME code boilers and pressure vessels, applying under item three above, may be credited with four months of experience under the experience requirements of such section for each year of documented, diversified experience he/she possesses in the implementation of an ASME accepted written quality control/assurance system, up to a maximum of 24 months of such credit, provided that the applicant meets all other applicable requirements and provided that he/she has the balance of experience required under Paragraph 3 above in actual work described in Subparagraphs a, b, or c.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5011. Examination Fees

A. A fee of \$50 will be charged for each applicant taking the examination for a certificate of competency.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5012. Certificate of Competency and Identification Card

A. Upon request of an employer, a certificate of competency and an identification card may be issued by the chief inspector to:

1. an inspector employed by the jurisdiction;
2. an inspector who is employed full-time by an insurance company which is authorized to insure and does insure against loss from explosions of boilers and pressure vessels in this jurisdiction;

3. an inspector employed as described in either Paragraph 1 or 2 above who conducts shop or field inspections of new boilers, pressure vessels, or nuclear components in accordance with the applicable ASME code requirements.

B. The request for the certificate of competency and identification card shall be completed on forms to be provided by the chief inspector and shall be accompanied by, when applicable, a facsimile of the applicant's commission and commission card, certificate of competency and identification card as named above, and a fee of \$40.

C. The certificate of competency and valid identification card shall be returned to the chief inspector when the inspector to whom they were issued is no longer employed by the organization employing that inspector at the time that the certificate was issued. Each person holding a valid certificate of competency and who conducts inspections as provided by the Act shall apply to the chief inspector on forms provided and obtain a renewal identification card annually, not later than March 31 of each year. A fee of \$20 for each card shall accompany each applicant.

D. An inspectors certificate of competency may be suspended by the chief inspector after due investigation for neglect of duty, in competency, untrustworthiness or conflict of interest of the holder thereof, or for willful falsification of any matter or statement contained in his/her application, or in a report of any inspection made by him/her. Written notice of any such suspension shall be given to the inspector and his/her employer by the chief inspector within not more than 10 days after the effective date of such suspension. Persons whose certificates of competency have been suspended shall be entitled to an appeal to the assistant secretary and to be present in person and represented by counsel at the hearing of the appeal.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5013. Conflict of Interest

A. An inspector shall not engage in the sale of any services, article or device relating to boilers, pressure vessels, or their appurtenances.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5014. Inspection Reports to be submitted by Inspectors

A. Insurance companies inspecting boilers subject to the rules and regulations herein shall be responsible for the proper invoicing of any fees due for the certificates of operation on any boilers inspected by such company.

B. Reports shall be submitted on approved forms or format within 30 days from the date of the inspection. The copy of the report filed with the assistant secretary shall be filled out in ink or type-written, and shall be signed by the inspector.

C. External inspection reports are required when they are used to support a request for an extension of internal inspection, when the design of a vessel does not provide for

an internal inspection an annual external certificate inspection shall be completed, and to report unsafe conditions or code violations which would affect the safety of the boiler.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5015. Insurance Companies to Notify Chief Inspector of New, Canceled or Suspended Insurance on Boilers, Pressure Vessels, or Nuclear Systems

A. All insurance companies shall notify the chief inspector, within 30 days, of all boilers, pressure vessels, or nuclear systems, on which insurance is written, canceled, not renewed or suspended because of unsafe conditions.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5016. Special Inspectors to Notify Chief Inspector of Unsafe Boilers

A. If a special inspector, upon first inspection of a new risk, finds that a boiler or any appurtenance thereof, is in such condition that the special inspectors company would refuse insurance, the company shall immediately notify the chief inspector and submit a report on the defects. if, upon inspection, a special inspector finds a boiler to be unsafe for further operation, the special inspector shall promptly notify the owner or user, stating what repairs or other corrective measures is required to bring the object into compliance with these rules and regulations. If the owner or user fails to make such repairs or adopt such other corrective measures promptly, the special inspector shall immediately notify the chief inspector. Until such corrections have been made, no further operation of the boiler involved shall be permitted. If an inspection certificate for the object is required and is in force, it shall be suspended by the chief inspector. When reinspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler is safe to operate, the chief Inspector shall be notified. At that time an inspection certificate, where applicable will be issued.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5017. Defective Conditions Disclosed at Time of External Inspection

A. If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, he/she may order the operation of the boiler stopped until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

Subchapter C. Existing Installations—Power Boilers

§5020. Age Limits of Existing Boilers

A. The age limit of any boiler of nonstandard construction, installed prior to the date the Act became effective, shall be 30 years except that, a boiler having other

than a lap-riveted longitudinal joint, after a thorough internal and external inspection, and when required by the inspector, a hydrostatic test of 1-1/2 times the allowable working pressure held for a period of at least 30 minutes during which no distress or leakage develops, may be continued in operation at the working pressure determined by calculation. The age limit on any non-standard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the assistant secretary.

B. The age limit of boilers of standard construction installed prior to the date this law, Title 23, Chapter 5, Page III, of the Louisiana Revised Statutes of 1950, became effective shall be dependent on thorough internal and external inspection and where required by the inspector, a hydrostatic pressure test not exceeding one and 1/2 times the allowable working pressure, if the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by calculation.

C. The shell or drum of a boiler in which a lap seam crack develops along a longitudinal lap-riveted joint shall be condemned. A lap seam crack is a crack found in lap seams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5021. Maximum Allowable Working Pressure for Standard Boilers

A. The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the ASME Code under which they were constructed and stamped.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5022. Maximum Allowable Working Pressure for Nonstandard Boilers

A. The maximum allowable working pressure for boilers fabricated by riveting shall be determined by the applicable rules of the 1971 Edition of Section I of the ASME Code.

B. The lowest factor of safety permissible on existing installations shall be five, except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than 12 feet in length, the factor of safety shall be eight. When this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressure in excess of 15 psig.

C. The maximum allowable working pressure for boilers of welded construction in service may not exceed that allowable in Section I of the ASME Code for new boilers of the same construction.

D. The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the

factor of safety allowed by these rules and regulations in accordance with the following formula.

$$\frac{TStE}{RFS} = \text{maximum allowable working pressure, psig}$$

where:

TS = specified minimum tensile strength of shell plate material, psi. When the tensile strength of steel or wrought-iron shell plate is not known, it shall be taken as 55,000 psi for steel and 45,000 psi for wrought iron.

t = minimum thickness of shell plate, in weakest course, inches.

E = efficiency of longitudinal joint, method of determining which is given in Paragraph PG-27 of Section I of the ASME Code.

R = inside radius of the weakest course of the shell of drum, inches.

FS = factor of safety which shall be at least five.

E. The inspector may increase the factor of safety, if the condition and safety of the boiler warrant it.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5023. Cast-Iron Headers and Mud Drums

A. The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast-iron or malleable-iron headers or which have cast-iron mud drums, shall not exceed 160 psig.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5024. Pressure on Cast-Iron Boilers

A. The maximum allowable working pressure for any cast-iron boiler, except hot water boilers, shall be 15 psig.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5025. Safety Valves

A. The use of weighted-lever safety valves or safety valves having either the seat or disk of cast-iron are prohibited; valves of this type of construction shall be replaced by direct, spring-loaded, pop-type valves that conform to the requirements of ASME Code, Section I.

B. Each boiler shall have at least one ASME/NB stamped and certified safety valve, and if it has more than 500 square feet of water-heating surface, or an electric power input of more than 1100 KW, it shall have two or more safety valves of the same type.

C. The valve or valves shall be connected to the boiler, independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, owner or user shall be allowed reasonable time in which to complete the work as permitted by the chief inspector.

D. No valves of any description shall be placed between the safety valve and the boiler nor on the escape pipe, if used. When an escape pipe is used, it shall be at least the full

size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet or the escape pipe shall be anchored and supported securely. All safety discharges shall be so located or piped as to be carried clear from walkways or platforms.

E. The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six percent above the highest pressure to which any valve is set, and in no case to more than six percent above the maximum allowable working pressure.

F. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of three percent above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

G. When boilers of different maximum allowable working pressures with minimum safety valve settings varying more than six percent are so connected that steam can flow toward the lower pressure units, the latter shall be protected by additional safety valve capacity, if necessary, on the lower pressure side of the system. The additional safety valve capacity shall be based upon the maximum amount of steam which can flow into the lower pressure system.

H. In those cases where the boiler is supplied with feed water directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

I. The relieving capacity of the safety valves on any boiler shall be done by one of the three following methods and, if found to be insufficient, additional valves shall be provided:

1. by making an accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a rise of pressure in excess of six percent of the maximum allowable working pressure. This method should not be used on a boiler with a super heater or reheater;

2. by measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the Appendix of the ASME Code, Section I;

3. by measuring the maximum amount of feed water that can be evaporated. When either of the methods outlined in two or three is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler.

J. Repairs to safety and safety-relief valves shall be conducted only by holders of the National Board VR Certificate of Authorization, or by owner/users that have obtained the state certificate of authorization to repair safety and safety-relief valves.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5026. Boiler Feeding

A. Each boiler shall have a feed supply which will permit it to be fed at any time while under pressure.

B. A boiler having more than 500 square feet of water heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure six percent greater than the set pressure of the safety valve with the highest setting maybe considered one of the means. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the shutoff of heat input prior to the water level reaching the lowest safe level.

C. The feed water shall be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature to direct radiation from the fire. For pressures of 400 psig over, the feed water inlet through the drum shall be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head.

D. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve.

E. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be place between the boiler and the check valve, and both shall be located as close to the boiler as practicable. It is recommended that no stop valves be placed in the supply and return pipe connections of a single boiler installation.

F. Where deaerating heaters are not employed, it is recommended that the temperature of the feed water be not less than 120° F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feed water temperature be not less than 215° F so that dissolved gases may be thoroughly released.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5027. Water Level Indicators

A. Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high-temperature water boiler of the forced circulation type that have no steam and waterline, shall have at least one water gage glass. Boilers operated at pressures over 400 psig shall be provided with two water gage glasses which may be connected to a single water column or connected directly to the drum.

B. Two independent remote level indicators may be provided instead of one of the two required gage glasses for boiler drum water level indication in the case of power boilers with all drum safety valves set at or above 400 psig. When both remote level indicators are in reliable operation, the remaining gage glass may be shut off, but shall be maintained in serviceable condition.

C. When the direct reading of gage glass water level is not readily visible to the operator in his/her working area, two dependable indirect indications shall be provided, either by transmission of the gage glass image or by remote level indicators.

D. The lowest visible part of the water gage glass shall be at least two inches above the lowest permissible water level, at which level there will be no danger of overheating any part of the boiler when in operation at that level. When remote level indication is provided for the operator in lieu of the gage glass, the same minimum level reference shall be clearly marked.

E. Connections from the boiler to the remote level indicator shall be at least 3/4 inch pipe size to and including the isolation valve and from there to the remote level indicator at least one two inch O.D. tubing. These connections shall be completely independent of other connections for any function other than water level indication. For pressures of 400 psig or over, lower connections to drums shall be provided with shields, sleeves, or other suitable means to reduce temperature differentials in the shells or heads.

F. Boilers of the horizontal fire tube types shall be so set that when the water is at the lowest reading in the water gage glass there shall be at least three inches of water over the highest point of the tubes, flues, or crown sheets.

G. Boilers of locomotives shall have at least one water gage provided with top and bottom shutoff cocks and lamp, and two gage cocks for boilers 36 inches in diameter and under, and three gage cocks for boilers over 36 inches in diameter.

H. The lowest gage cock and the lowest reading of water glass shall not be less that two inches above the highest point of crown sheet on boilers 36 inches in diameter and under, nor less than three inches for boilers over 36 inches in diameter. These are minimum dimensions, and on larger locomotives and those operating on steep grades, the height should be increased, if necessary, to compensate for change of water level on descending grades.

I. The bottom mounting for water glass and for water column if used must extend not less than one and 1/2 inches inside the boiler and beyond any obstacle immediately above it, and the passage therein must be straight and horizontal.

J. Tubular water glasses must be equipped with a protecting shield.

K. All connections on the gage glass shall be not less than 1/2 inch pipe size. Each water gage glass shall be fitted with a drain cock or valve having an unrestricted drain opening of not less than 1/4 inch diameter to facilitate cleaning. When the boiler operating pressure exceeds 100 psig the glass shall be furnished with a connection to install a valved drain to the ash pit or other safe discharge point.

L. Each water gage glass shall be equipped with a top and bottom shutoff valve of such through-flow construction as to prevent stoppage by deposits of sediments. If the lowest valve is more than seven feet above the floor or platform from which it is operated, the operating mechanism shall indicate by its position whether the valve is open or closed. The pressure-temperature rating shall be at least equal to that if the lowest set pressure of any safety valve on the boiler drum and the corresponding saturated-steam temperature.

M. Straight-run globe valves shall not be used on such connections.

N. Automatic shutoff valves, if permitted to be used, shall conform to the requirements of Section I of the ASME Code.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5028. Water Columns

A. The water column shall be so mounted that it will maintain its correct position relative to the normal waterline under operating conditions.

B. The minimum size of pipes connecting the water column to a boiler shall be one inch. For pressures of 400 psig or over, lower water column connections to drums shall be provided with shields, sleeves or other suitable means to reduce the effect of temperature differentials in the shells or heads. Water glass fittings or gage cocks may be connected directly to the boiler.

C. The steam and water connections to a water column or a water gage glass shall be such that they are readily accessible for internal inspection and cleaning. Some acceptable methods of meeting this requirement are by providing a cross or fitting with a back outlet at each right-angle turn to permit inspection and cleaning in both directions, or by using pipe bends or fittings of a type which does not leave an internal shoulder or pocket in the pipe connection and with a radius of curvature which will permit the passage of a rotary cleaner. Screwed plug closures using threaded connections as allowed by Section I of the ASME Code are acceptable means of access for this inspection and cleaning. For boilers with all drum safety valves set at or above 400 psig, socket-welded plugs may be used for this purpose in lieu of screwed plugs. The water column shall be fitted with a connection for a drain cock or drain valve to install a pipe of at least 3/4 inch pipe size to the ash pit or other safe point of discharge. If the water connection to the water column has a rising bend or pocket which cannot be drained by means of the water column drain, an additional drain shall be placed on this connection in order that it may be blown off to clear any sediment from the pipe.

D. The design and material of a water column shall comply with the requirements of Section I of the ASME Code. Water columns made of cast-iron in accordance with SA-278 may be used for maximum boiler pressures not exceeding 250 psig. Water columns made of ductile iron in accordance with SA-395 may be used for maximum boiler pressures not exceeding 350 psig. For higher pressures, steel construction shall be used.

E. Shutoff valves shall not be used in the pipe connections between a boiler and a water column or between a boiler and the shutoff valves required for the gage glass, unless they are either outside-screw-and-yoke or lever-lifting type gate valves or stopcocks with lever permanently fastened thereto and marked in line with their passage, or of such other through-flow construction as to prevent stoppage by deposits of sediment, and to indicate by the position of the operating mechanisms whether they are in open or closed position; and such valves or cocks shall be locked or sealed open. Where stopcocks are used, they shall be of a type with the plug held in place by a guard or gland.

F. No outlet connections, except for control devices (such as damper regulators and feed water regulators), drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water there from shall be placed on the pipes connecting a water column or gage glass to a boiler.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5029. Gage Glass Connections

A. Gage glasses and/or gage cocks that are not connected directly to a shell or drum of the boiler shall be connected by one or the following methods.

1. The water gage glass or glasses and gage cocks shall be connected to an intervening water column.

2. When only water gage glasses are used, they may be mounted away from the shell or drum and the water column omitted, provided the following requirements are met:

a. the top and bottom gage glass fittings are aligned, supported, and secured so as to maintain the alignment of the gage glass; and

b. the steam and water connections are not less than 1 inch pipe size and each water glass is provided with a valved drain; and

c. the steam and water connections comply with the requirements of the following:

i. the lower edge of the steam connection to a water column or gage glass in the boiler shall not be below the highest visible water level in the water gage glass. There shall be no sag or offset in the piping which will permit the accumulation of water; and

ii. the upper edge of the water connection to a water column or gage glass and the boiler shall not be above the lowest visible water level in the gage glass. No part of this pipe connection shall be above the point of connection at the water column.

B. Each boiler (except those not requiring water level indicators) shall have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines.

C. Boilers not over 36 inches in diameter in which the heating surface does not exceed 100 square feet need have but two gage cocks.

D. The gage cock connections shall be not less than 1/2 inch pipe size.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5030. Pressure Gages

A. Each boiler shall have a pressure gage so located that it is easily readable. The pressure gage shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gage connected to the steam space or to the water column or its steam connection a valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing out. For a

steam boiler the gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections shall be suitable for the maximum allowable working pressure and temperature but, if the temperature exceeds 406° F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon if used, shall not be less than 1/4 inch inside the diameter standard pipe size but where steel or wrought iron pipe or tubing is used they shall not be less than 1/2 inch. The minimum size of a siphon, if used, shall be 1/4 inch inside diameter. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1 1/2 times this pressure.

B. Each force-flow steam generator with no fixed steam and water line shall be equipped with pressure gages or other pressure measuring devices located as follows:

1. at the boiler or super heater outlet (following the last section which involves absorption of heat); and

2. at the boiler or economizer inlet (preceding any section which involves absorption of heat); and

3. upstream of any shutoff valve which may be used between any two sections of the heat absorbing surface.

C. Each high-temperature water boiler shall have a temperature gage so located and connected that it shall be easily readable. The temperature gage shall be installed so that it at all times indicates the temperature in degrees Fahrenheit of the water in the boiler, at or near the outlet connection.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5031. Stop Valves

A. Each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

B. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its settings.

C. When boilers provided with manholes are connected to a common steam main, the steam piping connected from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic non-return valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5032. Blow Off Piping

A. A blow off as required herein is defined as a pipe connection provided with valves located in the external piping through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gage glasses, or piping to feed water regulators, etc., used for the purpose of determining the operating conditions of such equipment. Piping connections

used primarily for continuous operation, such as deconcentrators or continuous blow down systems, are not classed as blow offs but the pipe connections and all fittings up to and including the first shutoff valve shall be equal at least to the pressure requirements for the lowest set pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.

B. A surface blow off shall not exceed 2 1/2 inch pipe size, and the internal pipe and the terminal connection for the external pipe, when used, shall form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other. A properly designed steel bushing, similar to or the equivalent of those shown in Fig. PG-59.1 of Section I of the ASME Code or a flanged connection shall be used.

C. Each boiler except forced-flow steam generators with no fixed steam and waterline and high-temperature water boilers shall have a bottom blow off outlet in direct connection with the lowest water space practicable for external piping conforming to PG-58.3.6 of Section I of the ASME Code.

D. All water walls and water screens which do not drain back into the boiler and all integral economizers, shall be equipped with outlet connections for a blow off or drain line and conform to the requirements of PG-58.3.6 or PG-58.3.7 of the ASME Code.

E. Except as permitted for miniature boilers, the minimum size of piping and fittings shall be one inch, and the maximum size shall be 2-1/2 inches, except that for boilers with 100 sq. ft. of heating surface or less, the minimum size of pipe and fittings may be 3/4 inch.

F. Condensate return connections of the same size or larger than the size herein specified may be used, and the blow off may be connected to them. In such case, the blow off shall be so located that the connection may be completely drained.

G. A bottom blow off pipe when exposed to direct furnace heat shall be protected by firebrick or other heat resisting material which is so arranged that the pipe may be inspected.

H. An opening in the boiler setting for a blow off pipe shall be arranged to provide free expansion and contraction.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5033. Repairs and Renewals of Boiler Fittings and Appliances

A. Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the requirements for new installations.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5034. Repairs and Alterations to Boilers and Pressure Vessels

A. Repairs and alterations to boilers and pressure vessels shall be made, in accordance with the latest edition of the National Board Inspection Code (NBIC), only by, or on behalf of, an owner/user, a repair organization, or an individual having a valid certificate of authorization for use

of the R Symbol stamp issued by the National Board of Boiler and Pressure Vessel Inspectors.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5035. Conditions Not Covered by these Requirements

A. All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5036. Standard Boilers

A. The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturers identification stamped or cast on the boiler or on a plate secured to it.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5037. Nonstandard Riveted Boilers

A. The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with applicable rules of the 1971 Edition of Section I of the ASME code. Power boilers, except that in no case shall the maximum allowable working pressure of a steam heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250° F temperatures.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5038. Nonstandard Welded Boilers

A. The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Code, but in no case shall it exceed 30 psig.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5039. Nonstandard Cast Iron Boilers

A. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

B. The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5040. Potable Water Heaters

A. A potable water heater shall not be installed or used at pressures exceeding 160 psig or water temperatures exceeding 210° F. Water heaters may be used to

simultaneously provide potable hot water and space heat in combination, except in places of public assembly.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5041. Safety Valves

A. Each steam boiler shall have one or more ASME/National Board stamped and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure on the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field inspection. For valves exceeding two inches pipe size, the drain hole or holes shall be tapped not less than 3/8 inch pipe size. For valves less than two inches, the drain hole shall not be less than 1/4 inch in diameter.

B. No safety valve for a steam boiler shall be smaller than 1/2 inch. No safety valve shall be larger than 4 1/2 inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

C. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases a greater relieving capacity of valves than the minimum specified by these rules will have to be provided.

Table EHB-6. Minimum Pounds of Steam per Hour per Square Foot of Heating Surface		
	Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface:		
Hand fired	5	6
Stoker fired	7	8
Oil, gas, or pulverized fuel fired	8	10
Water Wall Heating Surface:		
Hand fired	8	8
Stoker fired	10	12
Oil, gas, or pulverized fuel fired	14	16

1. When a boiler is fired only by a gas giving a heat value not in excess of 200 BTU per cu. ft., the minimum safety valve or safety relief valve relieving capacity may be based on the value given for hand fired boilers above.

2. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3-1/2 pounds per hour per kilowatt input.

3. For heating surface determination see ASME Code Section IV, Paragraph HG-403.

D. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

E. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions. When additional valves are required, they may be installed on the outlet piping provided there is no intervening valve.

F. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (see ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

G. No valve of any description shall be placed between the safety valve and the boiler, nor on the discharge pipe between the safety valve and the atmosphere. The discharge pipe shall be at least full size and be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5042. Safety Relief Valve Requirements for Hot Water Heating and Hot Water Supply Boilers

A. Each hot water heating and hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve of the automatic reseating type set to relieve at or below maximum allowable working pressure of the boiler. Safety relief valves ASME/National Board stamped and certified as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on either a hot water heating or hot water supply boiler, the additional valve or valves shall be ASME/National Board stamped and certified and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum indicated in this Paragraph.

B. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

C. No safety relief valve shall be smaller than 3/4 inch nor larger than 4-1/2 inch standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a safety relief valve of 2 inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than 1/4 inch in diameter or its equivalent area.

D. The required steam relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the

firing of any fuel for which the unit is installed by 1,000 or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these rules.

E. When operating conditions are changed, or additional boiler heating surface is installed the valve capacity shall be increased, if necessary, to meet the new conditions. The additional valves required because of changed conditions may be installed on the outlet piping provided there is no intervening valve.

F. Safety relief valve capacity for each boiler shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 10 percent above the maximum allowable working pressure. When more than one safety relief valve is used, the over pressure shall be limited to 10 percent above the set pressure of the highest set value allowed.

G. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run (see ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

H. No valve of any description shall be placed between the safety relief valve and the boiler, nor on the discharge pipe between the safety relief valve and the atmosphere. The discharge pipe shall be not less than the diameter of the safety relief valve outlet and fitted with an open drain to prevent water lodging in the upper part of the safety relief valve or in the discharge pipe. When an elbow is placed on the safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5043. Steam Gages

A. Each steam boiler shall have a steam gage or compound steam gage connected to its steam space or to its water column or to its steam connection. The gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection shall be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than 1/4 inch standard pipe size, but where steel or wrought iron pipe or tubing is used, they shall not be less than 2 inch standard pipe size. The minimum size of a siphon, if used, shall be 1/4 inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.

B. The scale on the dial of a steam boiler gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from 0 to 30 psig pressure shall be at least 3 inches.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5044. Pressure or Altitude Gages and Thermometers

A. Each hot water boiler shall have a pressure or altitude gage connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle, placed on the pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

B. The scale on the dial of the pressure or altitude gage shall be graduated approximately to not less than 1-1/2 nor more than 3 times the pressure at which the safety relief valve is set.

C. Piping or tubing for pressure or altitude-gage connections shall be of nonferrous metal when smaller than one inch pipe size.

D. Each hot water boiler shall have a thermometer so located and connected that it shall be easily readable when observing the water pressure or altitude. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5045. Water Gage Glasses

A. Each steam boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than 2 inch pipe size, with the lower fitting provided with a drain valve of a type having an unrestricted drain opening not less than 1/4 inch in diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure. Water glass fittings may be attached directly to a boiler.

B. Boilers having an internal vertical height of less than 10 inches may be equipped with a water level indicator of the glass bulls-eye type provided the indicator is of sufficient size to show the water at both normal operating and low water cutoff levels.

C. The lowest visible part of the water gage glass shall be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

D. Each boiler shall be provided at the time of manufacture with a permanent marker indicating the lowest permissible water level. The marker shall be stamped, etched, or cast in metal; or it shall be a metallic plate attached by rivets, screws, or welding; or it shall consist of material with documented tests showing its suitability as permanent marking for the application. This marker shall be visible at all times. Where the boiler is shipped with a jacket, this marker may be located on the jacket.

E. In electric boilers of the submerged electrode type, the water gage glass shall be so located to indicate the water levels both at startup and under maximum steam load conditions as established by the manufacturer.

F. In electric boilers of the resistance heating element type the lowest visible part of the water gage glass shall not be below the top of the electric resistance heating element. Each boiler of this type shall also be equipped with an automatic low-water electrical power cutoff so located as to

automatically cut off the power supply before the surface of the water falls below the top of the electrical resistance heating elements.

G. Tubular water glasses on electric boilers having a normal water content not exceeding 100 gallons shall be equipped with a protective shield.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5046. Stop Valves

A. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

B. Stop valves in single hot water heating boilers shall be located at an accessible point in the supply and return pipe connections, as near the boiler nozzle as is convenient and practicable, to permit draining the boiler without emptying the system.

C. When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

D. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

E. All valves or cocks shall conform to the applicable portions of HF-203 of Section IV of the ASME Code and may be ferrous or nonferrous.

F. The minimum pressure rating of all valves or cocks shall be at least equal to the pressure stamped upon the boiler, and the temperature rating of such valves or cocks, including all internal components, shall be not less than 250° F.

G. Valves or cocks shall be flanged, threaded or have ends suitable for welding or brazing.

H. All valves or cocks with stems or spindles shall have adjustable pressure type packing glands and, in addition, all plug type cocks shall be equipped with a guard or gland. The plug or other operating mechanism shall be distinctly marked in line with the passage to indicate whether it is opened or closed.

I. All valves or cocks shall have tight closure when under boiler pressure test.

J. When stop valves are used, they shall be properly designated substantially by tags of metal or other durable material fastened to them.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5047. Feed Water Connections

A. Feed water, makeup water, or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection shall not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided inspection or cleaning, safety valve, safety relief valve, blow off, water column, water gage glass, pressure gage, or temperature.

B. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5048. Water Column and Water Level Control Pipes

A. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 inch. No outlet connections, except for damper regulator, feed water regulator, steam gages, or apparatus which does not permit the escape of any steam or water except for manually operated blow downs, shall be attached to a water column or the piping connecting a water column to a boiler (see HG-705 of Section IV of the ASME Code for introduction of feed water into a boiler). If the water column, gage glass, low-water fuel cutoff, or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right angle turn to facilitate cleaning.

B. The steam connections to the water column of a horizontal fire tube wrought iron boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connection shall be made on an end section not less than 6 inches below the bottom connection to the water gage glass.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5049. Return Pump

A. Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gage glass.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

Subchapter D. Potable Water Heaters

(Hot Water Heaters Other than Hot Water Supply Boilers)

§5052. Service Restrictions and Exceptions

A. Potable water heaters supplying potable hot water for commercial purposes that exceed a heat input of 200,000 BTU per hour or a nominal water-containing capacity of 120 gallons, shall be designed, constructed, inspected and stamped in conformity with Part HLW of the ASME Code, Section IV.

B. Potable water heaters supplying potable hot water for commercial purposes that do not exceed a heat input of 200,000 BTU per hour or a nominal water-containing capacity of 120 gallons, but has a nominal water-containing capacity of 50 gallons, shall be designed and constructed to

underwriters laboratories or other nationally recognized standard and shall bear their label on the completed unit.

C. All other potable water heaters not otherwise exempted by the Act, shall be designed and constructed to underwriters laboratories or other nationally recognized standard and shall bear their label on the completed unit.

D. The maximum allowable working pressure of a potable water heater shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the heater or a plate or label secured to it. In no case shall the maximum allowable working pressure of a potable water heater exceed 160 psi or a water temperature of 210° F.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5053. Safety Relief Valves

A. Each potable water heater shall have at least one ASME certified pressure temperature relief valve of the automatic reseating type set to relieve at or below the maximum allowable working pressure of the potable water heater and/or no greater than 210° F. Safety relief valves officially rated as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on a potable water heater, the additional valve or valves shall be ASME rated and may be set within a range not to exceed 10 percent of the set pressure of the first valve. Safety relief valves shall be spring-loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure.

B. When water supply to a potable water heater exceeds 75 percent of the design pressure of the water heater, a pressure reducing valve is required.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5054. Controls

A. Each individual automatically-fired potable water heater, in addition to the operating control used for normal water heater operation shall have a separate high limit temperature actuated combustion control that will automatically cut off the fuel supply. The temperature range of the high limit temperature actuated control shall not allow a setting over 210° F.

1. On gas-fired water heaters, the high limit temperature control when actuated shall shut off the fuel supply with a shut off means other than the operating control valve. Separate valves may have a common body.

2. On electrically-heated potable water heaters, the high limit temperature control when actuated shall cut off all power to the operating controls.

3. On oil-fired potable water heaters, the limit temperature control when actuated shall cut off all current flow to the burner mechanism.

B. All potable water heaters shall be equipped with suitable primary (flame safeguards) safety controls, safety limit switches, and burners, or electrical elements as required by one of the following nationally recognized standards:

1. ANSI C95.3 Standard for Safety Oil-Fired Water Heaters (UL 732);

2. ANSI Z 21.10.3 American National Standards for Gas Water Heaters, Volume III, Circulating Rank, Instantaneous and Large Automatic Storage Type water Heaters;

3. Underwriters Laboratories Inc. UL 795. Standards for Safety, Commercial-Industrial Gas-Heating Equipment;

4. Underwriters Laboratories Inc. UL 1453, Standards for Safety, Electric Booster and Commercial Storage Tank Water Heaters.

C. The symbol of the certifying organization which has investigated such as having complied with a nationally recognized standard shall be affixed to the equipment and shall be considered as evidence that controls and heat generating apparatus were manufactured in accordance with that standard. (A certifying organization is one that provides uniform testing, examination, and listing procedures under established, nationally recognized standards and that is acceptable to the jurisdiction.)

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5055. Repairs

A. Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs must comply with Section IV of the ASME Code for new construction. Welded repairs must meet the additional requirements.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

Subchapter E. General Requirements

§5058. Notice of Internal Inspection of Boilers

The owner or user of a boiler or boilers not exempted by the Act or by rules and regulations promulgated under the Act shall be provided 14 days notice of impending internal inspection requirements, by the inspector responsible for inspections of subject boiler(s). No such notice shall be required for external inspections. No inspection shall be made on Sunday or other legal holiday by an inspector employed by the Department of Public Safety except in case of accident or other emergency.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5059. Preparation for Internal Inspection

A. The owner or user shall prepare each boiler for internal inspection, and shall prepare for and apply a hydrostatic pressure test, whenever necessary, on the date arranged by the inspector. The boiler shall be prepared for internal inspection as follows.

1. Water shall be drawn off and the boiler washed thoroughly.

2. Manhole and hand hole plates, washout plugs and inspection plugs in water column connections shall be removed as required by the inspector. The furnace and combustion chambers shall be cooled and thoroughly cleaned.

3. All grates of internally fired boilers shall be removed.

4. Insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports or other parts.

5. The pressure gauge shall be removed for testing, as required by the inspector.

6. Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve(s) at the most convenient point or any appropriate means approved by the inspector.

7. Before opening the manhole or hand hole covers and entering any parts of the steam generating unit connected to a common header with other boilers, the non-return and steam stop valves must be closed, tagged and padlocked, and drain valves or cocks between the two valves opened. The feed valves must be closed, tagged and padlocked, and drain valves or cocks located between the two valves opened. After draining the boiler, the blow off valves shall be closed, tagged and padlocked. Blow off lines, where practicable, shall be disconnected between pressure parts and valves. All drain and vent lines shall be opened.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5060. Boilers Improperly Prepared for Inspection

A. If a boiler has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for a pressure test as set forth in these rules, the inspector may decline to make the inspection or test and the inspection certificate shall be withheld or the right to operate revoked, until the owner or user complies with the requirement. The owner or user shall be charged the applicable inspection fees as set by law for this missed inspection.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5061. Removal of Covering to Permit Inspection

A. If the boiler is jacketed so that the longitudinal seams of shells, drums or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and other areas necessary to determine the condition and safety of the boiler, provided such information cannot be determined by other means.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5062. Lap Seam Crack

A. The shell or drum of a boiler, in which a lap seam crack is discovered along a longitudinal riveted joint, shall be immediately condemned. Patching is prohibited.

B. *Lap Seam Crack*—a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5063. Pressure Test

A. A pressure test, when applied to boilers or pressure vessels, need not exceed the maximum allowable working pressure or the setting of the lowest set safety valves. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded.

B. During a pressure test, the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A plug device designed for this purpose may be used.

C. The temperature of the water used to apply a hydrostatic test shall be no less than ambient temperature, but in no case less than 70° F. The maximum temperature of the water during inspection shall not exceed 120° F.

D. When a hydrostatic test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but need not exceed the release pressure of the safety valve having the lowest release pressure setting.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5064. Inspection of Power Boilers

A. The internal and external inspections of power boilers shall meet the guidelines of Subsection C6 of the ASME Code, Section VII, Recommended Rules for Care of Power Boilers; and the National Board Inspection Code.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5065. Inspection of Heating, Supply and Potable Water Boilers

A. The internal (when required), and the external inspections of steam and hot water heating, hot water supply and potable water boilers (hot water heaters), shall meet the guidelines of 7.09 and 8.09 of the ASME Code, Section VI, Recommended Rules for Care of Heating Boilers; and the National Board Inspection Code.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5066. Changes from Louisiana Boiler Law/Rules and Regulations

A. On each inspection of a boiler, the inspector shall determine if changes or departures from the Louisiana Boiler Law/Rules and Regulations have taken place since the previous inspection was made.

B. If repairs have been made to a boiler, the owner or user shall provide documentation to the inspector determining if the repairs meet the requirements of these rules and regulations. In all cases where repairs and/or replacements are made or new fittings or appurtenances are installed, the material and workmanship must comply with the Louisiana Boiler Law/Rules and Regulations for new installations.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5067. Defective Conditions Disclosed at Time of External Inspection

A. If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, the inspector may order the boiler taken out of service until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5068. Unsafe Boilers

A. Whenever the chief inspector, a deputy inspector or special inspector finds a boiler in operation or about to be placed in operation, the continued use of which constitutes an imminent hazard to life or limb, he shall order such boiler to be instantly taken out of service and/or not placed in service until proper repairs or changes have been made. He shall at that time serve a preliminary order on the owner or user ordering the use of such boiler discontinued. He shall have the owner or user sign the preliminary order, and submit the original copy to the chief inspector. He shall notify the chief inspector by telephone when a preliminary order is issued.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5069. Condemned Boilers

A. A boiler having been inspected and declared unfit for further service by an inspector shall be stamped by the inspector on either side of the state serial number with the letters XXX, which will designate a condemned boiler, as shown by the following facsimile: XXX 0000 LA XXX

B. Any person, firm, partnership, or corporation using a condemned boiler shall be subject to the penalties provided by the Act.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5070. Owner or User to Notify Chief Inspector of Accident

A. When an accident occurs to a boiler, the owner or user shall, within 7 calendar days, notify the chief inspector by submitting a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given within 12 hours by telephone, telegraph or messenger, and neither the boiler, nor any parts thereof, shall be removed or disturbed before permission has been given by the chief inspector, except for the purpose of saving human life and limiting consequential damage.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5071. Automatic Low Water Fuel Cutoff and/or Water Feeding Device

A. Each automatically fired steam boiler shall have an automatic low-water fuel cutoff so located as to

automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gauge glass. If a water feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feed water. Such a fuel cutoff or water feeding device shall comply with HG-606 of the ASME Code, Section IV.

B. Each automatically fired hot water heating boiler with heat input greater than 400,000 BTU/hr shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be located as to automatically cut off the fuel supply when the surface of the water falls to the lowest safe water level established by the boiler manufacturer. Such low-water fuel cutoff shall comply with HG-614 of the ASME Code, Section IV.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5072. Pressure Reducing Valves

A. Where pressure reducing valves are used, one or more safety relief valves shall be provided on the low pressure side of the reducing valve when the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The safety or safety relief valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge of the safety relief valves if vented to the atmosphere. The combined discharge capacity of the safety or safety relief valves shall be such that the pressure rating shall not be exceeded in case the reducing valve fails in the open position.

B. The use of hand controlled bypasses around the reducing valves are permissible. If a bypass is used around the reducing valve, the safety valve required on the low pressure side shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without over pressuring the low pressure side.

C. A pressure gauge shall be installed on the low pressure side of the reducing valve.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5073. Boiler Blow Off Equipment

A. The blow down from a boiler that enters a sanitary sewer system or blow down which is considered a hazard to life or property shall pass through some form of blow off equipment that will reduce the pressure leaving the blow down equipment to not more than 5 psi, and the temperature to no more than 150° F.

B. All blow off equipment shall be fitted with openings to facilitate cleaning and inspection and shall conform to the recommended rules for National Board Boiler Blow off Equipment.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5074. Location of Discharge Piping Outlets

A. The discharge of safety valves, blow off pipes and other outlets shall be located and supported so as to prevent injury to personnel.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5075. Repairs or Alterations

A. Where repairs or alterations to a boiler are necessary, an authorized inspector shall be called for consultation and advice as to the best method of making such repairs or alterations. After such repairs or alterations are made, they shall be reviewed by and found acceptable to an authorized inspector. Organizations making repairs or alterations shall be qualified in accordance with the rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5076. Supports

A. Each boiler shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler and its contents. There shall be no excessive vibration in either the boiler or its connecting piping.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5077. Boiler Door Latches

A. A water tube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

B. These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches, or bolts actuated by springs shall not be used. The foregoing requirements for latches or fastening shall not apply to coal openings of downdraft or similar furnaces.

C. All other doors, except explosion doors, not used in the firing of the boiler, may be provided with bolts or fastenings in lieu of self-latching devices.

D. Explosion doors, if used and if located in the setting walls within seven feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5078. Clearance

A. When boilers are replaced or new boilers are installed in either existing or new buildings, they shall be so located that adequate space will be provided for the proper operation of the boilers and their appurtenances, for the inspection of all surfaces, tubes, water walls economizers, piping, valves and other equipment, and for their necessary maintenance and repair and replacement tubes.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5079. Ladders and Runways

A. When necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. All walkways shall have at least two means of exit, each to be remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5080. Exit from Boiler Room

A. All boiler rooms exceeding 500 square feet floor area and containing one or more boilers having a fuel burning capacity 1,000,000 BTU/hr., or equivalent electrical heat input, shall have at least two means of exit. Each shall be remotely located from the other. Each elevation in such boiler room shall have two means of exit, each remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5081. Air and Ventilation Requirements-Combustion

Air Supply and Ventilation of Boiler Room

A. A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

B. The total requirements of the burners for all fired pressure vessels in the boiler room must be used to determine the louver sizes whether fired by coal, oil or gas; however, the minimum net free louvered area must not be less than one square foot. The following table or formula shall be used to determine the net louvered area in square feet.

Input (Btu/Hour)	Required Air (Cu/Ft/Min)	Minimum Net Louvered Area (Sq. Ft.)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

(BTUH) 10,000) X 2.5 = CFM - 300 /dfm per sq. ft. of net required area.

C. When mechanical ventilation is used in lieu of Subsection A above, the supply of combustion and ventilation air to the boiler room and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown in Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5082. Gas Burners

A. For installations which are gas fired, the burners used shall conform to the applicable requirements of the American Gas Association or other nationally recognized standards.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5083. Attendance on Power Boilers

A. No power boiler while in active service, i.e., that portion of time when the main stop valves are open and the fires are burning, shall be left unattended longer than it will take the water level to drop from the normal operating level in the water gauge glass, or by indicating devices or recorders, when the feed water is shut off and the boiler is forced to its maximum capacity unless the following are complied with:

1. the boiler is equipped with an audible alarm that will operate when the water reaches the highest and/or the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. The audible alarm shall be sufficiently loud that it can be plainly heard at the most remote point from the boiler that the attendant is required to work; and

2. the boiler is equipped with two independently connected low water safety devices that will shut off the fuel to the burner or burners when the water reaches the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. These devices shall require manual resetting; or

3. the attendant shall personally check the operation of the boiler, the necessary auxiliaries, and the water level in the boiler at such intervals as are necessary to insure safe operation of the boiler, and in no case shall this exceed 120 minutes.

B. The operation of the automatic controls shall be checked at the beginning of each shift.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5084. Restamping of Boilers

A. When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler shall be made to the chief inspector and proof of the original stamping shall accompany the request. The chief inspector may grant such authorization. Restamping authorized by the chief inspector shall be done only in the presence of an authorized inspector, and shall be identical with the original stamping. If the ASME Code symbol is to be restamped, it may only be done by the original manufacturer of the boiler in the presence of the inspector who signed the manufacturers data report. Notice of completion of such restamping shall be filed with the chief inspector by the

inspector who witnessed the stamping on the boiler, together with a facsimile of the stamping applied.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5085. Moving of Boilers

A. When a boiler is moved from one setting to another setting, the owner or user thereof shall furnish the chief inspector with a notice of change in location, and shall have the boiler inspected by an authorized inspector prior to firing of the boiler at the new location.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5086. Safety Appliances

A. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules and regulations while the appliance is subject to pressure.

B. Should any of these appliances be removed for repair during an outage of the boiler, they must be reinstalled and in proper working order before the boiler is again placed in service.

C. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the boiler inspection certificate.

D. Repairs to safety or safety relief valves shall be made only by organizations qualified.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5087. Variations

A. Any person who believes the rules and regulations promulgated by the assistant secretary are unreasonable or impose an undue burden upon the owner or user, may request a variation from such rule or regulation. The request shall be in writing and shall specify how equivalent safety is to be maintained. The assistant secretary, after investigation and such hearing as he may direct, may grant such variation from the terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety.

B. When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the assistant secretary, after notice to the owner or user and complainant after such hearing and investigation as he may direct, may continue to in force, suspend, revoke or modify the conditions specified in any variation. No declaration, act or omission of the assistant secretary, or the chief inspector, deputy inspector or special inspectors other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5088. Conditions not Covered by these Rules and Regulations

A. For any condition not covered by these rules and regulations, the applicable provisions of the ASME Code or the National Board Inspection Code shall apply.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

§5089. Suggestions for Operations

A. It is suggested that the Recommended Rules for Care of Power Boilers, Section VII, and the Recommended Rules for Care and Operation of Heating Boilers, Section VI of the ASME Code, be used as a guide for proper and safe operating practices.

AUTHORITY NOTE: Promulgated in accordance with 23:531 and 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:

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 these Rules on Family Earnings and Family Budget. These rules will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on these proposed amendments to Henry Fry at 8181 Independence Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business March 15, 2007.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Boiler Construction, Maintenance, Inspection and General Use

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation cost or savings to the Office of State Fire Marshal. Local governments expenditures will not increase or decrease according to the

number of objects requiring inspection. These rules codify the currently enforced policy and procedure of the Office of State Fire Marshal. These rules are intended to promote uniform standards for the design, fabrication, repair, alteration and inspection of steam and hot water boilers, and the inspection during fabrication, repair or alteration of those pressure vessels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no effect on revenue 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 additional cost or benefit to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and or employment.

Jill P. Boudreaux
Undersecretary
0702#045

Robert E. Hosse
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Revenue Policy Services Division

Exemption from Tax on Corporations (LAC 61:I.1140)

Under the authority of R.S. 47:287.501, R.S. 47:1511, R.S. 47:287.785 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1140 to disallow the exemption of unrelated business taxable income of organizations meeting the qualification of I.R.C. Sections 501 and 401(a) and to remove the requirement that certain banks be organized under the laws of the state of Louisiana.

Due to the exclusive error of the Department of Revenue, non-profit organizations with unrelated business taxable income in Louisiana have not been taxed on that income. The department proposes to begin taxing this unrelated business taxable income as required by R.S. 47:287.501 beginning January 1, 2008. The department also proposes, in keeping with proper statutory construction, to remove the requirement that banks subject to the "shares tax" be organized under the laws of the state of Louisiana to qualify for the exemption.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Income: Corporation Income Tax §1140. Exemption from Tax on Corporations

A. Generally, organizations meeting the qualifications included under I.R.C. Sections 501 and 401(a) are exempt from federal and Louisiana income tax liability.

B. However, organizations meeting the qualifications under I.R.C. Sections 501 and 401(a) are not exempt from taxation on unrelated business taxable income or income not included under I.R.C. Sections 501 and 401(a) for federal income tax purposes. Since unrelated business taxable

income is not exempt from federal income tax, it is not exempt from Louisiana income tax. The Department of Revenue will begin enforcing this requirement of R.S. 47:287.501 for all taxable periods beginning on and after January 1, 2008.

C. Exceptions

1. Mutual savings banks, national banking corporations, building and loan associations, and savings and loan associations are wholly exempt from the tax imposed by this Chapter regardless of where they are organized.

2. Banking corporations, regardless of where they are organized, which are required by other laws of this state to pay a tax for their shareholders, or whose shareholders are required to pay a tax on their shares of stock are also wholly exempt. Banking corporations, other than those described above, are not exempt from the corporation income tax.

D. An organization claiming a total or partial exemption under R.S. 47:287.501(A) as an organization described in I.R.C. Sections 501 or 401(a) is required to file an income tax return in the same manner as any other corporation. To claim a partial exemption, the organization must submit a copy of the Internal Revenue Service ruling establishing its exempt status under I.R.C. Sections 501 or 401(a) with its return, report any income subject to federal income tax on its Louisiana return, and include with the return a statement that all income not reported on the Louisiana return is exempt from federal income tax under I.R.C. Sections 501 or 401(a). To claim a total exemption the organization must submit a copy of the Internal Revenue Service ruling establishing its exempt status under I.R.C. Sections 501 or 401(a) with its return and include with its return a statement that none of its income was subject to federal income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.501.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:485 (March 2004), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 61:I.1140, regarding the disallowance of an exemption for unrelated business taxable income of organizations meeting the qualification of I.R.C. Sections 501 and 401(a) and to remove the requirement that certain banks be organized under the state of Louisiana should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments

must be received no later than 5 p.m., Wednesday, March 28, 2007. A public hearing will be held on Thursday, March 29, 2007, at 11 a.m. in the Magnolia Room, on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Exemption from Tax on Corporations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation of this proposed corporation income tax regulation, relative to exemption from tax on corporations, will have no impact on the agency's costs.

The implementation of this proposed regulation will have no impact upon any local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Due to the exclusive error of the Department of Revenue, non-profit organizations with unrelated business taxable income in Louisiana have not been taxed on that income. The department proposes to begin taxing this unrelated business income as required by R.S. 47:287.501 beginning January 1, 2008.

State General Fund revenues are expected to increase due to the proposed change. The information is not available which would allow a measure of the increase. However, the increase is expected to be small.

There will be no effect on revenue collections of local governmental units as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Beginning January 1, 2008, non-profit organizations with unrelated business income in Louisiana will be taxed on that income. Costs associated with return preparation and the tax liability will be incurred.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0702#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Issuance and Cancellation of a Lien; Fees
(LAC 61:I.5302)**

Under the authority of R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.5302 to clarify when the secretary may release certain property subject to the recorded lien. Additionally, proposed amendments restrict taxpayers to only one approved offer in compromise in a

10-year period and require offers in compromise applications to be accompanied by a nonrefundable payment of at least 10 percent of the amount offered.

Act 56 of the 2004 Regular Legislative Session amended R.S. 47:1578(B) to clarify that in cases where the tax, penalty, or interest secured by a recorded lien have not been paid, the secretary may release any part of property subject to the lien if at least the value of the state's interest in the property, as determined by the secretary, is paid in partial satisfaction of the liability, or if the secretary determines that the state's interest in the part to be released has no value.

Louisiana Revised Statutes 47:1578 and 47:295 allow the secretary to compromise certain judgments for taxes as well as to waive, reduce, or compromise individual income tax, penalties, interest, or other amounts. The amendments add language to inform taxpayers and their representatives that the secretary will only accept one offer in compromise from a taxpayer in a 10-year period and that a nonrefundable payment of at least 10 percent of the amount offered must accompany the offer in compromise application.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - C.3. ...

4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the interest of the state of Louisiana in the part of the property to be released or the secretary determines that the interest of the state of Louisiana in the part to be released has no value. This provision is subject to approval by the Board of Tax Appeals.

D. - E. ...

F. Offers in Compromise

1. The secretary will only accept one offer from any applicant in a 10-year period.

2. A nonrefundable payment of at least 10 percent of the amount offered must accompany an Offer in Compromise application.

G. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004), LR 33:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Partnerships Composite Returns and Payments
(LAC 61:I.1401)

Under the authority of R.S. 47:201.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61.I.1401.

The purpose of this Rule is to change the requirement to withhold when the partner in a partnership is a partnership itself. This proposed change would prevent such partnerships from being included on composite returns. It is the opinion of the department that this change will enhance compliance with this Rule.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 14. Income: Partnerships

**§1401. Partnerships Composite Return Requirement,
Composite Payment Requirements, Exceptions**

A. Definitions. For the purpose of this rule, the following terms are defined.

Corporation—an entity that is treated as a corporation for state income tax purposes as set forth in R.S. 47:287.11(A).

Engaging in Activities in This State—having payroll, sales, or tangible property in this state, or intangible property with a Louisiana business situs.

Individual Return—a Louisiana personal income tax return or a Louisiana fiduciary income tax return.

Nonresident—any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

Partner—a member or partner of an association that is treated as a partnership for state income tax purposes, including but not limited to, a member in a limited liability company or a partner in a general partnership, a partnership in commendam, or a registered limited liability partnership. A partner is the ultimate owner of a partnership interest; therefore someone holding or managing a partnership interest on behalf of another, such as a broker, is not a partner for purposes of this rule.

Partnership—any association that is treated as a partnership for state income tax purposes including, but not limited to, a general partnership, partnership in commendam, a registered limited liability partnership, or a limited liability company. Because of R.S. 47:287.11(A), the above listed business associations that do not elect to be taxed as corporations for federal income tax purposes are treated as partnerships for Louisiana income tax purposes.

B. Persons to be Included in a Composite Return

1. Partnerships engaging in activities in this state that have nonresident partners are required to file a composite partnership return unless:

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Annie L. Gunn, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Thursday, March 22, 2007. A public hearing will be held on Tuesday March 27, 2007, at 9 a.m. in the River Room on the Seventh Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Issuance and
Cancellation of Lien; Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed amendment to LAC 61:1.5302 will conform lien release language with the language in R.S. 47:1578(B)(3) and incorporate more restrictive language in the department's Offer in Compromise program. Implementation of this proposed amendment will have no significant estimated costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed amendment will have no significant effect on revenue collections of state or local governmental units.

With respect to the 10 percent required nonrefundable payment of the amount offered to compromise the judgment or assessment, if the offer is denied, the payment will be applied to the original tax liability and the remainder of tax due will be pursued through normal collection procedures.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed amendment will have no significant effect on costs for taxpayers seeking release from tax liens. Taxpayers seeking an Offer in Compromise will be restricted to one application during a ten year period and will be required to submit a nonrefundable payment of at least ten percent of the offered amount with the application.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed amendment will have no effect on competition or employment.

Cynthia Bridges
Secretary
0702#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

a. all nonresident partners are corporations, partnerships or tax exempt trusts; or

b. all nonresident partners, other than corporations, partnerships and tax exempt trusts, have a valid agreement on file with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. Unless otherwise provided herein, corporate partners and partners, who are themselves partnerships, cannot be included in composite returns filed by a partnership. These partners must file all applicable Louisiana tax returns, and must report all Louisiana source income, including income from the partnership in those returns.

3. Resident partners, other than corporations, partnerships and tax-exempt trusts, may be included in a composite return.

C. Composite Return Requirements

1. All nonresident partners, other than partners that are corporations, partnerships or tax-exempt trusts, who were partners at any time during the taxable year and who do not have a valid agreement on file with the Department of Revenue must be included in the composite partnership return.

2. The due date of the composite return is the due date set forth for all income tax returns other than corporate returns.

3. A schedule must be attached to the composite return that includes the following information for every nonresident partner in the partnership:

- a. the name of the partner;
- b. the address of the partner;
- c. the taxpayer identification number of the partner;
- d. the partner's distributive share; and
- e. whether or not that partner has an agreement on file with the Department of Revenue to file an individual return on his or her own behalf.

4. If a resident partner is included in the partnership's composite return, a schedule must be attached to the composite return that includes the following information for every resident partner included in the partnership composite return:

- a. the name of the partner;
- b. the address of the partner;
- c. the taxpayer identification number of the partner;
- d. the partner's distributive share.

5. The filing of a true, correct, and complete partnership composite return will relieve any nonresident partner properly included in the composite return from the duty to file an individual return, provided that the nonresident partner does not have any income from Louisiana sources other than that income reported in the composite return. Inclusion in a partnership composite return shall not relieve a resident partner of the obligation to file a Louisiana income tax return.

6. Filing requirement the first year the partnership is subject to the composite return rules and issuance of special identification number. Every partnership that engages in activities in this state and that has nonresident partners will make an initial filing with the department.

a. Each partnership that is required to file a composite return will file its first composite return and make

its first composite payment by the composite return due date. The partnership will be issued an identification number by the department upon its initial filing. This identification number shall be used on all partnership correspondence with the department, including subsequent composite returns filed by that partnership.

b. Each partnership that is not required to file a composite return because all its partners have filed agreements to file on their own behalf, must make an initial filing in which it files all agreements with the Department of Revenue by the composite return due date. The partnership will be issued an identification number by the department upon its initial filing. This identification number shall be used on all partnership correspondence with the department, including the filing of additional agreements.

D. Composite Payment Requirement

1. All partnerships engaging in activities in this state that have nonresident partners that are not corporations, partnerships or tax-exempt trusts shall make composite payments on behalf of all of their nonresident partners, other than corporate partners and partners, who are themselves partnerships, who do not file an agreement to file an individual return and pay Louisiana income tax.

2. The composite payment is due on the earlier of the date of filing of the composite return or the due date of the composite return, without regard to extensions of time to file. An extension of time to file the composite return does not extend the time to pay the composite payment.

3. Each partner's share of the composite payment is the maximum tax rate for individuals multiplied by the partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. The composite payment to be made by the partnership is the sum of each partner's share of the composite payment for all partners included in the composite return.

5. For a nonresident partner whose only Louisiana income is from the partnership, amounts paid by the partnership on that partner's behalf will be treated as a payment of that partner's Louisiana individual income tax liability.

6. If a partner has any Louisiana source income in addition to the income from the partnership, amounts paid by the partnership on that partner's behalf will be treated as an advance payment of the tax liability shown on that partner's individually filed return.

E. Nonresident Partner's Agreement to File an Individual Return

1. No composite return or composite payment is required from a partnership on behalf of a partner who has a valid agreement on file with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. The partner will execute the agreement and transmit the agreement to the partnership, on or before the last day of the month following the close of the partnership's taxable year.

3. The partnership will file the original agreement with the composite return filed for that taxable year. The partnership must keep a copy of the agreement on file.

4. The agreement must be in writing, in the form of an affidavit and must include all of the following:

- a. a statement that the taxpayer is a nonresident partner or member;
- b. the partner's name;
- c. the partner's address;
- d. the partner's Social Security number or taxpayer identification number;
- e. the name of the partnership;
- f. the address of the partnership;
- g. the partnership's federal taxpayer identification number;
- h. a statement that the taxpayer agrees to timely file a Louisiana individual income tax return and make payment of Louisiana individual income tax;
- i. a statement that the taxpayer understands that the Louisiana Department of Revenue is not bound by the agreement if the taxpayer fails to abide by the terms of the agreement;
- j. the statement that "under penalties of perjury, I declare that I have examined this affidavit and agreement and to the best of my knowledge, and belief, it is true correct and complete;" and
- k. the signature of the partner.

5. Once an agreement is signed by the partner, transmitted to the partnership, and the partnership has filed the agreement with the Department of Revenue, the agreement will continue in effect until the partner or the Department of Revenue revokes the agreement, or the partner is no longer a partner in the partnership.

6. The agreement may be revoked by either the partner or the Department of Revenue as follows.

a. The partner may revoke the agreement at will. However, this revocation does not become effective until the first partnership tax year following the partnership tax year in which the revocation is transmitted to the partnership. The partner must send written notice of the revocation to the partnership. The partnership will forward the notice to the Department of Revenue. The partner may execute a new agreement, in the manner set forth in this Subsection, at any time.

b. The Department of Revenue may revoke the agreement only if the partner fails to comply with the terms of the agreement. This revocation is prospective only with respect to the partnership, and does not become effective until the first partnership tax year following the partnership tax year in which the revocation is transmitted to the partnership. The Department of Revenue must send written notice of the revocation to the partner and the partnership. The notice will be mailed to the partnership at the address given in the last return or report filed by the partnership. The notice will be mailed to the partner at the address provided in the agreement. If the Department of Revenue revokes an agreement, the department may refuse to accept a subsequent agreement by that partner, unless the partner can show that the revocation was in error.

F. A partnership making a composite return and payment must furnish the following information to all partners included in the composite return:

1. the identification number that was issued to the partnership by the department under Subparagraph C.6.b above;

2. the amount of the payment made on the partner's behalf;

3. a statement that the amount paid on the partner's behalf can be used as an advance payment of that partner's Louisiana individual income tax liability for the same tax period;

4. the mailing address of the Louisiana Department of Revenue; and

5. the world wide web address of the Louisiana Department of Revenue, www.rev.state.la.us.

G. Additional Provisions for Publicly Traded Partnerships

1. A publicly traded partnership that is not treated as a corporation for federal income tax purposes may elect, with the prior approval of the secretary:

- a. not to accept agreements filed by partners under the provisions of Paragraph B.4 or Subsection E above; and
- b. to include all partners in its composite return and composite payment required by this Section, including corporations and tax-exempt trusts.

2. This election must be applied for in writing and approved in writing by the secretary. Once approval is granted, the election will remain in effect until revoked by the partnership.

3. The composite payment to be made by the publicly traded partnership is the sum of each partner's share of the composite payment for all partners. Each partner's share of the composite payment is the maximum individual income tax rate multiplied by the partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. Inclusion in a partnership composite return filed by a publicly traded partnership shall not relieve resident partners, corporate partners, or nonresident partners who have other Louisiana source income of the obligation to file all applicable Louisiana tax returns, and report all Louisiana source income, including income from the partnership.

H. Nothing in this regulation shall restrict the secretary's authority to otherwise provide for efficient administration of the composite return and composite payment requirements of R.S. 47:201.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:201.1 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:868 (April 2002), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 61:I.1401, regarding Partnerships Composite Return Requirement, Composite Payment Requirements and Exceptions, there are not any known or foreseeable impacts on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 5 p.m., Wednesday, March 28, 2007. A public hearing will be held on Thursday, March 29, 2007, at 10 a.m. in the Magnolia Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Partnerships Composite
Returns and Payments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of this proposed income tax regulation, relative to partnership composite return requirement, will have no impact on the agency's costs.
The implementation of this proposed regulation will have no impact upon any local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no impact on state or local revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Nonresident partners in a partnership, who are themselves partnerships, will no longer be included in the composite return of the partnership but will be required to file their own applicable returns. Administrative costs to affected groups should be minimal.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0702#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**General and Wildlife Management Area Hunting
(LAC 76:XIX.111)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the

filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours—one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey—please refer to separate pamphlet.

2. Raccoon and Opossum—no closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria—on WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only

with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows—the season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Falconry. Special permit required—resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry Rules.

6. Licensed Hunting Preserve—October 1 - April 30—pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

7. Deer Management Assistance Program (DMAP)—land enrolled in the voluntary program will be assessed a \$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with bow or muzzleloader). Antlerless deer harvested on property enrolled in DMAP does not count in the season bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

8. Landowner Assistance Deer Tag (LADT)

a. Eligibility for LADT is limited to the following landowners or lessees:

- i. license deer farmers;
- ii. landowners or lessees with less than 500 acres who have verified deer depredation problems;
- iii. landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program; and
- iv. landowners or lessees with 40 or more contiguous acres of forested or marsh land.

b. Each applicant will be assessed a \$25 administrative processing fee. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and

immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. Antlerless deer harvested on property enrolled in LADT does not count in the season bag limit for hunters. For more information, contact any Wildlife Division Regional Office.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae [except the Tribe Bovini (cattle)] or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons:

- i. farm-raised white-tailed deer—consult the regulations pamphlet;
- ii. exotics—year round.

c. Methods of Take:

- i. white-tailed deer—same as outside;
- ii. exotics—exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours:

- i. white-tailed deer—same as outside;
- ii. exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit:

- i. farm-raised white-tailed deer—same as outside;

ii. exotics—no limit.

f. Hunting Licenses:

- i. white-tailed deer—same as outside;

ii. exotics—no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging—white-tailed deer and exotics—each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat—no person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with a bow and arrow, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned and does not apply to state wildlife management areas and refuges, the Kisatchie National Forest, federally owned refuges and lands owned by the Corps of Engineers.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, EXCEPT any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older, EXCEPT during a statewide youth deer hunt.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a

muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals—landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds—holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited.

Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

12. Promotional Hunting Days

a. The following dates are established as promotional hunting days—the 1st three days after Thanksgiving Day.

b. Persons availing themselves of promotional hunting days shall be entitled to hunt resident game birds and game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs on designated days without the payment of fees and without obtaining any license other than the below referenced letter of permit. Persons wishing to avail themselves of promotional hunting days shall be subject to the following requirements and restrictions.

i. All applicants must be at least 16 years of age, and not currently under a suspension or revocation of hunting privileges.

ii. All applicants must submit, on a form and in a manner prescribed by the department, such personal information as may be required by the department including, but not limited to, name, address, date of birth, drivers' license number, and social security number.

iii. No person shall be entitled to apply for or receive more than one letter of permit for promotional hunting days in his or her lifetime.

iv. Any eligible person who applies for the promotional hunting days shall receive a letter of permit from the secretary.

v. Any person hunting under the promotional hunting days letter of permit must be accompanied by a validly licensed hunter.

vi. Any person hunting under the promotional hunting days letter of permit shall meet all other legal requirements for obtaining a hunting license, including but not limited to, successful completion of a hunter education course.

vii. Any person hunting under the promotional hunting days letter of permit must have in his possession while hunting, a valid hunter education card or certificate.

viii. Any person hunting under the promotional hunting days letter of permit may hunt during all legal hunting hours on the dates recited in the permit, but only during legal hunting hours.

ix. Any person hunting under a letter of permit shall be subject to all of the limitations, restrictions, conditions, laws, and rules and regulations applicable to the holder of a hunting license.

x. Any person hunting under the promotional hunting days letter of permit may hunt any species of resident game birds or game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs for which the season is open at the time of the above stated weekends, but only those species for which the season is open at the time of the above stated weekends.

xi. Any person hunting under the promotional hunting days letter of permit may use any gear or method of take which is legal on the above designated weekends.

xii. Any person hunting under the promotional hunting days letter of permit may hunt only resident game birds and game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs. All other species are excluded including, but not limited to, migratory game birds.

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours the hunter must validate the kill and record the validation number on the license. Hunters harvesting deer on DMAP and LADT lands can validate deer per instructions by LDWF using the DMAP and LADT harvest data sheets. Hunters on wildlife management areas can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except of National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (wildlife management areas, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in Thistlethwaite Wildlife Management Area where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection

must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Deer hunting restricted to legal bucks only, except where otherwise allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. To take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.)—still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms for Special Season—rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

12. Archery Segment—consult regulations pamphlet. WMA seasons are the same as outside except as noted

below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations—hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful and except disabled persons with a crossbow permit and individuals who are 60 years of age or older may use a bow drawn, held or released by mechanical means;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

13. Hunter Orange—any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Special handicapped either-sex deer season on private land—1st Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

15. Special Youth Deer Hunt on Private Lands (Either-Sex)—areas 1, 4, 5 and 6 - last Saturday of October for 2 days; Area 2 - 2nd Saturday of October for 2 days; and Areas 3, 7 and 8 - 4th Saturday of September for 2 days. Youths under the age of 16 only. Youths must possess a

hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula—East of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to La. Hwy. 8, south and east of La. Hwy. 8 southwesterly to parish line.

ii. East Carroll—beginning September 2008, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. Grant—East of U.S. 165 and south of La. 8.

iv. LaSalle—South of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to U.S. Highway 84, east of U.S. Highway 84 northward to La. Highway 8, south of La. Highway 8 eastward to parish line.

v. Livingston—North of I-12.

vi. Rapides—East of U.S. 165 and north of Red River.

vii. St. Tammany—all except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa—North of I-12.

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Carroll—beginning September 2008, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. East Feliciana and East Baton Rouge—East of Thompson Creek from the Mississippi state line to La. 10, north of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line, south of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River, west of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of

La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to La. 67.

iv. Franklin—all.

v. St. Helena—North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany—East of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

viii. West Feliciana—West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, EXCEPT still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—North of U.S. 190 from parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale westward to the parish line.

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—West of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to La. Highway 8, north and west of La. Highway 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. Grant—all except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis—North of U.S. 190.

vii. LaSalle—North of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to U.S. Highway 84, west of U.S. Highway 84 northward to La. Highway 8, north of La. Highway 8 eastward to parish line.

viii. Morehouse—West of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita Parish line at Wham Brake.

ix. Ouachita—all except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse Parish line at Wham Brake.

x. Rapides—all except north of Red River and east of U.S. 165, south of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—North of La. Highway 10 from the parish line westward to La. 113, south of La. 113 eastward to parish line. Also the portion north of La. 465 west of La. 117 from Kurthwood to Leesville and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita—East of Ouachita River.

iii. Rapides—West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. Vernon—East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—South of U.S. 190 and west of La. 113.

ii. Beauregard—West of La. 113 and east of La. 27 from the parish line northward to DeRidder and north of U.S. 190 westward from DeRidder to Texas state line.

iii. Calcasieu—South of U.S. 90 from Sulphur to Texas state line. Also east of La. 27 from Sulphur northward to the parish line.

iv. Iberia—West of U.S. 90 and north of La. 14.

v. Jefferson Davis—all EXCEPT north of U.S. 190.

vi. Lafayette—West of I-49 and U.S. 90.

vii. Rapides—South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. Landry—West of U.S. 167.

ix. Vernon—West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll—all of East Carroll Parish is open for the 2007-2008 season. Beginning with the 2008-2009 season, that portion of East Carroll Parish east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line will move to Area 1. The remainder of the parish will remain in Area 4.

ii. Morehouse—East of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

iii. Ouachita—South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49.

ii. Evangeline—that portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. Iberia—East of U.S. 90.

iv. Lafayette—East of I-49 and U.S. 90.

v. Livingston—South of I-12.

vi. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry—East of U.S. 167.

viii. St. Mary—North of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

ix. St. Tammany—that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa—South of I-12.

xi. West Feliciana—West of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. Plaquemines—East of the Mississippi River.

iii. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John—South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain, west of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

vii. New High Water Benchmark Closure—Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of Interstate 10, west of the East Guide Levee, east of the West Guide Levee, and north of U.S. Highway 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—South of La. 14 and west of U.S. Hwy. 90.

ii. St. Mary—all except that portion north of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale westward to parish line.

ii. Beauregard—that portion east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line.

iii. Calcasieu—that portion east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

iv. Vernon—that portion east of La. 113 from the parish line northward to Pitkin and south of La. 10 from Pitkin southward to the parish line.

G. Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. On days when daily permits are required, permit stations will open two hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP or LADT. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.), wild plants and non-game wildlife (including reptiles and amphibians) is prohibited without prior approval from the Baton Rouge Office. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons aged 18 through 59 to hunt on WMAs.

b. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

c. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: Check In, Check Out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The Check In portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The Check Out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. Each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate Region office for the location of the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

d. Persons using WMAs or other department administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts. Note: some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths younger than 16 years of age may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the second weekend of the mourning dove season (Saturday and Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Handicapped Season. An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact Region Offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations

pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers).

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill. Deer may not be skinned or have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the Department of Wildlife and Fisheries. LDWF not be responsible for unattended stands left on an area.

g. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

i. Tree climbing spurs, spikes or screw-in steps are prohibited.

j. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

k. Spot lighting (shining) from vehicles is prohibited on all WMAs.

l. Horses and mules may be ridden on Wildlife Management Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

m. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "Hunter Orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "Hunter Orange" cap during special dog seasons for rabbit and squirrel. Also all persons afield during hunting seasons are encouraged to display "Hunter Orange".

n. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "Hunter Orange" above or around their blinds which is visible from 360 feet.

o. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

p. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

q. Muzzleloader season for deer. Either-sex unless otherwise specified. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially

designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, ALL oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. No internal combustion engines allowed in certain Greentree reservoirs.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads until they are reopened for LMV traffic. WMA maps available at all region offices. This restriction does not apply to bicycles. Note: All ATV trails are marked with signs and/or paint, but not all ATV trails appear on WMA maps.

j. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the department.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 am, except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite WMA under the following conditions.

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

10. Commercial Activities.

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any Wildlife Management Area, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Commercial activities prohibited without prior approval from Baton Rouge office or unless otherwise specified.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same

as outside except closed during modern firearm either-sex deer seasons and except non-toxic shot must be used for snipe, rail and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. New spring squirrel season with or without dogs: 1st Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, Salvador/Timken and Wisner WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Unmarked hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hunters may harvest hogs during the month of March on Pass-a-Loutre WMA only by using shotguns with shot no larger than BB lead or F steel, or .22 caliber rimfire firearms. Hogs may not be taken with the aid of dogs, except unmarked hogs may be taken with the aid of dogs on Pearl River, Red River and Three Rivers WMAs (consult Pearl River, Red River and Three Rivers WMAs regulations) by permit from either the Baton Rouge or Ferriday Offices and all hogs must be killed immediately and may not be transported live under any conditions and hunters may use centerfire pistols in addition to using guns allowed for season in progress.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, incidental take of outlaw quadrupeds and birds is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1.

17. Wildlife Management Areas Hunting Schedule and Regulations

a. Acadiana Conservation Corridor;
b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas;

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited except as permitted for authorized WMA trappers;

d. Attakapas;

e. Bayou Macon. All night activities prohibited except as otherwise provided;

f. Bayou Pierre;

g. Bens Creek ;

h. Big Colewa Bayou. All nighttime activities prohibited;

i. Big Lake;

j. Biloxi;

k. Bodcau;

l. Boeuf;

m. Buckhorn;

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details;

o. Clear Creek (formerly Boise-Vernon);

p. Dewey W. Wills. Crawfish: 100 pounds per person per day;

q. Elbow Slough. Steel shot only for all hunting;

r. Elm Hall. No ATVs allowed;

s. Floy Ward McElroy;

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. New special regulations apply to ATV users;

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area;

v. Jackson-Bienville. Beginning September 1, 2004, ATVs are allowed only on non-public maintained gravel roads and marked ATV trails;

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk;

x. Lake Boeuf. Hunting allowed until 12 noon on all game except during Youth Lottery Hunt. All nighttime activities prohibited;

y. Lake Ramsay. Foot traffic only, all vehicles restricted to Parish Roads;

z. Little River;

aa. Loggy Bayou;

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed;

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail;

dd. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided;

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the Department Pass-a-Loutre WMA map. ATVs, ATCs

and motorcycles prohibited on this area. Oyster harvesting is prohibited;

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee;

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users;

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the Department. All other motorized vehicles, horses and mules are prohibited unless authorized by the Department;

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily;

jj. Red River. Recreational crawfishing allowed on Yakey Farms wetland restoration projects February 1 to the last day of February, 100 pounds per person per day, maximum of five wire traps per person. No traps or nets left overnight. No motorized watercraft allowed;

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and EXCEPT deer hunting restricted to archery only. All vehicles including ATVs prohibited;

ll. Sabine;

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east;

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes, "Baie Des Chactas" and "Baie du Cabanage," and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area;

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Riding allowed only on designated roads and trails. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas;

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to

the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area;

qq. Sicily Island Hills;

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry;

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac;

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed;

uu. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas;

vv. Three Rivers;

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public the day after turkey season closes to August 31;

xx. Union. All nighttime activities prohibited except as otherwise provided;

yy. West Bay;

zz. Wisner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:

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).

Public hearings will be held at the following dates and locations: March 12 beginning at 6 pm at the Civic Center, 620 Benton Road, Bossier City; March 5 beginning at 6 pm at the Ruston Civic Center, Ruston; March 14 beginning at 6 pm at the Alexandria City Hall, intersection of Third and Murray Streets; March 14 beginning at 7 pm at the Concordia Parish Community Center, Highway 15 south of Ferriday; March 6 beginning at 6:30 pm at the LSU Extension Service Office, 7101 Gulf Highway, Lake

Charles; March 5 beginning at 6 pm at the Houma Municipal Auditorium, 880 Verret Street, Houma; March 14 beginning at 6 pm at the Yambilee Building, Highway 190, Opelousas; March 6, 2007 beginning at 6:30 pm at the LDWF Headquarters Building, Louisiana Room, Baton Rouge; and March 13, 2007 beginning at 6:30 pm at the Jefferson Parish Council Chambers, 1221 Elmwood Park Boulevard, Jefferson. Also, comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed Rule until Thursday, May 3, 2007 to Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Earl P. King, Jr.

Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General and Wildlife Management Area Hunting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent rules and regulations for the state at large as well as Wildlife Management Areas. The establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local government units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are 9.0-10.0 million dollars annually. Additionally, hunting and related activities generate approximately \$31 million in state sales and income tax and \$24 million in local sales tax revenues annually (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 285,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$599 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 9,475 jobs (Southwick Associates, 2005). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Wynnette Kees
Deputy Undersecretary
0702#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Possession of Exotics (LAC 76:V.115)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the regulations to control importation and private possession of big exotic cats in Louisiana.

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 final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§115. Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

A. This commission finds that possession of certain potentially dangerous quadrupeds, big exotic cats, 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 wild quadrupeds, big exotic cats, 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, and otherwise regulates certain wild quadrupeds, big exotic cats, and non-human primates as provided herein.

C.1. Except as provided herein, it shall be unlawful to import into, possess, purchase or sell within the state of Louisiana, by any means whatsoever including but not limited to transactions conducted via the internet, any of the following species or its subspecies of live wild quadrupeds, big exotic cats, or non-human primates, domesticated or otherwise (hereinafter "listed animals"):

- a. black bear (*Ursus americanus*);
- b. grizzly bear (*Ursus arctos*);
- c. polar bear (*Ursus maritimus*);
- d. red wolf (*Canis rufus*);
- e. gray wolf (*Canis lupus*);
- f. wolf dog hybrid (*Canis lupus* or *Canis rufus* x *Canis familiaris*);
- g. all non-human primates;
- h. the following big exotic cats:
 - i. tigers;
 - ii. lions;
 - iii. leopards (including, but not limited to snow leopard and clouded leopard);
 - iv. jaguars;
 - v. cheetahs;
 - vi. cougars or mountain lions (*Felis concolor*);
 - vii. all subspecies of the above listed exotic cats;
 - viii. hybrids resulting from cross breeding of the above listed exotic cats.

2. Holders of a Potentially Dangerous Wild Quadruped Permit allowing possession of any listed animal, where the permit is valid on the effective date of this regulation, will be "grandfathered" and the permit will be renewed annually until existing permitted captive animals expire, or are legally transferred out of state, or are transferred to a suitable facility. No additional listed animals may be acquired by any means whatsoever, including breeding.

D.1. Wolf-Dog Hybrids. 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.

E. Exempted Entities. The following organizations and entities shall be exempt from this regulation, including permitting:

1. zoos accredited or certified by the American Zoo and Aquarium Association (AZA);

2. 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, the Tulane National Primate Research Center, and Chimp Haven, Inc., located in Shreveport, LA; and

3. any person transporting any listed animal through the state if the transit time is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent escape and contact with the public. Exhibiting the listed animal, in any manner, is prohibited;

4. circuses, limited to those temporarily in this state, offering varied performances by live animals, clowns, and acrobats for public entertainment, and which are incorporated Class C licensees under Chapter I of Title 9 of the Code of Federal Regulations. Notwithstanding the above, circuses do not include entertainment that includes any listed animal in any type of wrestling, photography opportunity with a patron, or an activity in which any listed animal and a patron are in close contact with each other;

5. Louisiana colleges or universities, for possession of a big exotic cat of the species traditionally kept by that

college or university as a school mascot, after proper documentation to the department that the college or university has consistently over the years possessed a big exotic cat as its mascot.

F. Permitted Entities. The following organizations and entities may be exempted from this regulation after applying for and receiving a permit from the department to possess any listed animal under the following conditions:

1. other zoos and educational institutions not covered under Paragraphs E.1-2 above. The secretary shall determine whether to issue a permit and any conditions for the permit on a case by case basis;

2. animal sanctuaries accredited or certified by the American Zoo and Aquarium Association (AZA). Permitted sanctuaries are prohibited from exhibiting, breeding, or selling any listed animal. Listed animals must be surgically sterilized or separately housed to prevent breeding. Listed animals must be housed in such a manner as to prevent public contact and in compliance with the enclosure rules provided herein in Subsection I. Permitted animal sanctuaries are prohibited from transporting these animals to any public building or place where they may come into contact with the public including, but not limited to schools, hospitals, malls, private residences, or other commercial or retail establishments.

G. Non-Human Primates

1. As provided below, the following individuals may be exempted from this regulation after applying for and receiving a permit from the department to possess a non-human primate. The permit will be for one year and must be renewed annually under the following conditions:

a. a physically challenged individual who has exclusive possession of no more than one monkey that is working to aid and assist said individual with his/her disability and where the monkey has been obtained through and trained by a licensed and accredited non-profit organization dedicated to improving the quality of lives for physically challenged;

b. an individual who legally possesses one or more non-human primates immediately prior to the effective date of this regulation and who can prove legal ownership is authorized to keep those non-human primates but is prohibited from acquiring any additional non-human primates by any means whatsoever, including breeding;

c. the individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall include:

i. the name, address, telephone number, and date of birth of applicant;

ii. a description of each non-human primate applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

iii. a photograph of each non-human primate and its permanent enclosure;

iv. the physical location where the non-human primate is to be kept;

v. proof of legal ownership. (Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department demonstrating ownership);

vi. the microchip or tattoo number of each non-human primate;

vii. a health certificate signed by a licensed veterinarian within one year prior to the date of the application stating 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 have been performed as deemed necessary by the veterinarian.

2. Permit holders must house their non-human primates in such a manner as to prevent public contact and are prohibited from transporting their non-human primate to any public building or place where the public may come into contact with the non-human primate, including, but not limited to schools, hospitals or malls.

3. Permit holders must have their non-human primates 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 examination and all appropriate tests and preventative measures have been performed as deemed necessary by the veterinarian.

4. Permit holders are required to report any escapes to the department within 24 hours of discovery of the escape.

5. Permit holders are required to submit any changes to the permit information provided in the permit application within 30 days of the date those changes take effect or the permit will be considered invalid.

H. Big Exotic Cats. An individual who legally possesses one or more exotic cats listed in Subparagraph C.1.h. above on August 15, 2006 (the effective date of Act 715 of the Regular Session of 2006) and who can prove legal ownership is authorized to keep those exotic cats under the following conditions.

1. Only those exotic cats legally possessed on August 15, 2006 will be permitted. Additional exotic cats cannot be acquired by any means whatsoever, including breeding.

2. The individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall be on a form provided by the department and require:

a. the name, address, telephone number, driver's license number, and date of birth of applicant;

b. a description of each exotic cat applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

c. one or more photographs of each exotic cat and its permanent enclosure;

d. the physical location where each exotic cat is to be kept;

e. proof of legal ownership of the exotic cat on August 15, 2006. Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department, demonstrating ownership;

f. the microchip number of each exotic cat;

g. a health certificate signed by a licensed veterinarian within one year prior to the date of the application. The certificate shall include the name, address, and license number of the examining veterinarian;

h. a written plan for the quick and safe recapture or destruction of an escaped exotic cat listed in the permit. This plan must also be filed with the local sheriff's department, and police department if applicable;

i. statement that permittee has legal authority to possess weapons and/or other equipment necessary to carry out the plan provided in Subparagraph H.2.h;

j. signed agreement, on a form provided by the department, indemnifying and holding harmless the state, department, and other applicable public agencies and employees, including agents, contractors, and the general public from any claims for damages resulting from the permitted exotic cat(s);

k. signed agreement that the permittee will be responsible for any and all costs associated with the escape, capture, and disposition of a permitted exotic cat;

l. proof of liability insurance from an A-rated or higher insurance company in the amount of \$100,000 for each exotic cat, up to a maximum of \$1,000,000, valid and effective continuously for the entire permit term. The policy shall specifically include a provision requiring notice from the carrier to the secretary of the department a minimum of thirty days prior to cancellation of the policy.

3. Permitted exotic cats must be prevented from breeding by separate housing or sterilization. Sterilization records must be kept on the premises and available for inspection by the department.

4. Permittee or designee must live on the premises. Designee must have the ability to carry out all requirements of the permittee.

5. Department personnel shall be allowed access to inspect the permitted exotic cat(s), facilities, equipment, and records for the purpose of ensuring compliance with these regulations.

6. A weapon capable of destroying the animal(s), and a long range delivery method for chemical immobilization shall be kept on the premises at all times. Additionally, the applicant shall provide a signed statement from a licensed veterinarian identifying a designated veterinarian who will be on-call and available at all times to deliver chemical immobilization in the event of an escape.

7. Clearly legible signs, approved by the department, shall be posted and displayed at each possible entrance onto the premises where the permitted exotic cat is located. The signs shall clearly state "Danger, Wild Animal On Premises" with letters of a size and font easily readable from 30 feet away.

8. Each permitted exotic cat must be implanted with a microchip by or under the supervision of a licensed veterinarian.

9. Each permitted exotic cat must remain in its enclosure on the property listed in the permit at all times and cannot be removed from the enclosure for any reason. However, the exotic cat may be removed for proper medical care for medical emergencies or medical procedures, but only under the direction of a licensed veterinarian.

10. Permittee must notify the department, the local sheriff's department, and police department if applicable, immediately upon discovery that the permitted exotic cat is no longer in its enclosure.

11. Permittee must notify the department prior to any disposition of a permitted exotic cat, including transportation out-of-state. The department reserves the right to supervise and accompany any such disposition.

12. Permitted exotic cats must be kept in a sanitary and safe condition and may not be kept in a manner that results

in the maltreatment or neglect of the exotic cat. This includes, but is not limited to:

a. drinking water must be provided in clean containers, pools must be cleaned as needed to ensure good water quality, enclosures must have adequate surface water drainage, and hard floor surfaces must be regularly scrubbed and disinfected;

b. food must be unspoiled and not contaminated, and be of a type and quantity sufficient to meet the nutritional requirements of the permitted exotic cat;

c. fecal and food waste must be removed from enclosures daily and disposed of in a manner that prevents noxious odors and insect and other pests;

d. sufficient shaded areas must be available for each exotic cat that is maintained in an enclosure, regardless of group rank or status.

13. In addition to complying with this regulation, permittee must comply with any and all applicable federal, other state, or local law, rule, regulation, ordinance, permit, or other permission. Failure to comply with any such law, rule, regulation, ordinance, permit, or other permission constitutes a violation of this regulation.

I. Enclosure Requirements—minimum pen/enclosure requirements 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 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. Big Exotic Cats:

a. enclosures shall be constructed and covered at the top with nine gauge steel chain link or equivalent, with tension bars and metal clamps;

b. enclosures must be well braced and securely fastened to the floor or ground and shall utilize metal clamps or braces of equivalent strength as that proscribed for cage construction;

c. enclosures shall be secured by at least two sets of doors, so that the first door must be closed before the second door is opened. The inside door to the animal enclosure must open in. These doors must remain locked at all times when unattended. The doors must be designed so that the frame,

hasps and locks are of sufficient strength to restrain the exotic cat;

d. a perimeter fence of at least 8 feet in height (secondary barrier) and located a minimum of 5 feet from the enclosure sufficient to prevent unauthorized entry or direct physical contact with the exotic cat;

e. the mesh size and/or distance between bars for all enclosures and fences shall be sufficiently small to prevent escape and/or direct physical contact with the exotic cat;

f. enclosures shall include a den area or other connected housing unit in which the exotic cat may be secured for the safe servicing and cleaning of the remaining enclosure. This area shall be constructed with steel, reinforced cinder block, or concrete sufficient to withstand damage from high winds, hard rains, hail, and other natural phenomenon.

J. Penalty for Violation. Unless another penalty is provided by law, violation of these regulations will be a Class Two violation as defined in Title 56 of the Louisiana Revised Statutes. In addition, upon conviction for violation of these regulations, any license/permit may be revoked and the quadrupeds or other animals seized in connection with the violation will be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(31), 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 32:647 (April 2006), LR 33:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Philip Bowman, Fur and Refuge Division, Box 98000, Baton Rouge, LA 70898, prior to Thursday, April 5, 2007.

Earl P. King, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Possession of Exotics

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 establishes regulations to control the importation and private possession of exotic cats in Louisiana.

The rule will affect those non-exempted organizations and entities that already possess or want to acquire exotic cats. Non-exempted organizations and entities will be required to obtain an annual permit of possession from the Department of Wildlife and Fisheries. Permitted entities that are authorized to keep exotic cats will be required to comply with the conditions set in this rule as well as other federal, state and local laws, rules, regulations, ordinances and other permission requirements. The Department of Wildlife and Fisheries will issue exotic cat permits at no charge.

An increase in paperwork due to the annual permitting requirement will be incurred by the owner. Increased costs associated with complying with rule requirements are also anticipated. These increased costs will vary from entity to entity and will depend on the changes that must be carried out to meet safety, health and housing requirements outlined in the rule. In addition, the rule will prohibit anyone from acquiring big exotic cats after the effective date of Act 715 of the Regular Session of 2006, except where specified. It will also prohibit anyone from engaging in commerce activities of exotic cats in Louisiana by any means.

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.

Wynnette Kees
Deputy Undersecretary
0702#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying the recreational take and possession limit for red grouper, establishing a closed season for recreational harvest of gag, black and red grouper, prohibiting captain and crew from for-hire vessels from retaining bag limits of any grouper species while under charter, modifying rules for commercial harvest of red snapper and establishing a permanent trip limit for commercial harvest of groupers, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

1. - 3. ...

4. Red hind, rock hind, speckled hind, black red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 1 red grouper per person included in the bag limit
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A.5. - B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

D. Red Snapper

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter trade or exchange red snapper unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and a federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

2. Requirement for IFQ Vessel Endorsement and Allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a federal Gulf red snapper IFQ vessel endorsement must have been issued to the vessel and be on board. No person shall commercially harvest or land red snapper without holding or being assigned federal IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which federal commercial license, permit and appropriate allocation were issued.

4. Requirement for IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper from a commercial fishing vessel he must have a federal Gulf red snapper IFQ dealer endorsement. For a person aboard a vessel with a federal Gulf red snapper IFQ vessel endorsement to sell to anyone other than a permitted dealer, such person must also have a federal Gulf red snapper IFQ dealer endorsement.

5. Requirement for Transaction Approval Code: The owner or operator of a vessel landing red snapper is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least three hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will

preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and Transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6 p.m. until 6 a.m., local time. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to NOAA Fisheries. At-sea or dockside transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper from a vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by National Oceanographic and Atmospheric Administration (NOAA) Fisheries and operating under the requirements mandated by NOAA Fisheries.

E. - E.13. ...

F. Definitions: Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

1. *Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

2. *Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. greater amberjack	March 1 through May 31
b. gag, black and red grouper	February 15 through March 14
c. vermilion snapper	April 22 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. gag, black and red grouper	February 15 through March 14

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

H. Commercial Grouper Trip Limits

1. Those persons possessing a federal commercial vessel permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a commercial trip limit of 6,000 pounds gutted weight of deep-water and shallow-water grouper per vessel combined, during the open seasons for each of those species groups.

2. When the commercial season for each species or species groups is closed, the commercial trip limit for that species or species group is zero. Effective with any commercial trip or possession limit under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the affected species or species group, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

I. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper on purchases and sales on records.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:

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.

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries and Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to April 5, 2007.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reef Fish**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule amendment will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is intended to allow the Louisiana Department of Wildlife and Fisheries to work in cooperation with federal and interstate entities for more effective management of natural resources off the coast of Louisiana and assist with enforcement efforts. Making state regulations consistent with federal regulations for red snapper and grouper is anticipated to have only a minimal economic impact on directly affected persons or non-governmental groups, since these species are more often found and harvested in federal waters. Long run benefits would be derived by ensuring healthy fish stocks and a continuing supply of grouper and red snapper to harvest in the future. Changes in regulations on commercial snapper harvest will provide for consistent regulation of commercial harvest of this species in state and federal waters.

No additional permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition or employment in the private sector are anticipated to be minimal, since the proposed regulations are already in place in federal waters where most of these species are harvested. No effects on competition and employment in the public or private sector are anticipated.

Wynnette Kees
Deputy Undersecretary
0702#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Resident Hunting Season Dates (LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and Wma Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:

§103. Resident Game Birds and Animals

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: Third Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: First Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: First Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer and 3 antlerless deer)

*NOTE: Spring squirrel season is CLOSED on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be OPEN, check WMA season schedule.

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Nov. CLOSES: Fri. after Second Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the Third Sat. of Nov. CLOSES: Fri. before Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the First Sat. of Dec. OPENS: Mon. after First Sat. of Jan. CLOSES: Next to last Sun. of Jan.	OPENS: Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the First Sat. of Dec. CLOSES: Sun. after First Sat. of Jan.
2	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after Second Sat. of Jan. CLOSES: Sun. after Third Sat. of Jan.	OPENS: Last Sat. of Oct. CLOSES: Fri. before Second Sat. of Dec.	OPENS: Second Sat. of Dec. CLOSES: Sun. after Second Sat. of Jan.
3	OPENS: Third Sat. of Sept. CLOSES: Jan. 15	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before First Sat. of Dec.	OPENS: Third Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: First Sat. of Dec. CLOSES: After 37 days	
4	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: First Sat. of Nov. CLOSES: Fri. before Second Sat. of Nov. OPENS: Mon. after First Sat. of Jan. CLOSES: Mon. after Second Sat. of Jan.	OPENS: Second Sat. of Nov. CLOSES: Sun. after First Sat. of Jan.	

Area	Archery	Muzzleloader (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
5	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Nov. CLOSES: Fri. before Third Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after Second Sat. of Dec.	
6	OPENS: First day of Oct. CLOSES: Feb. 15 (First 15 days are BUCKS ONLY)	OPENS: Second Sat. of Nov. CLOSES: Fri. before Third Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the Third Sat. of Nov. CLOSES: Fri. before Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. And then it will close on the Fri. before the First Sat. of Dec.	OPENS: Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the First Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: First Sat. of Nov. CLOSES: Fri. before Second Sat. of Nov.	OPENS: Third Sat. of Oct. CLOSES: Fri. before First Sat. of Nov. OPENS: Second Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: Third Sat. of Sept. CLOSES: Jan. 15	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before First Sat. of Dec.	OPENS: Third Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: First Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
East Carroll	Area 4 portion 2007-2008	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 1 New for 2008-2009	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 4 portion	Nov. 10-11, 23-25, 2007 and Nov. 8-9, 28-30, 2008, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
West Carroll	Area 5	Nov. 23-25, 2007 and Nov. 28-30, 2008

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex
October 1-January 31 (Either Sex)	November 1- January 31	November 1-7 December 1-7 January 1-7

F. Exotics on Supplemented Shooting Preserves: Either sex, no closed season.

G. Promotional Hunting Days

1. The following dates are established as promotional hunting days: the first three days after Thanksgiving Day.

H. Spring Squirrel Hunting

1. Season Dates: Opens first Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens first Saturday of May for 9 days on Bodcau, Boeuf, Clear Creek, Little River, Maurepas Swamp (East Tract), Russell Sage, and Sherburne WMAs only. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is three and possession limit is six.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:

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).

Public hearings will be held at the following dates and locations: March 12 beginning at 6 p.m. at the Civic Center, 620 Benton Road, Bossier City; March 5 beginning at 6 p.m. at the Ruston Civic Center, Ruston; March 14 beginning at 6 p.m. at the Alexandria City Hall, intersection of Third and Murray Streets; March 14 beginning at 7 p.m. at the Concordia Parish Community Center, Highway 15 south of Ferriday; March 6 beginning at 6:30 p.m. at the LSU Extension Service Office, 7101 Gulf Highway, Lake Charles; March 5 beginning at 6 p.m. at the Houma Municipal Auditorium, 880 Verret Street, Houma; March 14 beginning at 6 p.m. at the Yambilee Building, Highway 190, Opelousas; March 6, 2007 beginning at 6:30 p.m. at the LDWF Headquarters Building, Louisiana Room, Baton Rouge; and March 13, 2007 beginning at 6:30 p.m. at the Jefferson Parish Council Chambers, 1221 Elmwood Park Boulevard, Jefferson. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission meetings from March through May. Interested persons may submit written comments relative to the proposed Rule until Thursday, May 3, 2007 to Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

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.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Resident Hunting Season Dates

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of proposed rule will be carried out using existing staff and funding levels. Local governmental units will not be impacted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are 9.0-10.0 million dollars annually. Additionally, hunting and related activities generate approximately \$31 million in state sales and income tax and \$24 million in local sales tax revenues annually (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting season being established and a potential loss of some of these revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 285,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$599 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting season being established and a potential loss of commerce associated with these activities.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 9,475 jobs (Southwick Associates, 2005). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Wynnette Kees
Deputy Undersecretary
0702#077

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House Committee on Commerce

Emergency Rule—State Uniform Construction Code
(LAC 55:Part VI.Chapters 1 through 11)

On December 27, 2006, the House Commerce Committee received the Emergency Rule proposed by the Louisiana State Uniform Construction Code Council (hereinafter referred to as the "code council"). The proposed emergency rules created LAC 55, Part VI, Chapters 1 through 11. According to guidelines established in the Administrative Procedure Act for committee oversight of rules, the emergency rules proposed by the code council were properly before the House Commerce Committee for oversight on January 18, 2007.

At the hearing, with a quorum established, the House Commerce Committee unanimously voted to reject LAC 55, Part VI, Chapter 9, §905 (entitled "Third Party Providers"), and to sever §905 from the remainder of the approved rules. Before rejecting §905, the committee discussed the advisability and relative merit of allowing third party providers, with no code enforcement experience or education, to receive a provisional certificate of registration for twelve months. Members expressed concern that the proposed Rule would sacrifice quality for quantity with respect to available third party providers. Representatives from the code council stated that §905 was a late edition to their proposed rules and had been controversial amongst code council members. The general consensus of members of the House Commerce Committee was that qualifying criteria should be established by the code council before granting provisional certificates of registration to third party providers.

As provided for in R.S. 49:968(F)(2), this report will be delivered to the governor, the Louisiana State Uniform Construction Code Council, and the *Louisiana Register*.

Gil Pinac
Chairman

0702#049

COMMITTEE REPORT

House Committee on Commerce

Proposed Rule—State Uniform Construction Code
(LAC 55:Part VI.Chapters 1 through 11)

On December 21, 2006, the House Commerce Committee received the required agency report from the Louisiana State Uniform Construction Code Council (hereinafter referred to as the "code council"), with respect to the regular rules proposed by the code council. The proposed Rule created LAC 55, Part VI, Chapters 1 through 11. According to guidelines established in the Administrative Procedure Act for committee oversight of rules, the rules proposed by the code council were properly before the House Commerce Committee for oversight on January 18, 2007.

At the hearing, with a quorum established, the House Commerce Committee unanimously voted to reject LAC 55, Part VI, Chapter 9, §905 (entitled "Third Party Providers"), and to sever §905 from the remainder of the approved rules. Before rejecting §905, the committee discussed the advisability and relative merit of allowing third party providers, with no code enforcement experience or education, to receive a provisional certificate of registration for twelve months. Members expressed concern that the proposed rule would sacrifice quality for quantity with respect to available third party providers. Representatives from the code council stated that §905 was a late edition to their proposed rules and had been controversial amongst code council members. The general consensus of members of the House Commerce Committee was that qualifying criteria should be established by the code council before granting provisional certificates of registration to third party providers.

As provided for in R.S. 49:968(F)(2), this report will be delivered to the governor, the Louisiana State Uniform Construction Code Council, and the *Louisiana Register*.

Gil Pinac
Chairman

0702#048

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 11-12, 2007, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 16, 2007
Re-Take Candidates:	March 9, 2007
Reciprocity Candidates:	April 27, 2007

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 16, 2007. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0702#025

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given April 30-May 4, 2007, at 9:30 a.m. in the Nelson Memorial Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 16, 2007. No applications will be accepted after March 16, 2007.3

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 26, 2007. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0702#037

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Annual Toxic Emissions Data Inventory Submittals (LAC 33:III.5107)

Under the authority of the Environmental Quality Act, R.S. 30:2060 et seq., and in accordance with LAC 33:III.5107, the secretary gives notice that the directions for submittals of Annual Toxic Emissions Data Inventory (TEDI) for calendar year 2006 are as described below.

The Louisiana Department of Environmental Quality has initiated a project to update and enhance the existing emissions inventory reporting system. The new reporting system will consolidate the reporting for emissions inventory and TEDI; however, the new reporting system will not be ready until April 2007. Therefore, the department is requiring that all facilities subject to the reporting requirements of LAC 33:III.5107 submit their annual toxic emissions data inventory (TEDI) to the department utilizing the new system. The traditional 53-column ASCII format data files will no longer be used or accepted by the department. This change in the reporting format of annual TEDI begins with submittals for calendar year 2006 data.

Training seminars will be held in April 2007 to train reporters in the new reporting system and to review reporting requirements for both LAC 33:III.5107 and LAC 33:III.919.

For more information regarding this notice, you may contact Jennifer Mouton at (225) 219-3427 or Michael Vince at (225) 219-3485. You may also visit DEQ's website at www.deq.louisiana.gov/portal/tabid/2626/Default.aspx to get more information about the training seminar schedule, including course locations and the registration process.

Herman Robinson, CPM
Executive Counsel

0702#043

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Trading Programs SIP Revision

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Quality

Assessment Division, is proposing a revision to the Louisiana air quality State Implementation Plan (SIP). The proposed revision of the SIP is necessary to comply with the Clean Air Interstate Rule (CAIR) as promulgated by the U.S. Environmental Protection Agency (EPA) on May 12, 2005. CAIR establishes a budget cap for each state for sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions from electrical generating units (EGUs) and allows for emissions trading. Following the promulgation of CAIR, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006. The FIP became effective on June 27, 2006. The FIP gives limited flexibility in implementation of certain federal rule provisions related to CAIR and provides states with an option to submit an abbreviated SIP. Louisiana has opted to submit an abbreviated SIP for the Annual and Ozone Season allowance allocations method (proposed rule AQ261) and will remain under the provisions of the FIP for the Annual and Ozone Season NO_x Trading Programs.

On January 20, 2007, the department proposed a rule for the CAIR NO_x Trading Programs (AQ261). This rule defines the state's method under the CAIR Annual and Ozone Season NO_x Trading Programs for allocating NO_x allowances to EGUs subject to CAIR. CAIR allows states some flexibility in implementation of rule provisions related to methods for allocating NO_x allowances. The state provisions in the proposed rule AQ261 would be used in lieu of 40 CFR 96, Subpart EE—CAIR NO_x Allowance Allocations (§96.141 and §96.142) and Subpart EEEE—CAIR NO_x Ozone Season Allowance Allocations (§96.341 and §96.342). Upon final promulgation, AQ261 will be submitted to EPA as a revision to the Louisiana SIP. The submittal of an approvable abbreviated SIP revision for the CAIR Annual and Ozone Season NO_x Trading Programs satisfies Louisiana's obligations under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA).

The public hearing for the revision to the SIP will be held on February 27, 2007, 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 SIP revisions. Should individuals with a disability need an accommodation in order to participate, contact Vivian H. Aucoin, at (225) 219-3575 at the address given below. Parking in the Galvez Garage is free with a validated parking ticket.

Interested persons are invited to submit written comments concerning the proposed CAIR abbreviated SIP revision no later than 4:30 p.m., March 30, 2007. Comments should be sent to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to vivian.aucoin@la.gov. The proposed SIP revisions are available on the Internet at <http://www.deq.louisiana.gov/portal/tabid/2381/Default.aspx> under Louisiana SIP Revisions.

A copy of the proposed SIP revision may be viewed at the following DEQ office locations from 8 a.m. to 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 7101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0702#042

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Public Hearing—Draft Comprehensive Master Plan

Pursuant to R.S. 49:213.6, the Coastal Protection and Restoration Authority of Louisiana (CPRA), will hold the following public hearings to receive comments and recommendations from the public and elected officials on Louisiana's Draft Comprehensive Master Plan for a Sustainable Coast: Integrated Ecosystem Restoration and Hurricane Protection:

February 26, 2007 at 5:30pm
Houma/Terrebonne Civic Center
346 Civic Center Blvd
Houma, LA 70360

February 27, 2007 at 5:30pm
L'Auberge Dulac Hotel & Casino
777 Avenue L'Auberge
Lake Charles, LA 70148

February 28, 2007 at 5:30pm
Lindy C. Boggs International Conference Center
2045 Lakeshore Drive
New Orleans, LA 70122

March 1, 2007 at 6:30pm
Abbeville Branch Library
405 E. St. Victor Street
Abbeville, LA 70510

Contact for all meetings: Michele Deshotels (225) 342-5175

For more detailed information and a copy of the Draft Master Plan, please visit www.louisianacoastalplanning.org.

Sidney Coffee
Chairman

0702#044

POTPOURRI

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Board Meeting Dates

The members of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology will meet at 9:00 a.m. on the following dates in 2007:

Friday, February 16, 2007
 Friday, April 20, 2007
 Thursday, June 7, 2007, in Lafayette, LA
 Friday, August 3, 2007
 Friday, October 19, 2007
 Friday, December 7, 2007, in New Orleans, LA

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

These dates are subject to change, so please contact the board office via telephone at (225) 756-3480 or email at audslp@lbespa.org to verify actual meeting dates and location of out-of-town meetings. All other meetings will be held at the board's office located at 18550 Highland Road, Suite B, Baton Rouge, LA 70809.

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 15 claims in the amount of \$61,469.14 were received for payment during the period November 1, 2006-January 31, 2007.

There were 14 claims paid and 1 claim denied.

Loran Coordinates of reported underwater obstructions are:

2941	6931	Plaquemines
2941	9011	Jefferson
27707	46891	St. Mary
28101	46853	Terrebonne
28558	46860	Jefferson
292433	895752	Jefferson

Richard N. Burt, J. D.
 Administrator

0702#013

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.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2905.744	9052.091	Terrebonne
2909.136	9005.135	Jefferson
2914.020	8935.140	Plaquemines
2917.930	8953.455	Jefferson
2919.100	9100.527	Terrebonne
2921.285	8948.436	Jefferson
2924.541	8959.406	Jefferson
2929.281	8927.490	Plaquemines
2937.012	9004.516	Jefferson

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
 Secretary

0702#053

POTPOURRI

Department of Public Safety and Corrections
Corrections Services

Judicial Agency Referral Residential Facilities
(LAC 22: I. Chapter 13)

In accordance with the provisions of R.S. 49: 968 H (2) of the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Chapter 13, Judicial Agency Referral Residential Facilities. The

Operator	Field	District	Well Name	Well Number	Serial Number
Primos Oil & Gas Corp.	Monroe	M	Lieber Estate	B1	100233
O'Brien Operating Company	East Haynesville	S	Vua; Loving etal	4	227221
O'Brien Operating Company	East Haynesville	S	Vua; Loving etal	5	227690
A C Glassell	Wildcat	M	Pittsfield Plantation	1	13695
A. J. Bankhead	Denham Springs	L	E M Juban	1	45428 (28)
Palmer Corp. of La.	Richland	M	Clement	1	14584
Robin F. Scully	Wildcat	L	Lillian E Jones etal	2	129389

James H. Welsh
 Commissioner

0702#038

mentioned regulation was published in the January 2007 edition of the *Louisiana Register* on pages 166-172. The purpose of the amendment is to make technical changes, in particular, delete text that should not have been included. However, one sentence was indeed added to the text.

The draft revisions include:

- In §1313 K, add the language "without the express consent of the District Attorney and/or the court" at the end of the sentence as shown below:
 - K. No resident should be employed in a position which would necessitate his/her departure from the state of Louisiana without the express consent of the District Attorney and/or the court.
- Delete §1311 I.
- Delete §1321 E.
- Delete §1321 F.1
- Delete §1321 G -G.2

Furthermore, pursuant to the laws of the state of Louisiana and in particular, the Administrative Procedure Act, the Department of Public Safety and Corrections hereby gives notice that the secretary of the department, or his designated representative, will conduct a hearing at 9 a.m., Friday, March 23, 2007, in Conference Room A at the Department of Corrections Headquarters at 504 Mayflower Street, Baton Rouge, LA. Interested parties may attend and submit oral comments on the regulation. At such hearing, the secretary, or his designated representative, will hear testimony relative to the proposed revisions/regulation.

All interested parties may also submit written comments concerning the proposed revisions no later than 4:30 p.m on March 5, 2007 to Melinda L. Long, Attorney for the Secretary, Department of Public Safety and Corrections, c/o Dixon Correctional Institute, P.O. Box 788, Jackson, LA 70748.

A copy of the proposed revisions/regulation may be viewed from 9 a.m. to 5 a.m. at Dixon Correctional Institute, 5568 Highway 68, Jackson, LA. Please call (225) 634-1200 and ask for Melinda Long.

Richard L. Stalder
Secretary

0702#080

POTPOURRI

Department of Social Services Office of Community Services

2007 Louisiana Emergency Shelter Grants Program—Anticipated Funds Availability

The Louisiana Department of Social Services (DSS) anticipates the availability of \$1,511,290 in grant funds for distribution to applicant units of local government under the 2007 State Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended.

Funding available under the ESGP is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of

certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the state ESGP shall be issued by mail to the chief elected official of each qualifying unit of general local government. The application package can be viewed on the Internet at the following website: <http://www.dss.state.la.us/departments/dss/rfps.html>. In order to be considered for funding, applications must be received by DSS/Office of Community Services by 4:00 p.m., Thursday, April 5, 2007.

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

To be eligible for funding, a project/organization must be a participant in a Homeless Management Information System. Note that PL 109-162 protects from disclosure, any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs involving victims of domestic violence, dating violence, sexual assault, or stalking, and their families.

The DSS will continue use of a geographic allocation formula in the distribution of the state's ESGP funding to ensure that each region of the state is allotted a specified minimum of state ESGP assistance for eligible ESGP projects. Regional allocations for the state's 2007 ESGP have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region.

Region	Factor	Allocation
Region I New Orleans	.1537939	\$232,427
Region II Baton Rouge	.1210838	\$182,993
Region III Thibodaux	.0659078	\$ 99,606
Region IV Lafayette	.1537187	\$232,314
Region V Lake Charles	.0522069	\$ 78,900
Region VI Alexandria	.0714394	\$107,966
Region VII Shreveport	.1235570	\$186,731
Region VIII Monroe	.0950414	\$143,635
Region IX Northshore	.0751581	\$113,586
Region X Jefferson	.0880929	\$133,134

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows:

- Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.
- For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at the DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. The DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of the DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by the DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

- Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction..... 40 points
- The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services

which will provide a continuum of care to assist homeless persons to achieve independent living.....30 points

- The ability of the applicant to carry out the proposed activities promptly.....15 points
- Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESGP funding unless a jurisdiction has been granted an exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.439 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 2007 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 2007 Louisiana ESGP may be submitted in writing to the attention of the ESGP Coordinator at the Office of Community Services, Contracts and Eligibility Section, Box 3318, Baton Rouge, LA, 70821, or telephone (225) 342-4583.

Ann Silverberg Williamson
Secretary

0702#061

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