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Executive Orders

EXECUTIVE ORDER BJ 08-24

Multi-Disciplinary Committee—Community
Mental Health Centers

WHEREAS, the Louisiana Legislature, during the 2008 Regular Session, offered House Bill No. 1385, by Representative Jackson;

WHEREAS, House Bill No. 1385 called for the creation of the Mental Health Access Committee (“the Committee”) within the Louisiana Department of Health and Hospitals;

WHEREAS, the Committee would have been charged with, among other things, making recommendations specific to a revised reimbursement methodology for community mental health clinics reimbursed through the Department of Health and Hospitals, and studying the certification and licensing criteria of Medicare-certified community mental health centers to be enrolled as community mental health clinics; and

WHEREAS, I have exercised my authority to veto House Bill No. 1385 in its entirety, but agree in principle with the value of multi-disciplinary input into the management of the Medicaid program as it relates to development and funding of services.

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

SECTION 1: The secretary of the Department of Health and Hospitals shall appoint a multi-disciplinary committee, representative of the various interested stakeholders, to consider and advise him on, at a minimum, the following issues:

A. a needs assessment for the expanded mental health services in the state;

B. revisions to the reimbursement methodology for mental health clinics reimbursed via the Medicaid program;

C. studying certification and licensing criteria of Medicare-certified community mental health centers to be enrolled as mental health clinics;

D. provider qualifications and criteria for enrollment;

E. evaluation of the role of Medicare-certified community mental health centers and how they may help improve access to community-based mental health services; and

F. the continuum of behavioral health services and how the state may improve access to community-based services.

SECTION 2: For Medicare-certified community mental health centers, enrollment in the Medicaid program may begin July 1, 2008, for adjudication of crossover claims from Medicare for dual eligible relative to partial hospitalization.

SECTION 3: The secretary of the Department of Health and Hospitals may begin licensing of, and accepting applications for enrollment in Medicaid from, new mental

health clinics upon the publication and promulgation of rules and regulations, in accordance with the Administrative Procedures Act, providing for a revised reimbursement system and standards of participation for mental health clinics. The rules and regulations must include provisions for prevention of fraud and abuse, including but not limited to appropriate prior authorization of services.

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 9th day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#090

EXECUTIVE ORDER BJ 08-25

Gulf Opportunity Zone Advance Refunding Bond
Allocation—State of Louisiana

WHEREAS, PL 109-135, also known as the Gulf Opportunity Zone Act of 2005 (hereafter “the Act”), was enacted to provide tax incentives to assist in the recovery and rebuilding efforts in certain areas affected by Hurricanes Katrina, Rita, and Wilma, and requires the governor of the state of Louisiana (hereafter “the State”) to designate any advance refunding bonds as bonds issued pursuant to Section 1400(N) of the Act;

WHEREAS, the State of Louisiana (hereafter “the Issuer”) proposes to issue forty three million dollars (\$43,000,000) of its Revenue and Refunding Bonds, Series 2008A (hereafter “the Bonds”) for the purpose of advance refunding a portion of the Issuer’s outstanding General Obligation Tax Credit Bonds, Series 2006A, which would otherwise not be able to be refunded on a tax exempt basis; and

WHEREAS, pursuant to the Act and Executive Order No. BJ 2008-16, issued on April 21, 2008, the governor of the state of Louisiana is required to designate such Bonds as Advance Refunding Bonds under the Ceiling;

NOW THEREFORE, I, BOBBY JINDAL, 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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling as Advance Refunding Bonds in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$43,000,000	State of Louisiana	General Obligation Variable Rate Demand Refunding Bond, Series 2008A

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 of this Order.

SECTION 3: The allocation granted herein shall be valid and in full force and effect for 240 days from issuance of this Order.

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 11th day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#084

EXECUTIVE ORDER BJ 08-26

Governor's Military Advisory Board

WHEREAS, the state of Louisiana has a vital interest in the installations and/or units of the U.S. Coast Guard and/or the armed forces of the United States located within the state, in the Louisiana Military Department, and in the concerns of the Active, Guard, Reserve, and/or retired military personnel, and their families, who reside in Louisiana (hereafter "military");

WHEREAS, in the past, the state of Louisiana has successfully employed a coordinating body to provide a forum for these various military components and to serve as a liaison between the various military entities and representatives of civilian interests; and

WHEREAS, various situations will continue to arise which necessitates the continued use of such a coordinating body;

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

SECTION 1: The Governor's Military Advisory Board (hereafter "Board") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties and objectives of the Board shall include, but are not limited to, the following:

A. Providing a public forum for issues concerning the installations and/or units of the U.S. Coast Guard and/or the armed forces of the United States located within the state, Active, Guard, Reserve, and/or retired military personnel and their families who reside in Louisiana (hereafter "the military");

B. Formulating goals and objectives to enhance cooperation, coordination, communication, and understanding between the military, the Louisiana Congressional Delegation, the communities in the state interfacing with the military, and/or state and local government agencies;

C. Strengthening and/or increasing the state of Louisiana's role in securing defense related business contracts for Louisiana businesses and/or selling Louisiana products to the installations and/or units of the U.S. Coast Guard and/or the armed forces of the United States located within the state;

D. Studying and determining the means to increase and/or strengthen the presence of the U.S. Coast Guard and/or armed forces of the United States located within the state;

E. Reviewing and/or disseminating information about proposed legislation related to and/or directly impacting the U.S. Coast Guard and/or military communities within the state; and

F. Proposing and/or sponsoring activities, legislation, initiatives, programs, or projects which increase, support, or enhance the U. S. Coast Guard and/or military's presence within the state or which enhance or improve the quality of life for the U.S. Coast Guard and/or military communities;

SECTION 3: Annually, on January 1st, the Board shall submit a report to the governor regarding the status of and/or progress achieved on the issues addressed in Section 2 of this Order.

SECTION 4: The Board shall be composed of a maximum of twenty-five (25) members, who shall be appointed by and serve at the pleasure of the governor.

A. The voting members of the Board shall be selected as follows:

1. The adjutant general of Louisiana, or the adjutant general's designee;

2. The president of the Louisiana State Senate, or the president's designee;

3. The speaker of the Louisiana House of Representatives, or the speaker's designee;

4. The secretary of the Department of Economic Development, or the secretary's designee;

5. The secretary of the Department of Veterans Affairs, or the secretary's designee;

6. The chair of the Louisiana Employer Support of the Guard and Reserve, or the chair's designee;

7. One (1) representative each from the Greater New Orleans, Ft. Polk-Central Louisiana, Barksdale/Bossier/Shreveport, and the Lake Charles area

that have established ongoing relationships with the military from their community;

8. One (1) representative for Louisiana businesses and industries from the areas described in subsection 4(A)(7); and

9. One (1) representative of local governments from the areas described in subsection 4(A)(7).

B. The non-voting members of the Board shall be selected as follows:

1. The commander, Joint Readiness Training Center (JRTC) and Ft. Polk, or the commander's designee;

2. The commander, Eighth Air Force, or the commander's designee;

3. The commander, Naval Forces Reserve, or the commander's designee;

4. The commander, Marine Forces Reserve, or the commander's designee;

5. The commander, Eighth Coast Guard District, or the commander's designee;

6. The commander, 377th Theater Army Area Command, or the commander's designee; and

7. The commander, U.S. Army Corps of Engineers, Mississippi River Valley Division, or the commander's designee.

C. The Board may create subcommittees composed of Board members, non-Board members, and/or both Board members and non-Board members, which meet in accordance with the open meetings law, R.S. 42:4.1, et seq.

SECTION 5: The governor shall appoint the chair and vice-chair of the Board from its membership. All other officers, if any, shall be elected by the Board from its membership.

SECTION 6: The Board shall meet at regularly scheduled quarterly meetings, and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the Board shall be provided by the Louisiana Department of Economic Development.

SECTION 8:

A. Board members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Board.

B. Board members who are employees or elected public officials of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing department, agency and/or office or elected office.

C. Board members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance at Board meetings and/or services on the Board.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Board in implementing the provisions of this Order.

SECTION 10: 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 16 day of July, 2008th.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#085

EXECUTIVE ORDER BJ 08-27

Flags at Half Staff

WHEREAS, a United States Air Force B-52 bomber has crashed off the coast of Guam in the central Pacific on July 21, 2008, with its crew;

WHEREAS, the B-52 bomber was based at Barksdale Air Force Base in Louisiana;

WHEREAS, of the six dedicated members of the crew, at least two have died in the crash; and

WHEREAS, the brave men and women in armed services are our first line of defense against any calamity that threatens our safety, and should be treated with nothing but utmost respect and appreciation;

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

SECTION 1: As an expression of respect of those dedicated service members of the crew who have made the ultimate sacrifice in defense of our great nation, effective immediately, the flags of the United States and the state of Louisiana shall be flown at half-staff over the State Capitol, and all public buildings and institutions of the state of Louisiana within a 10-mile radius of the Barksdale Air Force Base, until sunset on August 11, 2008.

SECTION 2: 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 22nd day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#086

EXECUTIVE ORDER BJ 08-28

**Gulf Opportunity Zone Advance Refunding
Bond Allocation—City of Plaquemine**

WHEREAS, PL 109-135, also known as the Gulf Opportunity Zone Act of 2005 (hereafter “the Act”), was enacted to provide tax incentives to assist in the recovery and rebuilding efforts in certain areas affected by Hurricanes Katrina, Rita, and Wilma, and requires the governor of the state of Louisiana (hereafter “the State”) to designate any advance refunding bonds as bonds issued pursuant to Section 1400(N) of the Act;

WHEREAS, the City of Plaquemine, State of Louisiana (hereafter “the Issuer”) proposes to issue up to one million four hundred thousand dollars (\$1,400,000) of its Sales Tax Bonds, Series 2008 (hereafter “the Bonds”) for the purpose of advance refunding a portion of the Issuer’s outstanding Sales Tax Bonds, Series 1998, which would otherwise not be able to be refunded on a tax exempt basis; and

WHEREAS, pursuant to the Act and Executive Order No. BJ 2008-16, issued on April 21, 2008, the governor of the state of Louisiana is required to designate such Bonds as Advance Refunding Bonds under the Ceiling;

NOW THEREFORE, I, BOBBY JINDAL, 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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling as Advance Refunding Bonds in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
up to \$1,400,000	City of Plaquemine	City of Plaquemine, Sales Tax Bonds, Series 2008

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 of this Order.

SECTION 3: The allocation granted herein shall be valid and in full force and effect for 240 days from issuance of this Order.

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 24th day of July, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#087

EXECUTIVE ORDER BJ 08-29

Cooperative Endeavor Agreements

WHEREAS, Article VII, Section 14 of the Louisiana Constitution of 1974 (hereafter Art. VII, §14”) expresses the general prohibition that “the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private. Neither the state nor a political subdivision shall subscribe to or purchase the stock of a corporation or association or for any private enterprise.”;

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

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

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

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

WHEREAS, the Division of Administration is charged with the responsibility for the state of Louisiana of overseeing the acquisition of supplies and services under contractual agreements and, therefore, has the expertise and necessary personnel to determine if these agreements are in violation of Art. VII, §14, or any procurement statutes or rules which regulate the manner in which the state and its agencies and political subdivisions must acquire supplies and services;

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

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

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

SECTION 3:

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

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

C. Agreements should contain a plan to monitor compliance with the terms of the agreement, assigning a particular person within the agency to be responsible for monitoring the agreement. Written reports must be provided to the agency at least every six (6) months concerning the use of funds and the specific goals and objectives for the use of the funds.

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

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

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

SECTION 6: All agreements shall contain a provision that conditions the agreement and/or continuation of the agreement on a) the availability of sufficient funds to fulfill the obligations of the department under the agreement and b) the approval of the director of the Office of Contractual Review and/or the commissioner of administration, unless exempt by written delegation of authority granted pursuant to Section 1 of this Order.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state of Louisiana, or any

political subdivision thereof, are authorized and directed to cooperate in implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of August, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#088

EXECUTIVE ORDER BJ 08-030

Accountability for Line Item Appropriations

WHEREAS, the Louisiana Legislature annually appropriates sums commonly referred to as "Line Item Appropriations" to non-state entities, quasi-public entities, and private agencies and entities for public purposes;

WHEREAS, it is the responsibility of executive branch agencies to administer payments pursuant to legislative Line Item Appropriations;

WHEREAS, Article VII, Section 14 of the Louisiana Constitution of 1974 (hereafter "Art. VII, §14"), expresses the general prohibition that "the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private";

WHEREAS, Line Item Appropriations are itemized in the General Appropriation Bill (HB1) of each regular session of the Louisiana Legislature, or in supplemental appropriation bills, as items within the budgets of various executive branch agencies, or in what is commonly known as Schedule 20 of HB1; and

WHEREAS, it is in the best interest of the state of Louisiana to insure that payments pursuant to Line Item Appropriations are carefully administered to assure that funds are utilized to accomplish the anticipated public purposes and to avoid constitutionally prohibited donations;

NOW THEREFORE I, Bobby Jindal, 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: Line Item Appropriations require a cooperative endeavor agreement or contract between the recipient and an executive branch state agency to satisfy the provisions of Art. VII, §14. In addition to the requirements of this Order, cooperative endeavor agreements must comply with the provisions of Executive Order BJ 2008-29, issued on August 5th, 2008, governing cooperative endeavors.

SECTION 2: Cooperative endeavor agreements or contracts for Line Item Appropriations shall include the following information:

A. The legal name and mailing address of the recipient entity, and, if the entity is nonpublic, a description of the legal status of the entity. (Any private entity required to register with the Secretary of State's Office must be in good standing with that Office);

B. The names and addresses of all officers and directors of any non-public recipient entity. Additionally, the entity shall provide the names and addresses of its executive director, chief executive officer, or other person responsible for the day-to-day operations of the entity, and the key personnel responsible for the program or functions funded through the line item appropriation;

C. A listing of any person receiving any thing of economic value from any recipient entity if that person is a state elected or appointed official or a member of the immediate family of a state elected or appointed official. The listing shall include the value of the thing of economic value received, the position held by the state elected or appointed official or by the immediate family member. If the listing indicates any relationship which may be a possible violation of the Code of Governmental Ethics, R.S. 42:1101, *et seq.*, the state agency shall seek an opinion from the Board of Ethics as to the propriety of proceeding with the agreement;

D. A detailed description of the public purpose sought to be achieved through the Line Item Appropriation which must conform to the program described in the appropriations bill and, if applicable, supplemental information form submitted to the legislature;

E. A comprehensive budget, provided to the agency and the legislative auditor, showing all anticipated uses of the Line Item Appropriation, other sources of revenue and expenditures for the entity, program or project funded by the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives, including measures of performance;

F. A plan to monitor compliance with the terms of the cooperative endeavor agreement authorizing the expenditure of the Line Item Appropriation, assigning a particular person within the agency to be responsible for monitoring the agreement. Written reports must be provided to the agency at least quarterly concerning the use of the Line Item Appropriation and the specific goals and objectives for the use of the appropriation; and

G. A certification that the entity has no outstanding audit issues or findings or that the entity is working with appropriate governmental agencies to resolve any issues or findings.

SECTION 3: Executive branch agencies are prohibited from making disbursements pursuant to Line Item Appropriations until the cooperative endeavor agreement or contract has received final approval of the Office of Contractual Review within the Division of Administration. Final approval shall not be granted unless all of the information required pursuant to Section 2 of this Order has been provided.

SECTION 4: Executive branch agencies shall monitor disbursements pursuant to Line Item Appropriations on a quarterly basis. Under circumstances such that the recipient entity has not demonstrated substantial progress towards goals and objectives, based on established measures of performance, further disbursements shall be discontinued until substantial progress is demonstrated or the entity has justified to the satisfaction of the agency reasons for the lack of progress. If the transferring agency determines that the recipient failed to use the Line Item Appropriation within the estimated duration of the project or failed to reasonably achieve its specific goals and objectives, without sufficient justification, the agency shall demand that any unexpended funds be returned to the state treasury unless approval to retain the funds is obtained from the Division of Administration and the Joint Legislative Committee on the Budget.

SECTION 5: Executive branch agencies may call upon the Office of the Legislative Auditor and/or the Office of State Inspector General to assist the agency in determining whether Line Item Appropriations are being or have been properly expended.

SECTION 6: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 7: The provisions of this Order shall be applicable to Line Item Appropriations for Fiscal Year 2008-2009 and thereafter. The provisions of this Order shall not be applicable to Line Item Appropriations to public or quasi-public agencies or entities that have submitted a budget request to the Division of Administration in accordance with Part II of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950 and transfers authorized by specific provisions of the Louisiana Revised Statute of 1950 to local governing authorities and transfers authorized by the Constitution of the state of Louisiana.

SECTION 8: The Commissioner of Administration may develop guidelines to further the implementation of this Executive Order.

SECTION 9: 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of August, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0808#089

Emergency Rules

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services Non-Rural, Non-State Hospitals Distinct Part Psychiatric Unit Expansions (LAC 50:V.915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing Medicaid reimbursement of inpatient psychiatric services provided by distinct part psychiatric units in acute care general hospitals (*Louisiana Register*, Volume 20, Number 1).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for non-state acute care hospitals that expand their distinct part psychiatric unit beds and enter into an agreement with the Office of Mental Health (OMH) to provide inpatient psychiatric services. In compliance with Act 18, the Department amended the January 20, 1994 Rule governing inpatient psychiatric services to allow acute care hospitals that enter into an agreement with OMH to expand their distinct part psychiatric unit beds and receive Medicaid reimbursement for the patients who occupy the additional beds (*Louisiana Register*, Volume 34, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2008 Emergency Rule. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of inpatient psychiatric services.

Effective August 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing inpatient psychiatric services to allow non-state acute care hospitals to expand their distinct part psychiatric units.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

§915. Distinct Part Psychiatric Units

A. Changes in the Size of Distinct Part Psychiatric Units. For the purposes of Medicaid reimbursement, the number of

beds and square footage of each distinct part psychiatric unit will remain the same throughout the cost reporting period. Any changes in the number of beds or square footage considered to be a part of a distinct part psychiatric unit may be made only at the start of a cost reporting period. Verification of these changes will be completed during the Medicaid agency's on-site survey at least 60 days prior, but no more than 90 days prior, to the end of the hospital's current cost reporting period with other information necessary for determining recognition as a distinct part psychiatric unit.

1. Exception. Effective for dates of service on or after January 1, 2008, a Medicaid enrolled non-state acute care hospital that signs an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health may make a one-time increase in its number of beds with a resulting increase in the square footage of its current distinct part psychiatric unit or a one-time opening of a new distinct part psychiatric unit.

a. This increase or opening of a new unit will not be recognized, for Medicare purposes, until the beginning of the next cost reporting period. At the next cost reporting period, the hospital must meet the Medicare prospective payment system (PPS) exemption criteria and enroll as a Medicare PPS excluded distinct part psychiatric unit.

b. At the time of any expansion or opening of a new distinct part psychiatric unit, the provider must provide a written attestation that they meet all Medicare PPS rate exemption criteria.

B. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of a unit are made only at the start of a cost reporting period.

1. Exception. In accordance with §915.A.1.a., a facility may take advantage of a one-time increase in its number of beds. If a facility does utilize the one-time increase provisions, the changes shall be effective for the remainder of the cost reporting period in which the one-time increase provisions are utilized. Any further changes can only be made at the start of the next cost reporting period.

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 20:49 (January 1994), amended LR 34:

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

Interested persons may submit written comments to Jerry Phillips 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.

Alan Levine
Secretary

0808#067

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Methodology Coverage of Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5).

The Department amended the reimbursement methodology for non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals, classified as major teaching hospitals, for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 5). The Department now proposes to amend the May 20, 2008 Emergency Rule to further clarify the provisions governing hemophilia blood products. This Emergency Rule is being promulgated to avoid imminent peril to public health, safety and welfare of Medicaid recipients by ensuring that they have access to medically necessary hospital services and medications.

Effective August 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-rural, non-state acute care hospitals to further clarify the provisions governing hemophilia blood products.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals Subchapter B. Reimbursement Methodology §965. Hemophilia Blood Products

A. Effective for dates of service on or after May 20, 2008, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

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

2. have provided clotting factors to a Medicaid recipient who has been diagnosed with hemophilia and has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding \$50,000 for acquiring the blood products used in the provision of clotting factors during the hospitalization.

- a. Actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the aforementioned qualifications may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format specified by the Department.

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

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

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.

Alan Levine
Secretary

0808#066

DECLARATION OF EMERGENCY

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

Professional Services Program
Children's Immunizations
(LAC 50:IX.Chapter 83)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 83 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 Omnibus Budget Reconciliation Act (OBRA) of 1993 created the Pediatric Vaccine Distribution Program known as the Vaccines for Children Program. OBRA 1993 added a new section to the Social Security Act which required that states establish a program for the purchase and distribution of pediatric vaccines to providers qualified under and registered with the Pediatric Vaccine Distribution Program for the purpose of immunizing eligible children. In compliance with OBRA 1993, the department adopted provisions governing the reimbursement of pediatric vaccines for Medicaid eligible children (*Louisiana Register*, Volume 22, Number 6). The department now proposes to amend the June 20, 1996 Rule to amend the reimbursement methodology governing Medicaid payments to providers for the administration of vaccines to children, and to incorporate these provisions into the Louisiana Administrative Code in a codified format.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to children's immunization services by encouraging the continued participation of providers in the Medicaid Program. It is estimated that the implementation of this proposed Rule will increase expenditures for professional services by approximately \$2,179,254 for state fiscal year 2008-2009.

Effective August 6, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the administration of children's immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8301. General Provisions

A. The Department shall provide Medicaid coverage for the administration of childhood and adolescent vaccines. Medicaid reimbursement is not available for the cost of vaccines that may be obtained through the Louisiana

Immunization Program/Vaccines for Children (VFC) Program and administered to Medicaid eligible children.

B. Provider Qualifications. In order to qualify for Medicaid reimbursement for the administration of these vaccines, a provider must be:

1. a licensed health care provider who has authority under Louisiana state law to administer childhood and adolescent vaccines;
2. an enrolled Medicaid provider; and
3. an enrolled Vaccines for Children Program provider.

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

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

§8305. Reimbursement Methodology

A. Effective for dates of service on or after August 6, 2008, the reimbursement for the administration of childhood and adolescent vaccines shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated. The reimbursement shall not exceed the maximum regional charge for vaccine administration as determined by the Centers for Medicare and Medicaid Services (CMS).

1. The reimbursement shall remain the same for those vaccine administration services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable, but not to exceed the maximum regional charge for vaccine administration as determined by CMS.

B. Reimbursement shall be made for the administration of vaccines available from the Louisiana Immunization Program/Vaccines for Children Program and recommended by the Advisory Committee on Immunization Practices (ACIP). There shall be no reimbursement for the cost of the vaccines that are available from the VFC Program.

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

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

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

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

Alan Levine
Secretary

0808#017

DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program
Coverage of Prenatal Care Services
(LAC 50:III.20301 and 20305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.20301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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 implemented a Medicaid expansion program under the provisions of Title XXI of the Social Security Act called the Louisiana Children's Health Insurance Program (LaCHIP) (*Louisiana Register*, Volume 24, Number 10). LaCHIP provided health care coverage to uninsured children up to age 19 with family income below 133 percent of the federal poverty level (FPL). The October 20, 1998 Rule was subsequently amended to: 1) implement the second phase of LaCHIP which expanded coverage to uninsured children with family income up to 150 percent of the FPL (*Louisiana Register*, Volume 25, Number 9); and 2) implement the third phase which expanded coverage to uninsured children with family income up to 200 percent of the FPL (*Louisiana Register*, Volume 26, Number 12).

The Bureau, by Emergency Rule, expanded coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low income, non-citizen women (*Louisiana Register*, Volume 33, Number 5). The Department amended the provisions of the May 1, 2007 Emergency Rule to place these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 33, Number 12). This Emergency Rule is promulgated to continue the provisions of the December 29, 2007 Emergency Rule and to further clarify the service limits and prior authorization criteria for SCHIP prenatal care services. This action is being taken to promote the health and well-being of children by increasing access to prenatal care services in order to reduce the occurrence of premature deliveries and costly emergency care for drop-in deliveries.

Effective August 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the December 29, 2007 Emergency Rule to further clarify the service limits and prior authorization criteria for SCHIP prenatal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 203. Prenatal Care Services

§20301. General Provisions

A. Effective May 1, 2007, the Department of Health and Hospitals will provide State Children's Health Insurance Program (SCHIP) coverage of prenatal care services to low income, non-citizen women as an expansion of coverage for children under Title XXI of the Social Security Act. SCHIP coverage of prenatal care services will be an expansion of coverage for children, from conception to birth, with income from 0 percent through 200 percent of the federal poverty level (FPL).

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

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

§20303. Eligibility Criteria

A. An applicant must be a Louisiana resident and cannot be eligible for Medicaid benefits under the provisions of Title XIX of the Social Security Act.

B. Applicants must be uninsured at the time of application.

1. Applicants are considered to be uninsured if they do not have creditable health insurance that provides coverage of prenatal care services.

C. Recipients must have family income at or below 200 percent of the FPL.

D. Recipients cannot be covered under a group health insurance plan or have creditable health insurance coverage and cannot have access to a state employee health benefits plan.

1. A state employee health benefits plan is a plan that is offered or organized by the state government, or on behalf of state employees, or other public agency for employees within the state.

E. Recipients shall be eligible to receive SCHIP coverage of prenatal care services from the month of conception or the first month of eligibility following conception, whichever is later, through the month of birth.

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

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

§20305. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. inpatient and outpatient health care services;
2. physician services;
3. surgical services;
4. clinic and other ambulatory health care services;

5. prescription and over-the-counter medications;
6. laboratory and radiological services;
7. pre-natal care and pre-pregnancy family services and supplies;
8. inpatient and outpatient mental health services other than those services relative to substance abuse treatment;
9. durable medical equipment and other medically-related or remedial devices;
10. disposable medical supplies;
11. nursing care services;
12. extended dental services for pregnant women;
13. case management services;
14. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;
15. medical transportation services; and
16. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

B. Service Exclusion. Sterilization procedures are not a covered service in this program.

C. Service Limits and Prior Authorization. Other Medicaid-specific benefit limits, age limits and prior authorization requirements may be applicable to the services covered in this program.

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

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

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 proposed Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0808#065

DECLARATION OF EMERGENCY

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

Targeted Case Management
Reimbursement Methodology
(LAC 50:XV.10701-10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.10701 and adopts §10703 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 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 Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The department promulgated an Emergency Rule to amend the provisions of the May 20, 2004 Rule governing the reimbursement methodology for targeted case management to require case management agencies to bill in 15 minute increments and to adopt provisions establishing cost reporting requirements for targeted case management (*Louisiana Register*, Volume 34, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 1, 2008 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective August 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing targeted case management services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. Effective for dates of service on or after May 1, 2008, reimbursement for case management services shall be a prospective rate for each approved unit of service provided to the recipient.

1. One quarter hour (15 minutes) is the standard unit of service which covers both service provision and administrative costs.

2. All services must be prior authorized.

B. ..

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 34:

§10703. Cost Reports

A. Case management agencies shall provide annual cost reports based on the state fiscal year, starting with the period beginning July 1, 2008 and ending June 30, 2009. Completed reports are due within 90 calendar days after the end of each fiscal year.

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

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

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

(CMS) if it is determined that submission to CMS for review and approval is required.

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

Alan Levine
Secretary

0808#068

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Fall Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or parts of state inside waters and shall have the authority to open or close state outside waters, the Wildlife and Fisheries Commission does hereby set the 2008 Fall Shrimp Season in inside waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River, to open at 12 noon August 11, 2008, and

Shrimp Management Zone 2, that portion of state inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at 12 noon August 11, 2008, and

Shrimp Management Zone 3, that portion of state inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line, to open at 12 noon August 11, 2008.

The commission also hereby sets the closing date for the 2008 Fall Shrimp Season in inside waters in Zones 1, 2 and 3 at official sunset December 16, 2008 except in the open waters of Breton and Chandeleur Sounds as described by the double-rig line (R.S. 56:495.1(A)2) which shall remain open until 6:00 a.m., March 31, 2009. The commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates if biological and technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters.

Patrick C. Morrow
Chairman

0808#039

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008-2009 Oyster Season

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 2008/2009 oyster season in the primary public oyster seed grounds east of the Mississippi River, as described in Louisiana Administrative Code (LAC) 76:VII.511 and LAC 76:VII.513, excluding the sacking only areas of the public grounds (described below) shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008.

These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009. In addition, the sacking-only areas, which are generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, and the sacking-only area in the American Bay area which shall be that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude shall open at one-half hour after sunrise on October 13, 2007 for the taking of market-size oysters and shall close at one-half hour after sunset on April 30, 2009. The 2007 cultch plant locations in Black Bay and Turkey Bayou within the following coordinates shall remain closed:

Black Bay – Plaquemines Parish

1. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 29 seconds W longitude
2. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
3. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
4. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 30 seconds W longitude

Turkey Bayou – St. Bernard Parish

1. 30 degrees 05 minutes 05.51 seconds N latitude
89 degrees 19 minutes 06.05 seconds W longitude
2. 30 degrees 05 minutes 42.24 seconds N latitude
89 degrees 18 minutes 30.04 seconds W longitude
3. 30 degrees 05 minutes 30.76 seconds N latitude
89 degrees 18 minutes 14.56 seconds W longitude
4. 30 degrees 04 minutes 54.03 seconds N latitude
89 degrees 18 minutes 50.58 seconds W longitude

The oyster season in the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:434.E and the Little Lake Public Oyster Seed Grounds as described in LAC 76:VII:521 shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008. These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009. The 2008 Hackberry Bay cultch plant within the following coordinates shall remain closed:

1. 29 degrees 25 minutes 28.80 seconds N latitude
90 degrees 01 minutes 17.11 seconds W
longitude
2. 29 degrees 25 minutes 37.79 seconds N latitude
90 degrees 00 minutes 55.39 seconds W
longitude
3. 29 degrees 25 minutes 28.61 seconds N latitude
90 degrees 00 minutes 50.44 seconds W
longitude
4. 29 degrees 25 minutes 19.63 seconds N latitude
90 degrees 01 minutes 12.17 seconds W
longitude

The oyster season in the Lake Felicity, Lake Chien, and Lake Mechant Public Oyster Seed Grounds as described in LAC 76:VII:517, and in the Bay Junop Public Oyster Seed Reservation as described in R.S. 56:434.E shall open one-half hour before sunrise on October 29, 2008 and shall close one-half hour after sunset on October 31, 2008.

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E north of the Department of Health and Hospitals' 2007 November-February seasonal classification line shall open one-half hour before sunrise on September 3, 2008 for the taking of seed oysters for bedding purposes only and shall close one-half hour after sunset on September 10, 2008.

The Vermilion/East and West Cote Blanche/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII:507 and LAC 76:VII:509, shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008. These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009.

The oyster season in the Calcasieu Lake public oyster area, as described in R.S. 56:435.1 and R.S. 56:435.1.1, shall open one-half hour before sunrise on October 15, 2008 and shall close one half-hour after sunset on April 30, 2009. The sack limit for Calcasieu Lake is set at 15 sacks per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supercede public health closures.

The following areas will remain closed for the 2008/2009 oyster season: the Bay Gardene Public Oyster Seed Reservation (as described in R.S. 56:434.E), the Barataria Bay, Deep Lake, and Lake Tambour Public Oyster Seed Grounds (as described in LAC 76:VII:517), and the Sabine Lake Public Oyster Area as described in R.S. 56:435.1.

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 Louisiana Department of Health and Hospitals for public health concerns.

Patrick C. Morrow
Chairman

0808#038

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Early Migratory Bird Seasons

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting seasons for early migratory birds during the 2008-2009 hunting season shall be as follows:

Dove: The term "dove" refers to the following species, and only the following species: mourning doves, white-winged doves, Eurasian collared-doves and ringed-turtle doves.

Dove South Zone:

September 6 - September 14
October 18 - November 30
December 20 - January 5

Dove North Zone:

September 6 - September 21
October 11 - November 9
December 13 - January 5

Bag Limit: Mourning and white-winged doves and fully dressed Eurasian collared- and ringed-turtle doves: Daily bag limit 15 in aggregate, Possession 30 in aggregate, but note there is no bag limit on Eurasian collared-doves or ringed-turtle doves provided that a fully feathered wing and head remain attached to the carcass of the bird. Fully dressed Eurasian-collared doves and ringed-turtle doves (those without a fully feathered wing and head naturally attached to the carcass) shall be included in the aggregate bag.

Dove Hunting Zones: The state shall be divided into North and South Dove Hunting Zones by the following boundary: Beginning at the Texas-Louisiana border on La. Highway 12; thence east along La. Highway 12 to its intersection with U.S. Highway 190; thence east along U.S. Highway 190 to its intersection with Interstate 12; thence east along Interstate 12 to its intersection with Interstate 10; thence east along Interstate 10 to the Mississippi State Line.

Teal: September 13 - September 28

Daily bag limit 4, possession limit 8, blue-winged, green-winged and cinnamon teal only. Federal and state waterfowl stamps required.

Rail: Split Season, Statewide, 70 days

September 13 - September 28

Remainder of season to be set in August with the duck regulations.

King and Clapper: Daily bag limit 15 in the aggregate and possession 30 in the aggregate. Sora and Virginia: Daily and possession bag 25 in the aggregate.

Gallinule: Split Season, Statewide, 70 days

September 13 - September 28

Remainder of season to be set in August with the duck regulations.

Common and Purple: Daily bag limit 15 in the aggregate, possession of 30 in the aggregate.

Woodcock: December 18 - January 31, Statewide

Daily bag limit 3, possession limit 6.

Snipe: Deferred to be set in August with the duck regulations.

Extended Falconry Season

Dove: Statewide

September 22 - October 7

Woodcock: Split Season, Statewide

October 28 - December 17

February 1 - February 11

Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 6 birds, respectively, singly or in the aggregate, during the extended falconry seasons and regular hunting seasons. Remainder of extended falconry seasons for ducks, rails, gallinules to be set in August with the duck regulations.

Shooting and Hawking Hours:

Dove: One-half hour before sunrise to sunset except 12 noon to sunset on September 6, 2008.

Teal, Rail, Woodcock, and Gallinule: One-half hour before sunrise to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 100,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2008 and extend through sunset on February 28, 2009.

Robert J. Barham
Secretary

0808#035

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish—Greater Amberjack and Gray Triggerfish

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries

Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore.

Rules have been promulgated by NMFS, effective on August 4, 2008, to modify existing rules for harvest of greater amberjack and gray triggerfish in the Gulf of Mexico (Reef Fish Amendment 30A). NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set size limits and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

Captain and crew members of charter vessels and headboats shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

The minimum size limit for greater amberjack harvested recreationally is increased from 28 inches fork length to 30 inches fork length.

The minimum size limit for gray triggerfish harvested recreationally or commercially is increased from 12 inches total length to 14 inches fork length.

This Emergency Rule shall be effective at 12:01 a.m., August 11, 2008.

Patrick C. Morrow
Chairman

0808#036

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sharks and Sawfishes—Harvest Regulations

The shark fisheries in the Gulf of Mexico are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally 3 miles offshore.

Rules have been promulgated by NMFS, effective on July 24, 2008, to modify existing rules for harvest of species in the Large Coastal Shark group in the Gulf of Mexico (NMFS Shark FMP Amendment 2). NMFS typically requests

consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters to coincide with the regulation set forth by NMFS, it is necessary an Emergency Rule be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set possession limits, seasons, and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

The commercial fishery for large coastal shark in Louisiana state waters will open at 12:01 a.m. August 11, 2008 under the regulations provided below. The pertinent parts of these rules will also be effective for the recreational fishery for Large Coastal Shark at 12:01 a.m. August 11, 2008.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§357. Sharks and Sawfishes—Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a commercial state shark permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks—bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks—great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks—porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species—basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark,

night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original commercial state shark permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E.1. All persons who do not possess a commercial state shark permit issued by the Department of Wildlife and Fisheries, and, if applicable, a federal commercial directed or incidental limited shark permit or federal shark research permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana commercial state shark permit and, if applicable, a federal commercial directed or incidental limited shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a commercial state shark permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per

trip within or without Louisiana waters, regardless of the length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic highly migratory species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a federal Atlantic highly migratory species angling permit.

G. Those persons possessing a federal commercial directed or incidental limited access shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a federal shark permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a federal commercial directed or incidental limited access shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the Federal Register, regardless of where taken. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a commercial state shark permit or federal commercial directed or incidental limited access permit or Federal Shark Research Permit, if applicable.

2. Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of 33 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid federal shark research permit under 50CFR635.32(1).

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid federal dealer permit.

I. A person aboard a vessel for which a federal commercial directed or incidental limited access shark permit or federal shark research permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Dealers purchasing sharks from state or federal waters must report the landings by species, and must specify the total shark fin numbers, values and weights separately from the weights, values and numbers of the shark carcasses.

If a harvester retains the fins after offloading from the fishing vessel, the harvester must also be licensed as a wholesale/retail dealer, and must complete and file a trip ticket that includes the numbers and weights of fins retained immediately after being offloaded from the fishing vessel. Later transactions of fins must have documentation referring to the original trip ticket number for those fins. Such numbers and weights must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6.

4. Shark fins shall not be possessed aboard a fishing vessel unless naturally attached to the original shark carcass by at least some portion of uncut skin.

5. All sharks possessed aboard a commercial fishing vessel shall have fins including the tail intact and naturally attached to the shark carcass by at least some portion of uncut skin.

6. It is illegal to replace sharks that are onboard a fishing vessel for retention with sharks of higher quality or size that are caught later in a particular trip.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark—*Cetorhinus maximus*;
- b. white shark—*Carcharodon carcharias*;
- c. bigeye sand tiger—*Odontaspis noronhai*;
- d. sand tiger—*Odontaspis taurus*;
- e. whale shark—*Rhincodon typus*;
- f. smalltooth sawfish—*Pristis pectinata*;
- g. largetooth sawfish—*Pristis pristis*;
- h. Atlantic angel shark—*Squatina dumerili*;
- i. Caribbean sharpnose shark—*Rhizoprionodon porosus*;
- j. smalltail shark—*Carcharhinus porosus*;
- k. bignose shark—*Carcharhinus altimus*;
- l. Caribbean reef shark—*Carcharhinus perezi*;
- m. dusky shark—*Carcharhinus obscurus*;
- n. Galapagos shark—*Carcharhinus galapagensis*;
- o. narrowtooth shark—*Carcharhinus brachyurus*;
- p. night shark—*Carcharhinus signatus*;
- q. bigeye sixgill shark—*Hexanchus vitulus*;
- r. bigeye thresher shark—*Alopius superciliosus*;
- s. longfin mako shark—*Isurus paucus*;
- t. sevengill shark—*Heptranchias perlo*;
- u. sixgill shark—*Hexanchus griseus*.

2. Notwithstanding other provisions of this Part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a Catch and Release Program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this Part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana territorial sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a federal commercial directed or incidental limited access shark permit or federal shark research permit may legally harvest sharks from federal waters beyond the Louisiana territorial sea and bring those sharks into Louisiana waters for sale within the provisions of that federal shark permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal

waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. 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 sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes 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(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 56:325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 34:

Patrick C. Morrow
Chairman

0808#037

Rules

RULE

Department of Agriculture and Forestry Office of the Commissioner

Tax Credit for Certain Milk Producers (LAC 7:XXXI.Chapter 5)

The Louisiana legislature, by Acts 2007, No. 461, §1, enacted R. S. 47:6026 relative to providing a refundable tax credit for certified milk producers. Section 2 of Act 461 provides that the provisions of the act become effective for all taxable periods beginning on or after January 1, 2007. The Louisiana Law Institute, by the powers granted to it by the Legislature, has redesignated the section as R.S. 47:6032. Act 461 provides that the Department of Agriculture and Forestry shall promulgate regulations establishing the provisions of the announced production price. R.S. 3:2(A) provides that the Commissioner of Agriculture and Forestry shall head the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except for research and educational functions expressly allocated by the constitution or by law to other state agencies.

The legislature has made the provisions of Act 461 effective for calendar year 2007 so that Louisiana milk producers who qualify for the credit may take advantage of this tax credit for the 2007 taxable year. The Commissioner of Agriculture and Forestry, on behalf of the Department of Agriculture and Forestry, is adopting the following rules and regulations to establish the announced production price and to provide for the orderly administration of the provisions of R.S. 47:6032.

This Rule is enacted and enabled by R.S. 3:2(A) and R.S. 47:6032(B).

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions

Chapter 5. Tax Credit for certain Milk Producers

§501. Purpose and Effective Date

A. These regulations implement the provisions of R.S. 47:6032.

B. These regulations are effective for taxable periods beginning on or after January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§503. Definitions

Announced Production Price—the average of the production price of milk for the three years immediately preceding the calendar year for which tax credits may be given.

Certified Milk Producer—a milk producer who has been certified as such to the Department of Revenue by the

Department of Health and Hospitals in accordance with R.S. 47:6026(E).

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his designee.

Federal Milk Market Order (FMMO)—a regulation issued by the United States secretary of agriculture specifying minimum prices and conditions for the purchase of milk from dairy farmers within a specified geographic area.

Information Release Form—a form entitled Authorization to Release Information which authorizes the milk market administrator or other persons to release information held by the administrator or other person relative to that milk producer.

LDAF—the Louisiana Department of Agriculture and Forestry or its designee.

Milk Handler—the person, including a dairy cooperative, who collects or receives a milk producer's milk directly from the milk producer's dairy.

Milk Market Administrator—the market administrator of the FMMO that covers this state.

Milk Producer—a resident taxpayer of the State of Louisiana who is engaged in the business of producing milk in this state from his own cows.

Non-Pooled Milk—milk that is produced in Louisiana for sale but is not included in milk production records maintained by the milk market administrator. Examples of non-pooled milk include milk pooled on FMMOs that do not cover this state, milk that has been sold but not pooled on any FMMO, and milk that had to be dumped or destroyed for legitimate reasons.

Non-Pooled Milk Form—a form or list entitled "non-pooled milk production certification" submitted by a milk producer or milk handler showing the amount of non-pooled milk produced by a milk producer for a year for which the credit is applied for.

Production Price—an annual price derived by averaging over 12 months the monthly sum of the market balancing factor, (which is the monthly arithmetic difference between the average of the sums of the uniform prices plus the associated transportation costs of moving milk from its export points of origin to New Orleans, Louisiana less the monthly uniform price in the FMMO that covers this state), plus the cost of milk production in this state as determined by the LSU Agricultural Center's Department of Agricultural Economics and Agribusiness.

Tax Credit—the milk producer refundable tax credit established by R.S. 47:6032.

Uniform Price—the weighted average price established in the FMMO covering this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§505. Cooperative Endeavor Agreements

A. For the purpose of implementing the provisions of Acts 2007, No. 461 and these regulations LDAF, through the

commissioner, may enter into cooperative endeavor agreements with other state agencies, federal agencies, or private entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§507. Responsibilities of Milk Producers and Milk Handlers

A. It shall be the responsibility of any milk producer who wants to apply for a tax credit in the year for which the credit is applied for to:

1. hold a milk producer permit during the year for which the credit is applied for under Louisiana Administrative Code, Title 51, Public Health—Sanitary Code, Part VII, Milk, Milk Products, and Manufactured Milk Products and meet the requirements of the 2007 revision to the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration;

2. ensure that the records of the Department of Health and Hospitals reflect that during the year for which the credit is applied for the milk producer was in compliance with the requirements set out in Paragraph 1 for purposes of being certified as a milk producer;

3. timely submit to LDAF a properly completed and signed information release form;

4. timely submit to LDAF a properly completed and signed non-pool milk form for the year for which the credit is applied for if the milk producer's milk did not go into the FMMO milk pool for Louisiana and is not listed on a non-pooled milk form submitted by the milk producer's milk handler. The form shall certify the amount of such non-pool milk produced by the milk producer for that year and the reasons why the milk is non-pooled milk and why the milk is not listed on the certification form submitted by the milk handler;

5. timely submit to LDAF all other forms and information, properly completed and signed, that may be required by that department;

6. timely submit an application for the tax credit to the Department of Revenue on forms supplied by that department and in accordance with that department's regulations and policies.

B. It shall be the responsibility of each milk handler to timely submit to LDAF a properly completed and signed non-pooled milk form showing the amount of non-pooled milk collected or received by the milk handler from each of its milk producers. A milk handler may substitute a list showing its milk producers who have non-pooled milk, the amount of non-pooled milk, and the reason the milk is non-pooled milk for the non-pooled milk form.

C. Failure of a milk producer or milk handler to fulfill the responsibilities set out in Subsections A and B of this Section may result in the milk producer being disqualified from receiving any tax credit for the applicable tax year for which the credit is applied for or receiving less than the maximum allowable tax credit for the year for which the credit is applied for.

D. All forms and lists shall be free of false statements or false representations of any material fact. A milk producer or milk handler may be referred to the appropriate district attorney for possible criminal prosecution under R.S. 14:133

for filing false public records if the milk producer or milk handler files with LDAF or other state agency a form that contains a false statement or false representation of a material fact or provides false information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§509. Forms; Distribution

A. All forms required by these regulations to be filled out and submitted by a milk producer or milk handler may be obtained from LDAF.

B. LDAF shall submit all forms relative to the tax credit which are received from milk producers and milk handlers to the proper state or federal agency or other appropriate entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§511. Determination of the Announced Production Price

A. The announced production price shall be determined based on the following factors:

1. the average uniform price of milk in the top five states from which milk is imported to Louisiana;

2. the average transportation cost of importing milk from those five states;

3. the cost of production in Louisiana.

B. The determination of the announced production price shall be based on calculations made by the Louisiana State University Agricultural Center, Department of Agricultural Economics and Agribusiness, using the factors set out in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§513. Determination of Tax Credit for Individual Producers and Eligible Quarters

A. LDAF shall, no later than April 30 of each year, provide the Department of Revenue with a chart for the previous year for which the credit is applied for showing the names of each participating certified milk producer, the amount of milk produced by each, the anticipated amount of tax credit each certified milk producer is eligible to receive, and any other information necessary or proper for the Department of Revenue to pay the tax credits.

1. Prior to submission of the chart to the Department of Revenue, a review committee composed of a person appointed by the commissioner, one person appointed by the secretary of health and hospitals, one person appointed by the secretary of revenue, and one certified milk producer appointed by the commissioner shall review and approve the chart.

B. Determination of the amount of milk produced during a calendar year by a participating certified milk producer shall be based on information obtained from the non-pooled milk certification forms and from records maintained by the milk market administrator.

C. Determination of the anticipated amount of tax credit each certified milk producer is eligible to receive shall be based on:

1. the amount of milk produced by the certified milk producer;

2. the maximum amount of tax credit the certified milk producer would be eligible to receive based on the amount of milk produced by that certified milk producer and the tax credit schedule set out in R.S. 47:6032(C);

3. if applicable, the percentage or ratio shown by dividing the statutory cap on the tax credit by the aggregate of the tax credit that all the certified milk producers would be eligible to receive if there was no statutory cap in place; and

4. the number of eligible quarters to which the tax credit shall be prorated.

a. A quarter shall be considered to be an eligible quarter for purposes of the tax credit whenever the uniform price for any one month of the quarter drops below the announced production price.

NOTE: For example, assume that a participating certified milk producer produces between 2,000,001 and 2,500,000 pounds of pooled and non-pooled milk combined for the year in which he is applying for a tax credit. He would be eligible under the statute for a maximum tax credit of \$20,000, which, prorated over four quarters, would be \$5,000 per quarter. If the aggregate of the tax credits that all participating certified milk producers would be entitled to for that year is equal to or less than the statutory cap of \$2,500,000 and each quarter of the year is an eligible quarter then the certified milk producer in this example would receive a \$20,000 tax credit. If there are only two eligible quarters in the year then the maximum tax credit he would receive would be \$10,000, (\$5,000 per quarter X 2).

If, however, the aggregate of the tax credits that all participating certified milk producers would be entitled to exceeds the statutory cap of \$2,500,000 then all individual tax credits would have to be adjusted by a percent or ratio such that the aggregate cap of dairy tax credits for the taxable year would not exceed \$2,500,000. Suppose the aggregate tax credit in this example equaled \$3,100,000. Then the whole number percentage or ratio adjustment to individual tax credits necessary to maintain the aggregate tax credit for the year at or under \$2,500,000 would be 80 percent. The participating certified milk producer in this example would be eligible for a maximum credit of \$16,000, or \$4,000 per quarter, (80% of the maximum tax credit of \$20,000) if each quarter of the year is an eligible quarter. However, if there were only two eligible quarters in the year and the aggregate of the tax credits that all participating certified milk producers would be entitled to receive would, by virtue of that fact, be reduced to \$2,500,000 or less then the certified milk producer in this example would be eligible to receive the non-prorated maximum tax credit for each quarter. In this example that tax credit would be \$10,000, (\$5,000 per quarter X 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§515. Payment of Tax Credit

A. The tax credit shall be paid by the Department of Revenue to a certified milk producer based on the name and tax identification number listed on the chart that LDAF provides to the Department of Revenue.

B. LDAF shall determine the name and tax identification number of the certified milk producer based on the name and tax identification number listed on the information release form.

C. If two or more milk producers combined their milk under one certified milk producer's permit then the division of the tax credit among such milk producers shall be the responsibility of those milk producers and not the responsibility of either LDAF or the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1600 (August 2008).

§517. Certification of Non-Pooled Milk

A. LDAF may certify non-pooled milk for inclusion in determining the amount of tax credit due to a certified milk producer if a non-pooled milk form or list is submitted by the certified milk producer or on his behalf by a milk handler not later than January 31 of the year immediately following the year for which the credit is applied for.

B. The milk producer or milk handler shall provide LDAF with documentation sufficient to show that the non-pooled milk was commercially produced in Louisiana and the reason why the milk is non-pooled milk.

C. LDAF may investigate the circumstances and require the milk producer or milk handler to provide additional information in determining whether the non-pooled milk is to be used for determining the milk producer's tax credit.

D. If LDAF determines that the non-pooled milk is to be used for determining the certified milk producer's tax credit then LDAF shall notify the milk producer of that determination and provide the information to the person or entity making the tax credit calculations.

E. If LDAF determines that the non-pooled milk is not to be used for determining the milk producer's tax credit then LDAF shall notify the milk producer of that determination on or before February 28 of the year immediately following the year for which the credit is applied for.

F. Any milk producer who is aggrieved by a decision of LDAF regarding the eligibility of non-pooled milk may petition the commissioner for an administrative hearing to determine the validity of the decision by LDAF.

1. Any such petition must be filed within 30 days after the milk producer receives notice from LDAF of the decision the milk producer is appealing.

2. The administrative hearing shall be held within 30 days after receipt of the milk producer's petition. The administrative hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

3. The commissioner may conduct the hearing or appoint a hearing officer to conduct the hearing and make a recommendation to the commissioner. In all cases the commissioner shall make the final administrative decision.

4. Any petition for judicial review of the commissioner's decision shall be filed in accordance with the Administrative Procedure Act and within the time limits set out in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1600 (August 2008).

§519. Notices

A. LDAF shall publish the announced production price and list of eligible quarters in the Potpourri Section of the *Louisiana Register* and disseminate this information to milk producers by means reasonably calculated to provide notice to the milk producers.

B. LDAF shall notify each participating certified milk producer of the amount of tax credit that the milk producer is entitled to at the time that the chart of tax credits is submitted to the Department of Revenue.

C. All announcements and notices relative to the tax credit that LDAF is required to provide by law or these regulations to milk producers shall be provided by means reasonably calculated to provide notice to the milk producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

§521. Disputes Regarding Milk Producer Tax Credit Qualifications

A. All disputes regarding whether a milk producer is or is not a certified milk producer shall be decided by the Department of Health and Hospitals in accordance with the regulations and policies of that department.

B. All disputes regarding eligibility for a tax credit or the amount thereof due the milk producer under the provisions of R.S. 47:6032 shall be decided by the Department of Revenue in accordance with the regulations and policies of that department.

C. All disputes regarding certification of the amount of non-pooled milk produced during a calendar year shall be decided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

§523. Confidentiality of Records; Maintenance of Records

A. All information provided by a milk producer or milk handler to LDAF or to other state or federal agencies and any information received by LDAF from other state or federal agencies that is declared by the milk producer or milk handler to be proprietary or trade secret information, or which is considered to be confidential under the U.S. or Louisiana Constitutions or by Louisiana law shall be treated by LDAF as confidential information that is exempt from Louisiana's public records laws.

B. LDAF's records relative to the tax credit shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

Mike Strain, DVM
Commissioner

0808#091

RULE

**Department of Economic Development
Boxing and Wrestling Commission**

Boxing and Wrestling Standards
(LAC 46:XI.108, 303 and Chapter 7)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D) to promulgate the following Rule. The Louisiana State Boxing and Wrestling Commission has adopted the rules of the United States Amateur Boxing, Inc., and/or the Golden Gloves of America pursuant to amateur boxing contestants and events; to clarify the definitions of "amateur" and "professional" and the corresponding rules thereto in order to ensure that a proper forum for amateur fighters is encouraged; that amateur shows are properly advertised as such and that amateur contestants are equally matched.

Testing for Hepatitis B and Hepatitis C has been added to the current HIV drug testing requirements. This Rule will also introduce a new Chapter, Chapter 7. Mixed Technique Events, which is necessary to promote the safety of mixed technique contestants, other participants and spectators in that it will require participants in all mixed technique events to be under the jurisdiction of the Louisiana State Boxing and Wrestling Commission. This new Chapter introduces rules specific to amateur mixed technique events and professional mixed technique events and outlines the commission's demands pertaining to contestants, amateur or professional; rules citing the responsibility of promoters of amateur shows, in particular, and professional mixed technique events; bout durations; judges and referees; and the safety and ring requirements of both.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B and Hepatitis C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event and said certificates are to be presented at the time of "weigh in".

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008).

Chapter 3. Professional Boxing

§303. Amateur Boxing Associations

A. The commission will recognize an amateur boxing contest or exhibition only if it is registered and sanctioned

by United States Amateur Boxing, Inc., and/or the Golden Gloves of America as an amateur boxing contest or exhibition.

B. An amateur boxing contest or exhibition is governed by the rules adopted for amateur boxing contests or exhibitions by United States Amateur Boxing, Inc. The commission hereby adopts by reference those rules as they exist in the form most recently adopted by United States Amateur Boxing, Inc. A copy of those rules may be purchased for a price of \$15, from United States Amateur Boxing, Inc., One Olympic Plaza, Colorado Springs, Colorado 80909. If those rules do not cover a particular situation in an amateur boxing contest or exhibition, the provisions of this Chapter concerning unarmed combat and professional boxing contests or exhibitions apply.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008).

Chapter 7. Mixed Technique Events

§701. Application of Professional and Amateur Boxing Rules

A. The conditions specifically described in the professional boxing rules also apply to amateur and professional mixed technique sports and events as put forth in the foregoing Chapter 1, General Rules of Boxing and Wrestling, Title 46, Professional and Occupational Standards, §§101 through 113 except where the intention would be to modify rules which are specific to mixed technique events.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1602 (August 2008).

§703. Mixed Technique Events (MTE)

A. All mixed technique events shall be conducted under the authority and supervision of the commission.

B. There are hereby established three types of mixed technique event (MTE):

1. MTE amateur events;
2. MTE exhibition events; and
3. MTE professional event.

C. MTE amateur events are defined as those MTE events using amateur fighters and being sponsored by a recognized amateur mixed technique association (AMTA), duly recognized by the commission.

1. Pursuant to Louisiana R.S. 4:67 there shall be no taxes charged to a MTE amateur event sponsored by an AMTA approved by the commission.

D. MTE exhibition events are defined as those MTE events using amateur fighters conducted by a promoter licensed by the commission.

1. MTE exhibition events shall be conducted under the mixed technique event exhibition rules set forth below.

E. MTE professional events are defined as those MTE events using professional fighters conducted by a promoter licensed by the commission.

1. MTE professional events shall be conducted under the Mixed Technique Event Professional Rules set forth below.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1602 (August 2008).

§705. Mixed Technique Ring Rules

A. Mixed technique events contests and exhibitions may be held in a ring or in a fenced area.

B. A ring used for a contest or exhibition mixed technique event must meet the following requirements.

1. The ring must be no smaller than 20 feet square and no larger than 32 feet square within the ropes.

2. The ring floor must extend at least 18 inches beyond the ropes. The ring floor must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.

3. The ring platform must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Ring posts must be made of metal, not more than 3 inches in diameter, extending from the floor of the building to a minimum height of 58 inches above the ring floor, and must be properly padded in a manner approved by the commission. Ring posts must be at least 18 inches away from the ring ropes.

5. There must be five ring ropes, not less than 1 inch in diameter and wrapped in soft material. The lowest ring rope must be 12 inches above the ring floor.

6. There must not be any obstruction or object, including, without limitation, a triangular border, on any part of the ring floor.

C. A fenced area used in a contest or exhibition mixed technique event must meet the following requirements.

1. The fenced area must be circular or have at least eight equal sides and must be no smaller than 20 feet wide and no larger than 32 feet wide.

2. The floor of the fenced area must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the fenced area. Material that tends to gather in lumps or ridges must not be used.

3. The platform of the fenced area must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Fence posts must be made of metal, not more than 6 inches in diameter, extending from the floor of the building to between 5 and 7 feet above the floor of the fenced area, and must be properly padded in a manner approved by the commission.

5. The fencing used to enclose the fenced area must be made of a material that will prevent an unarmed combatant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, including, without limitation, chain link fence coated with vinyl.

6. Any metal portion of the fenced area must be covered and padded in a manner approved by the commission and must not be abrasive to the unarmed combatants.

7. The fenced area must have two entrances.

8. There must not be any obstruction on any part of the fence surrounding the area in which the unarmed combatants are to be competing.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1602 (August 2008).

§709. Safety Zone

A. At each event there shall be an area around the ring or fenced in area, extending eight feet as measured from said ring or fenced in area, which shall be partitioned from the public seating and said area shall be referred to as the "safety zone."

1. No one may enter the safety zone unless authorized by the commission.

2. All seating inside of the safety zone shall be authorized by the attending commissioner.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§711. Duration of Rounds

A. Except with the approval of the commission or its chairman:

1. a non-championship contest or exhibition of mixed technique events must not exceed three rounds in duration;

2. a championship mixed technique event must be five rounds in duration;

3. a period of unarmed combat in any mixed technique event must be 5 minutes in duration. A period of rest following a period of unarmed combat in a mixed technique event must be 1 minute in duration.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§713. Weight Classes of MTE contestants; weight loss

A. Except with the approval of the commission or its commissioner, the classes for unarmed combatants competing in mixed technique events and the weights for each class are shown in the following schedule.

Flyweight.....	up to 125 lbs.
Bantamweight.....	over 125 to 135 lbs.
Featherweight.....	over 135 to 145 lbs.
Lightweight.....	over 145 to 155 lbs.
Welterweight.....	over 155 to 170 lbs.
Middleweight.....	over 170 to 185 lbs.
Light Heavyweight.....	over 185 to 205 lbs.
Heavyweight.....	over 205 to 265 lbs.
Super Heavyweight.....	all over 265 lbs.

B. After the weigh-in of an unarmed combatant competing in a mixed technique events:

1. weight loss in excess of 2 pounds is not permitted for an unarmed combatant who weighed in at 145 pounds or less;

2. weight loss in excess of 3 pounds is not permitted for an unarmed combatant who weighed in at over 145 pounds;

3. the weight loss described in Paragraph 2 must not occur later than 2 hours after the initial weigh-in.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§715. Proper Attire for Unarmed Combatants

A. An unarmed combatant competing in a mixed technique event:

1. must wear shorts approved by the commission or the commission's representative;

2. may not wear shoes or any padding on his feet during the contest.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§717. Method of Judging

A. Each judge of a mixed technique event that is being judged shall score the contest or exhibition and determine the winner through the use of the following system.

1. The better unarmed combatant of a round receives 10 points and his opponent proportionately less.

2. If the round is even, each unarmed combatant receives 10 points.

3. No fraction of points may be given.

4. Points for each round must be awarded immediately after the end of the period of unarmed combat in the round.

B. After the end of the contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk.

C. The majority opinion is conclusive and, if there is no majority, the decision is a draw.

D. When the commission's representative has checked the scores, he shall inform the announcer of the decision. The announcer shall inform the audience of the decision over the speaker system.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§719. Fouls

A. The following acts constitute fouls in a mixed technique event:

1. butting with the head;

2. eye gouging of any kind;

3. biting;

4. hair pulling;

5. fishhooking;

6. groin attacks of any kind;

7. putting a finger into any orifice or into any cut or laceration on an opponent;

8. small joint manipulation;

9. striking to the spine or the back of the head;

10. striking downward using the point of the elbow;

11. throat strikes of any kind, including, without limitation, grabbing the trachea;

12. clawing, pinching or twisting the flesh;

13. grabbing the clavicle;

14. kicking the head of a grounded opponent;

15. kneeling the head of a grounded opponent;
16. stomping a grounded opponent;
17. kicking to the kidney with the heel;
18. spiking an opponent to the canvas on his head or neck;
19. throwing an opponent out of the ring or fenced area;
20. holding the shorts or gloves of an opponent;
21. spitting at an opponent;
22. engaging in any unsportsmanlike conduct that causes an injury to an opponent;
23. holding the ropes or the fence;
24. using abusive language in the ring or fenced area;
25. attacking an opponent on or during the break;
26. attacking an opponent who is under the care of the referee;
27. attacking an opponent after the bell has sounded the end of the period of unarmed combat;
28. flagrantly disregarding the instructions of the referee;
29. timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury;
30. interference by the corner;
31. throwing in the towel during competition.

B. Fouls—Deduction of Points

1. If an unarmed combatant fouls his opponent during a mixed technique event, the referee may penalize him by deducting points from his score, whether or not the foul was intentional. The referee shall determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul and its effect upon the opponent.

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

3. The referee shall, as soon as is practical after the foul, notify the judges and both unarmed combatants of the number of points, if any, to be deducted from the score of the offender.

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

C. Accidental Fouls

1. If a mixed technique event is stopped because of an accidental foul, the referee shall determine whether the unarmed combatant who has been fouled can continue or not. If the unarmed combatant's chance of winning has not been seriously jeopardized as a result of the foul and if the foul did not involve a concussive impact to the head of the unarmed combatant who has been fouled, the referee may order the contest or exhibition continued after a recuperative interval of not more than 5 minutes. Immediately after separating the unarmed combatants, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that a mixed technique event may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition must be declared a no contest if the foul occurs during:

- a. the first two rounds of a contest or exhibition that is scheduled for three rounds or less; or
- b. the first three rounds of a contest or exhibition that is scheduled for more than three rounds.

3. If an accidental foul renders an unarmed combatant unable to continue the contest or exhibition after:

- a. the completed second round of a contest or exhibition that is scheduled for three rounds or less; or
- b. the completed third round of a contest or exhibition that is scheduled for more than three rounds, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008).

§721. Results of Contests

A. A mixed technique event may end under the following results.

1. Submission by:
 - a. physical tap out;
 - b. verbal tap out.
2. Technical knockout by the referee stopping the contest.
3. Decision via the scorecards, including:
 - a. unanimous decision;
 - b. split decision;
 - c. majority decision;
 - d. draw, including:
 - i. unanimous draw;
 - ii. majority draw;
 - iii. split draw;
4. technical decision;
5. technical draw;
6. disqualification;
7. forfeit;
8. no contest.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1604 (August 2008).

§723. Referees and Judges

A. No referee may officiate a mixed technique event unless he has been duly qualified by the commission. The commission may approve referees based upon their qualifications or may require the attendance of a mandatory seminar.

B. No judge may officiate a mixed technique event unless he has been duly qualified by the commission. The commission may approve judges based upon their qualifications or may require the attendance of a mandatory seminar.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1604 (August 2008).

§725. Promoters

A. The promoter must provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside.

B. The promoter must provide at least one licensed physician to conduct pre-fight physicals, and provide a private area for the physician to perform pre-fight examinations.

C. The promoter shall ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason, including, but not limited to transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

D. Only the fighter; his trainer and chief seconds shall enter the fenced off area around the ring or cage. Any other member of the contestants entourage who enters the fenced off area for any reason shall be ejected from the event.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§727. Equipment for Contestants

A. Required equipment:

1. mouth guard;
2. open finger gloves (minimum 4 oz.) with an open palm with no insert and the majority of the weight of the glove to be around the knuckles;
3. groin protection (male only);
4. breast protection (female).

B. Disallowed equipment:

1. no vaseline on the body;
2. no shoes;
3. no shirts for male contestants;
4. no metal zippers on shorts.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§729. Corner Requirements

A. For each bout, the promoter shall provide a clean water bucket and a clean plastic water bottle in each corner.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§731. Specifications: Bandaging of MT Contestant's Hands

A. In all weight classes, the bandages on each contestant's hand shall be restricted to soft gauze cloth not more than 13 yards in length and 2 inches in width, held in place by not more than 10 feet of surgeon's tape, 1 inch in width, for each hand.

B. Surgeon's adhesive tape shall be placed directly on each hand for protection near the wrist. The tape may cross

the back of the hand twice and extend to cover and protect the knuckles when the hand is clenched to make a fist.

C. The bandages shall be evenly distributed across the hand.

D. Bandages and tape shall be placed on the contestant's hands in the dressing room in the presence of the inspector and in the presence of the manager or chief second of his or her opponent.

E. Under no circumstances are gloves to be placed on the hands of a contestant until the approval of the inspector is received.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§733. Mouth Pieces

A. All contestants are required to wear a mouthpiece during competition. The mouthpiece shall be subject to examination and approval by the attending physician.

B. The round cannot begin without the mouthpiece in place.

C. If the mouthpiece is involuntarily dislodged during competition, the referee shall call time, clean the mouthpiece and reinsert the mouthpiece at the first opportune moment, without interfering with the immediate action.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§735. Amateur Mixed Technique Associations

A. An AMTA must provide proof to the commission that it is either a non-profit organization certified by the state of Louisiana or that it is approved as a non-profit organization under the provisions of the Internal Revenue Code.

B. An AMTA shall file with the commission rules for conducting the organization's affairs and the conduct of its members. The rules must include provisions to:

1. establish conditions for membership;
2. provide guidelines for training its members in preparation for a contest;
3. establish a minimum training period before a contest;
4. indicate which class(es) of combative sports the AMTA will conduct;
5. require that all referees and judges participating in events conducted by the AMTA are approved by the commission; and
6. establish a set of rules for determining the amateur status of each participant in any event which the AMTA sponsors; including a method for recording the names of all mixed technique fighters in the state of Louisiana, both professional and amateur;
7. may include provisions to:

a. provide for payment of actual expenses, up to a maximum of One Hundred and No/100 for the contestants who participate in an event; and

b. allow members of other AMTAs to participate as a visiting member in an event conducted by it without the other AMTA participating in the conducted event, so long as it ascertains that the visiting member is qualified under the rules to be a contestant in the event.

C. An AMTA may not conduct or participate in any event unless it has received the commission's written approval of rules required in Subparagraph b above.

D. An AMTA may not conduct or participate in an event unless it has applied for and received approval for status as an AMTA by the commission.

E. An AMTA shall provide insurance and pay all deductibles for contestants, to cover medical, surgical and hospital care with a minimum limit of \$20,000 for injuries sustained while participating in a contest and \$50,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least 10 calendar days before an event the AMTA shall provide to the department for each event to be conducted, a certificate of insurance showing proper coverage. The AMTA shall supply to those participating in the event the proper information for filing a medical claim.

F. An AMTA shall ensure that all contestants participating in contests it conducts are amateurs.

G. An AMTA may not allow any person who has not been a member of the AMTA for at least 30 days to participate as a contestant in any event in which the AMTA participates.

H. An AMTA conducting an event shall:

1. bear all financial responsibility for the event;
2. provide the commission with written notice of all proposed event dates, ticket prices, and participants of the main event, at least 21 days before the proposed event date and obtain written approval from the commission to promote the event prior to advertising or selling tickets;
3. provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside;
4. provide at least one licensed physician to conduct pre-fight physicals. Provide a private area for the physician to perform pre-fight examinations;
5. insure that only referees and judges approved by the commission participate in the event;
6. assure that no alcoholic beverages or illegal drugs are in the dressing room;
7. ensure the safety of the contestants, officials, and spectators:
 - a. a sufficient number of security personnel shall be retained to maintain order;
8. ensure that the rules set forth herein below regarding equipment and gloves that apply to a particular type of event are followed;
9. ensure that each contest is conducted as provided by the AMTA's rules approved by the commission;
10. ensure that each event has the appropriate equipment as described by the AMTA's rules approved by the department;
11. ensure that all advertising concerning an event to be conducted indicates that it is an amateur event, and includes the name of the AMTA that will conduct the event; and
12. ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason, including, but not limited to

transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1605 (August 2008).

§737. Mixed Technique Event Exhibition Rules

A. MTE Exhibitions shall be conducted using §707 Professional Mixed Technique Rules above with the following modifications.

1. Conduct of Promotion. If you are interested in staging a mixed technique event exhibition contest you must notify the commission in writing and to be considered for approval you must:

- a. submit a written list of the name, address, age, height, weight, trainer and training gym of each contestant said list to be submitted no later than two weeks prior to the event and any changes to said list to be within a reasonable time based upon the approval of the chairman;
 - b. submit a writing from each contestant that he or she has never engaged in a professional mixed technique event or professional mixed martial arts contest;
 - c. submit writing from the contestant's trainer that the contestant is skilled enough and healthy to compete and that the contestant has been training for the sport longer than 30 days;
 - d. submit the name of the referee(s) you intend to use; however the commission may mandate that you use a referee approved by the commission;
 - e. agree to abide by any other conditions which the commissioner may impose on this new activity as events are reviewed and amendments may be made;
 - f. agree in writing that you will observe all mixed technique event rules;
 - g. submit in writing a statement to the effect that the fighter is not being paid any gratuity for participating in the event, and memorialize each and every actual expense, to a maximum of \$100 that is being reimbursed to the fighter;
 - h. if you are not a promoter who also owns and operates his own gym you must utilize a matchmaker approved by the commission who shall arrange and approve all fights on the card; and
 - i. ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be a large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements.
- B. Equipment. Exhibition contestants shall use a minimum 7 ounce open fingered gloves.
- C. Acts constituting fouls in addition to those listed under §707, Professional Mixed Technique Event Rules, Subsection G, Acts Constituting Fouls:
1. illegal techniques while standing:
 - a. elbowing; and
 - b. kneeing to the head;
 2. illegal techniques while on the ground:
 - a. any downward striking to an opponent's head while the back of that opponent's head is pinned to the mat or when the opponent has both shoulders pinned to the mat;

3. additional items:
- a. if punch or kick (excluding kicks to the legs or leg sweeps) causes a knockdown:
 - i. the action will not continue;
 - ii. the standing fighter will not continue to attack;
 - iii. the referee will begin a 10 count and the standing fighter must go to a neutral corner during the count; and
 - iv. if the referee determines that the downed fighter can continue, then the fight shall resume with the fighters in a standing position;
 - b. in the event that the referee believes that the fighter is in trouble he is authorized to give an eight count; this shall be a standing eight while the parties are standing; or simply an eight count if they are on the ground with the position of the fighters to be maintained when the actions continues;
 - c. in the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters;
 - d. the referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment; which will require stoppages much sooner than those in a professional mixed technique event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters;
 - e. in the event that the commission member in attendance feels that the promoter has violated any of the rules of this Section concerning mixed technique exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall at the close of the fight issue a summons to that promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

D. At each MTE Exhibition event there shall also Professional MTE bouts equaling either 25 percent of the number of bouts on the card or a minimum of two professional bouts whichever is greater; however this rule will be inapplicable to venues with a occupancy capacity of 500 people or less, as set by the fire marshal, with the further understanding that this rule shall always apply to any outdoor event or other venue where it is impossible for the fire marshal to set the occupancy capacity.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1606 (August 2008).

Alvin Topham
Chairman

0808#014

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements and Mathematics (LAC 28: CXV.2319 and 2353)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2319. High School Graduation Requirements and §2353. Mathematics. The revision to Sections 2319 and 2353 will accomplish the following:

- change the name of Advanced Math I and Advanced Math II to Advanced Math-Pre-Calculus and Advanced Math—Functions and Statistics;
- allow a second semester of Civics to count toward the fourth social studies requirement in the LA Core 4 Curriculum;
- change the name of the new math course Senior Applications in Math to Math Essentials;
- add the new course Senior Applications in English as an option for English IV for students who graduate prior to 2012 and add Math Essentials to the Mathematics Program of Studies for students who graduate prior to 2012; and
- correct the date for the new course requirements for the Academic Endorsement and the Career Technical Endorsement to 2011-2012.

These revisions were adopted to provide clarity to the names of the courses in the curriculum, to provide more options for students to take rigorous courses, and to correct an error in the policy.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

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

A. - D. ...

E. Minimum Course Requirements for High School Graduation

1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English or Senior Applications in English.	

Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following:	
<ul style="list-style-type: none"> Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Integrated Mathematics I (1 unit) 	
The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics.	
(Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics	

Science	3 units
Shall be the following:	
1 unit of Biology	
1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I	
1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.	
<ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	

Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core Curriculum, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, and English IV or Senior Applications in English	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry The remaining units shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute..	

Science	3 units
Shall be the following:	
1 unit of Biology	
1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I	
1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute.	
<ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	24 units

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute	
Science	4 units
Shall be the following:	
1 unit of Biology	
1 unit of Chemistry	
2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute.	
<ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required science unit	

Social Studies	4 units
Shall be the following 1/2 unit of Civics or AP American Government 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required social studies unit.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language or 2 Speech courses	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit.	
Electives	3 units
TOTAL	24 units

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

* * *

G. Academic Endorsement

1. Graduating seniors who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma.

a. Students graduating prior to 2011-2012 shall complete an Academic Area of Concentration. Students graduating in 2011-2012 and beyond shall complete the following curriculum requirements.

English	4 units
English I, II, III, and IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, or Discrete Mathematics	
Science	4 units
1 unit of Biology 1 unit of Chemistry 1 unit of advanced science from the following courses: Biology II, Chemistry II, Physics, or Physics II 1 additional science unit	
Social Studies	4 units
1/2 unit of Civics or AP American Government and Politics 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Economics, Law Studies, Psychology, Sociology, or African American Studies.	

Health Education	1/2 unit
Physical Education	1 1/2 units
NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.	
Electives	3 units
TOTAL	24 units

b. - e. ...

H. Career/Technical Endorsement

1. Students who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma.

a. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

H.1.b. - J. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070, 3072 (December 2005), LR 32:1414 (August 2006), LR 33:429, 432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008).

§2353. Mathematics

A. Effective for 2008-2009 incoming freshmen, four units of mathematics shall be required for graduations. All students must complete the following:

1. Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units)

2. Geometry. The remaining units shall come from the following:

a. Algebra II, Financial Mathematics, Math Essentials, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.

B. Effective for 2005-2006 to 2007-2008 incoming freshmen, three units of mathematics shall be required for graduation. All students must complete one of the following:

1. Algebra I (1 unit); or

2. Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or

3. Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following.

a. Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

C. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II,

Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

D. Students who score at the unsatisfactory achievement level on the mathematics component of grade eight LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

1. Introductory Algebra/Geometry may be used as the high school remediation course for students who have been promoted to the ninth grade without having passed the mathematics component of grade eight LEAP.

E. Financial Mathematics may be taught by teachers certified in Business Education.

F. The mathematics course offerings shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I, II, III	1 each
Introductory Algebra/Geometry (Remediation Elective)	1
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008).

Weegie Peabody
Executive Director

0808#002

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.347)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §347. Junior Reserve Officers Training Corps Instructor (ROTC). There are no other renewal guidelines in place for this certificate other than a request from the Louisiana employing authority.

This revision is that the ancillary Jr. ROTC certificate be made valid for life of continuous service upon completion of three years of successful experience as a ROTC instructor. Currently an individual certified as a Jr. ROTC instructor would have to pay a \$25 every five years to have their ancillary certificate renewed. This change would have them pay a \$25 one time fee to have their certificate converted to a certificate that is valid for life of continuous service.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§347. Junior Reserve Officers Training Corps Instructor (ROTC)—Valid for Three Years

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

1. Eligibility requirements:

a. be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, O3 through O6; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. Validity Guidelines. This certificate may be changed to "valid for life with continuous service" with verification of three years of service as a ROTC instructor.

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 34:432 (March 2008), amended LR 34:1610 (August 2008).

Weegie Peabody
Executive Director

0808#001

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Professional Level and Out-of-State (OS) Certificates (LAC 28:CXXXI.305 and 309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §305. Professional Level Certificates, and §309. Out-of-State (OS) Certificate. This revision in the Out-of-State (OS) certification policy allows a candidate who is certified in another state to be excluded from all Praxis examination(s) required for certification in Louisiana upon documentation of at least four years of successful teaching experience in another state and one year of successful teaching on an OS certificate in a Louisiana approved public or an approved

private school system. This change is due to an amendment of R.S. 17:7(6)(b)(i)(cc), as a result of House Bill No. 188, Regular Session 2007. The revision will allow the Out-of-State certification policy to apply equally to teachers in Louisiana's public and approved nonpublic schools.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**Chapter 3. Teaching Authorizations and
Certifications**

Subchapter A. Standard Teaching Authorizations

§305. Professional Level Certificates

A. - A.1.b.ii ...

(a). He/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an out-of-state certificate for one year in a Louisiana approved public or an approved private school system.

(b). The teacher's employing authority must verify that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment.

(c). The employing authority must request that he/she be granted a valid Louisiana teaching certificate.

A.1.c. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008).

§309. Out-of-State (OS) Certificate

A. - C.1.c. ...

i. he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an OS certificate for one year in a Louisiana approved public or an approved private school system;

ii. the teacher's Louisiana employing authority verifies that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment; and

iii. - iv.(b). ...

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 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008).

Weegie Peabody
Executive Director

0808003

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Electronic Documents and Signatures
(LAC 33:I.2101, 2103, 2105, and 2107)(OS079)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.2101, 2103, 2105, and 2107 (Log #OS079).

This Rule establishes procedures for the use of electronic documents and electronic signatures associated with documents that are required for compliance with the environmental regulations and are submitted to and processed by the Department of Environmental Quality. Electronic submittal of documents will be a voluntary process offered to the regulated community. The federal Cross-Media Electronic Reporting Rule (CROMERR) sets standards for EPA-delegated programs to receive electronic documents and electronic signatures. The federal rule was promulgated on October 13, 2005, and was published at 70 FR 59848. CROMERR standards must be established by the states to provide security and validation for documents and those submitting the documents for compliance purposes to the department. The department is given authority in R.S. 30:2043(D) and (E) to regulate the use of electronic documents and electronic signatures. This Rule provides the process required for acceptance of these documents as mandated by the statutes and in order to be in compliance with CROMERR. The basis and rationale for this Rule are to comply with R.S. 30:2043(D) and (E) and the federal CROMERR application process. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

**Chapter 21. Electronic Submittals and Electronic
Signatures**

§2101. Purpose

A. Pursuant to R.S. 30:2043, electronic documents will be accepted by the department in satisfaction of the requirements of department regulations, notwithstanding any other department regulation to the contrary.

B. This Chapter provides for the submittal of electronic documents and electronic signatures to the department as original documents to meet requirements set forth in department regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1611 (August 2008).

§2103. Definitions

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

Department—the Louisiana Department of Environmental Quality.

Electronic Document—any document in electronic, magnetic, optical, or other format, except an audio recording, used to create, transfer, approve, or store the document for subsequent retrieval. This may include data, text, codes, computer programs, software, or databases.

Electronic Document Receiving System—a set of apparatus, procedures, software, and/or records used to receive electronic documents.

Electronic Signature—any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content. An electronic document bears or has on it an *electronic signature* when it includes or has logically associated with it such information.

Subscriber—a person who has submitted a subscriber agreement to the department and has received authorization from the department to submit electronic documents using one of the department's electronic document receiving systems.

Subscriber Agreement—a document drafted by the department and signed with a handwritten wet ink signature by a *person* as defined in R.S. 30:2004, or with respect to an electronic signature device that the person will use to create his or her electronic signature, and whereon the person acknowledges the obligations connected with preventing compromise of the electronic signature device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1612 (August 2008).

§2105. Procedures

A. Any person may submit an electronic document to the department, in lieu of a paper document, provided that:

1. the person has executed the proper subscriber agreement in accordance with department instructions;
2. the secretary has first published a notice on the department's website announcing that the department is prepared to receive, in electronic form, documents submitted to satisfy the requirements of one or more specific programs;
3. the person transmits the electronic document to an electronic document receiving system designated by the department for the receipt of such submissions, complying with the system's requirements for submission; and
4. the electronic document bears valid electronic signatures at all locations where the signatory would be required to sign the paper document for which the electronic document substitutes.

B. Each subscriber agreement shall include one or more handwritten wet ink signatures, receive approval from the department, and be retained on file with the department

while the subscriber agreement is active and for an additional five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1612 (August 2008).

§2107. Enforcement

A. A person who submits an electronic document and fails to comply with the provisions of this Chapter is subject to penalties and remedies for failure to comply with department reporting requirements.

B. When an electronic document bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible, to the same extent as the signatory's handwritten signature would on a paper document.

C. Nothing in this Chapter limits the use of an electronic document or information derived from electronic documents as evidence in enforcement or other proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1612 (August 2008).

Herman Robinson, CPM
Executive Counsel

0808#055

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Lyondell Delisting Petition
(LAC 33:V.4999)(HW099P)

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.4999.Appendix E (Log #HW099P).

Lyondell Chemical Company petitioned to exclude from the hazardous waste regulations (delist) the company's incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater. The incinerator design uses direct contact cooling water to quench and scrub hot combustion gases resulting from the destruction of the listed hazardous waste. This primary cooling wastewater is blown down and pH-adjusted before being discharged at an LPDES-permitted outfall. Also, when the normal cooling water system fails, wastewater may be generated from the activation of the fire suppression automatic sprinkler ("deluge") backup system for the incinerator. The cooling wastewater effluent is currently being discharged after treatment under the facility's LPDES permit. After delisting, this effluent will continue to be discharged under the facility's LPDES permit. Routine operational and regulatory costs for Lyondell will not change. Lyondell is seeking agency approval to delist, or exclude, the wastewater from the definition of "derived

from" hazardous waste to reduce its potential liability resulting from an unplanned, non-recurring cooling system release (spill or leak) or catastrophic event (fire).

The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. Applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Lyondell's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's action granting the petition is based on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Lyondell, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste.

Also included in this Rule is a reorganization of Table 1 in LAC 33:V.4999.Appendix E, such that the entries are listed in alphabetical order by facility name. Another clarification made is that facilities granted one-time exclusions, as opposed to conditional exclusions, are moved from Table 1 to Table 2. The basis and rationale for this Rule are to grant the petition on an evaluation of waste-specific information provided by the petitioner. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, E, and F

Appendix A. - D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. Each facility granted a conditional exclusion must comply with the specific conditions for the waste exclusion as listed in Table 1 of this Appendix. Each facility granted a one-time exclusion is listed in Table 2 of this Appendix. Each waste exclusion listed in Table 1 shall begin with a waste description and include details for the following conditions:

A.1. - B.3.b. ...

Table 1 - Wastes Excluded
BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
DuPont Dow Elastomers LLC, LaPlace, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Lyondell Chemical Company, Lake Charles, LA
Incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater are generated at a maximum annual generation rate of 800,000 cubic yards (162 million gallons) per year. Lyondell's wastestream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes D001, D019, D021, D030, F002, F003, K027, K112-114, U037, U221, and U223. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater at the Lake Charles, LA facility. The cooling wastewater effluent is currently being discharged after treatment under the facility's LPDES permit. After delisting, this effluent will continue to be discharged under the facility's LPDES permit.
(1). Testing Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846</i> , as incorporated by reference in LAC 33:V.110.
(1)(A). Inorganic Testing During the first 12 consecutive months of this exclusion, Lyondell must collect and analyze one monthly grab water sample from the fire water pond and one monthly grab water sample from the incinerator blowdown stream. These two monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source water. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for arsenic, barium, chromium, lead, nickel, vanadium, and zinc, including quality control information. If the department and Lyondell concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), Lyondell may replace the testing required in condition (1)(A) with the testing required in condition (1)(B).
(1)(B). Subsequent Inorganic Testing After concurrence by the department, Lyondell may substitute the following testing conditions for those in condition (1)(A). Lyondell must continue to analyze quarterly grab water samples from the fire water pond and the incinerator blowdown stream. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for arsenic, barium, chromium, lead, nickel, vanadium, and zinc, including quality control information. Grab water samples from the fire water pond and the incinerator blowdown stream must be taken during the first month of each quarterly period. These quarterly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source water. If delisting levels for any constituents listed in condition (3)(A) are exceeded in any quarterly sample, Lyondell must re-institute testing as required in condition (1)(A).
(1)(C). Organic Testing During the first 12 consecutive months of this exclusion, Lyondell must collect and analyze one monthly grab water sample from the fire water pond and one monthly grab water sample from the incinerator blowdown stream. These two monthly samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source water. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for 2,4-dinitrotoluene, bromoform, chloroform, and hexachlorobenzene, including quality control information. If the department and Lyondell concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), Lyondell may replace the testing required in condition (1)(C) with the testing required in condition (1)(D).

<p>(1)(D). Subsequent Organic Testing After concurrence by the department, Lyondell may substitute the following testing conditions for those in condition (1)(C). Lyondell must continue to analyze quarterly grab water samples from the fire water pond and the incinerator blowdown stream. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for 2,4-dinitrotoluene, bromoform, chloroform, and hexachlorobenzene, including quality control information. Grab water samples from the fire water pond and the incinerator blowdown stream must be taken during the first month of each quarterly period. These quarterly samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source water. If delisting levels for any constituents listed in condition (3)(B) are exceeded in any quarterly sample, Lyondell must re-institute testing as required in condition (1)(C).</p>
<p>(2). Waste Holding and Handling Lyondell must treat water in the fire water pond and the incinerator blowdown stream as hazardous wastes until the verification testing is completed, as specified in conditions (1)(A) - (1)(D), and the wastewater has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples from the fire water pond and the incinerator blowdown stream are below all of the applicable levels set forth in condition (3), then the incinerator direct contact cooling wastewater and the fire suppression automatic sprinkler ("deluge") system wastewater thereby become nonhazardous. If hazardous constituent levels in any monthly grab sample equal or exceed any of the delisting levels set in condition (3), the wastewater must be managed and disposed of in accordance with Subtitle C of RCRA until the wastewater meets the delisting levels. Lyondell must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.</p>
<p>(3). Delisting Levels Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. All concentrations in the wastewater must be less than the following levels (all units are milligrams per liter).</p>
<p>(3)(A). Inorganic Constituents (all units are milligrams per liter) arsenic—0.5; barium—50.0; chromium—1.0; lead—1.0; nickel—10.0; vanadium—15; and zinc—200.</p>
<p>(3)(B). Organic Constituents (all units are milligrams per liter) 2,4-dinitrotoluene—0.02; bromoform—10.0, chloroform—0.14; hexachlorobenzene—0.13.</p>
<p>(4). Changes in Operating Conditions If Lyondell significantly changes the operating conditions specified in the petition, Lyondell must notify the department in writing. Following receipt of written approval by the department, Lyondell must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Lyondell must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Lyondell may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Lyondell must fulfill all other requirements in condition (1).</p>

Table 1 - Wastes Excluded
Marathon Oil Co., Garyville, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Motiva Enterprises LLC, Norco, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
* * *
[see prior text]

Table 2 - One-Time Wastes Excluded
Murphy Exploration and Production Company, Amelia, LA
Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, LA. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after June 20, 2007.

Appendix F - Appendix F.Table 2...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:1021 (June 2008), LR 34:1613 (August 2008).

Herman Robinson, CPM
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RULE

**Office of the Governor
Real Estate Commission**

Real Estate Schools; Real Estate Education Vendors; and
Instructors—Prohibitions (LAC 46:LXVII.5319)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Real Estate, Chapter 53, Section 5319. The purpose of the amendment is to remove the prohibition in Chapter 53, Subsection 5319.B that restricts real estate pre-licensing school promotions on websites and online/distance education courses, as there is no similar restriction imposed on continuing education vendors.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate
Chapter 53. Real Estate Schools; Real Estate Education
Vendors; Instructors
§5319. Prohibitions**

A. ...

B. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 34:1614 (August 2008).

Julius C. Willie
Executive Director

0808#020

RULE

Department of Health and Hospitals Board of Medical Examiners

Acupuncturists, Acupuncturist's Assistants, Acupuncture Detoxification Specialists—General, Certification and Practice (LAC 46:XLV.Chapters 1, 21, and 51)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Medical Practice Act, R.S. 37:1261-1292 and the Acupuncture Practice Act, R.S. 37:1356-1360, as amended by Act 452 of the 2007 Session of the Louisiana Legislature, the board has adopted rules governing certification and practice of acupuncture detoxification specialists (ADS), amended its existing rules concerning acupuncturists' assistants (AcA) and made other changes consistent with or necessitated by the statutory modifications. The rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter H. Acupuncturists, Acupuncturists' Assistants, and Acupuncture Detoxification Specialists Fees

§183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of acupuncturists, acupuncturists' assistants and acupuncture detoxification specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1615 (August 2008).

§185. Certification

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

B. For processing an application for certification as an acupuncture detoxification specialist, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2008).

§187. Annual Renewal

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an acupuncture detoxification specialist, a fee of \$25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:1615 (August 2008).

Subpart 2. Licensure and Certification

Chapter 21. Acupuncturists, Acupuncturists' Assistants, and Acupuncture Detoxification Specialists

Subchapter A. General Provisions

§2101. Scope of Chapter

A. The rules of this Chapter govern the certification of acupuncturists and acupuncturists' assistants to perform and practice traditional Chinese acupuncture and of acupuncture detoxification specialists to practice acupuncture detoxification in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008).

§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

Acupuncture Practice Act or *Act*—R.S. 37:1356-1360, as hereafter amended or supplemented.

Acupuncture—treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion of needles at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points, or the application of heat or electrical stimulation to such point or points, for the purpose of inducing anesthesia, relieving pain, or healing diseases, disorders, and dysfunctions of the body, or achieving a therapeutic or prophylactic effect with respect thereto.

Acupuncture Detoxification (acu detox)—the treatment by means of insertion of acupuncture needles in a combination of points on the ear in accordance with NADA protocol. The performance of acupuncture detoxification constitutes a subcategory of the practice of acupuncture.

Acupuncture Detoxification Specialist (ADS)—an individual who possesses current certification, duly issued by the board, to practice acupuncture detoxification under the supervision of a physician or acupuncturist's assistant.

Acupuncturist—a physician possessing current certification, duly issued by the board, to practice acupuncture.

Acupuncturist's Assistant (AcA)—an individual possessing current certification, duly issued by the board, to practice acupuncture under the supervision of a physician.

Applicant—a person who has applied to the board for certification as an acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for certification to perform or practice acupuncture or acupuncture detoxification in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board—the Louisiana State Board of Medical Examiners.

Certification—the board's official recognition of an individual's current certificate, duly issued by the board, evidencing the board's certification of such individual under the law.

Clinical Practice Guidelines or Protocols (guidelines or protocols)—a written set of directives or instructions to be followed by an acupuncturist's assistant in the performance of patient care activities containing each of the components specified by §5106.A of these rules. Clinical practice guidelines or protocols are valid for a period not to exceed one year and shall be annually reviewed, updated as appropriate, and signed by the supervising physician and acupuncturist's assistant. The signature of the supervising physician and acupuncturist's assistant and date of review shall be noted on the guidelines or protocols. Guidelines or protocols shall be maintained at both the primary practice site of the supervising physician and the acupuncturist's assistant, and shall be made available for review and inspection upon request by a representative of the board.

General Supervision—as used in this Chapter and Chapter 51, shall mean responsible oversight of the services rendered by an acupuncture detoxification specialist as specified in §5106.B of these rules.

Good Moral Character—as applied to an applicant, means that:

a. the applicant, if a physician, has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the denial, suspension, or revocation of medical licensure;

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as an acupuncturist, acupuncturist's assistant, or acupuncture detoxification specialist;

c. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or

misleading as to a material fact or omits to state any fact or matter that is material to the application; or

d. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for certification required by this Chapter.

NADA—the National Acupuncture Detoxification Association.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the board.

Primary practice site—the location at which a supervising physician, acupuncturist's assistant or acupuncture detoxification specialist spends the majority of time in the exercise of the privileges conferred by licensure or certification issued by the board.

Proposed supervising acupuncturist's assistant—an acupuncturist's assistant who has submitted to the board an application for approval as a supervising acupuncturist's assistant.

Proposed supervising physician—a physician who has submitted to the board an application for approval as a supervising physician.

Supervising acupuncturist's assistant—an acupuncturist's assistant registered with the board under this Chapter to provide supervision to an acupuncture detoxification specialist.

Supervising physician—a physician registered with the board under this Chapter to supervise an acupuncturist's assistant or acupuncture detoxification specialist.

Supervision—as to an acupuncturist's assistant, shall mean responsible oversight of the services rendered by an acupuncturist's assistant as specified in §5106.A of these rules.

Universal Precautions—a set of precautions developed by the United States Center for Disease Control (CDC) that are designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus (HBV) and other blood borne pathogens when providing first aid or health care. Under universal precautions blood and certain bodily fluids of all patients are considered potentially infectious for HIV, HBV and other blood borne pathogens.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008).

Subchapter B. Acupuncturist Certification

§2105. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008).

§2107. Qualifications for Certification as Acupuncturist

A. To be eligible for certification as an acupuncturist, an applicant shall:

1. be a physician possessing a current, unrestricted license to practice medicine in the state of Louisiana duly issued by the board;

2. be of good moral character as defined by §2103.A; and

3. have successfully completed:

a. not less than six months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

b. not less than three hundred credit hours of continuing medical education in acupuncture designated as category one continuing medical education hours by the American Medical Association.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008).

§2109. Application Procedure for Certified Acupuncturist

A. Application for certification as an acupuncturist shall be made in a format approved by the board.

B. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter; and

2. such other information and documentation as the board may require to evidence qualification for certification.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008).

Subchapter C. Acupuncturist's Assistant and Acupuncture Detoxification Specialist Certification; Registration of Supervising Physician, Supervising Acupuncturist's Assistant

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an

acupuncturist's assistant and acupuncture detoxification specialist, and for registration as a supervising physician and supervising acupuncturist's assistant in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008).

§2113. Qualifications for Certification as an Acupuncturist's Assistant; Qualifications for Registration as Supervising Physician for Acupuncturist's Assistant

A. To be eligible for certification as an acupuncturist's assistant, an applicant:

1. shall be at least 21 years of age;

2. shall be of good moral character as defined by §2103.A;

3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have either:

a. successfully completed not less than 36 months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

b. have been formally appointed or employed to perform acupuncture exclusively for research purposes by and at:

i. an accredited licensed hospital located in the state of Louisiana; or

ii. an accredited school or college of medicine located in the state of Louisiana; or

c. passed the certification examination given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor; and

6. shall affirm that he or she shall only practice under supervision, as defined in §5106.A of these rules.

B. Prior to undertaking the supervision of an acupuncturist's assistant a physician shall be approved by and registered with the board. To be eligible for registration, a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and

2. have been in the active practice of medicine for at least two years following the completion of postgraduate residency training, if any.

C. The board may waive or modify any of the requirements otherwise required by this Chapter for certification under 2113A.5.b., as it may deem necessary or appropriate to effectuate the purposes of this Part.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant and proposed supervising physician for certification, registration and approval shall be upon the applicant and proposed supervising physician, who shall demonstrate and evidence

such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended, LR 34:1617 (August 2008).

§2114. Qualifications for Certification as an Acupuncture Detoxification Specialist; Qualifications for Registration of Supervising Physician or Supervising Acupuncturist's Assistant

A. To be eligible for certification as an acupuncture detoxification specialist, an applicant:

1. shall be at least 21 years of age;
2. shall be of good moral character as defined by §2103.A of this Chapter;
3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;
4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have:

- a. successfully completed NADA training by a registered NADA trainer; and
 - b. current certification by the NADA to perform acupuncture detoxification; and
6. shall affirm that he or she shall only provide acu detox under the general supervision of a physician or acupuncturist's assistant, as defined in §5106.B of these rules.

B. Prior to undertaking the supervision of an acupuncture detoxification specialist a physician shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and
2. not currently be enrolled in any postgraduate residency training.

C. Prior to undertaking the supervision of an acupuncture detoxification specialist an acupuncturist's assistant shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising AcA shall, as of the date of the application:

1. possess current, unrestricted certification to practice as an AcA; and
2. have held certification by the board to practice as an AcA in this state for at least two years immediately preceding the date of application.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant acupuncture detoxification specialist, proposed supervising physician or proposed supervising acupuncturist's assistant shall be upon the applicant, proposed supervising physician or proposed supervising acupuncturist's assistant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1618 (August 2008).

§2115. Application Procedure for Acupuncturist's Assistant

A. Application for certification as an acupuncturist's assistant shall be made in a format approved by the board and shall include notification of intent to practice, signed by a proposed supervising physician who is registered with or has applied for registration to the board as a supervising physician.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the primary practice site and the geographic and demographic characteristics of his medical practice; and the primary practice site and all other addresses or locations of the office or offices where the applicant is to practice acupuncture;

3. a description of the proposed supervising physician's knowledge of and prior training or experience, if any, in traditional Chinese acupuncture;

4. attestation by the applicant and proposed supervising physician certifying that current clinical practice guidelines or protocols conforming to the requirements of 5106A of these rules have been prepared, dated, signed and shall be utilized by the acupuncturist's assistant in the exercise of the privileges conferred by certification under this Part and produced upon request by a representative of the board;

5. attestation by the applicant and proposed supervising physician, certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

6. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee, the applicant acupuncturist's assistant shall make a personal appearance before a member of the board, or its designee, to be interviewed regarding his

or her qualifications for certification and approval under this Chapter and understanding of the authority, limitations, obligations, and responsibilities imposed on acupuncturists' assistants by laws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008).

§2116. Application Procedure for Acupuncture Detoxification Specialist

A. Application for certification as an ADS shall be made in a format approved by the board and shall include notification of intent to practice in a format approved by the board, signed by a proposed supervising physician or proposed supervising acupuncturist's assistant who is registered with or has applied for registration to the board as a supervising physician or supervising acupuncturist's assistant.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in of this Chapter;

2. the nature of the proposed supervising physician's practice or supervising acupuncturist's assistant's practice and the primary practice site and/or geographic characteristics of the type of settings or locations where the applicant intends to provide acu detox;

3. the methods to be used to provide general supervision by the proposed supervising physician or supervising acupuncturist's assistant;

4. attestation by the applicant and proposed supervising physician or supervising acupuncturist's assistant certifying that the requirements of 5106B of these rules shall be followed in the exercise of the privileges conferred by certification under this Part;

5. attestation by the applicant and proposed supervising physician or supervising acupuncturist's assistant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

6. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter I of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008).

§2117. Application Procedure for Registration of Supervising Physician or Supervising Acupuncturist's Assistant

A. Application for registration of a supervising physician for an acupuncturist's assistant or acupuncture detoxification specialist or as a supervising AcA for an ADS, shall be made in a format approved by the board, include proof satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter, and contain such other information and documentation as the board may require.

B. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

C. A separate fee shall not be assessed for registration or approval of a supervising physician for an AcA or ADS or of a supervising AcA for an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008).

Subchapter D. Board Approval of Acupuncture Schools and Clinics

§2118. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and clinics are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008).

§2119. Applicability of Approval

A. As provided in this Chapter the successful completion of formal training in traditional Chinese acupuncture from a school or clinic approved by the board is among the alternative qualifications requisite to certification as an acupuncturist or acupuncturist's assistant. This qualification will be deemed to be satisfied if the school or clinic in which the applicant received training in traditional Chinese acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008).

§2121. Approval of Acupuncture Schools

A. A school providing training in traditional Chinese acupuncture which is currently accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its predecessor, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), shall concurrently be deemed approved by the board.

B. A school providing training in traditional Chinese acupuncture which has been accorded candidacy status by ACAOM, or its predecessor, NACSCAOM, shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is not awarded by ACAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in traditional Chinese acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in Chinese acupuncture under standards substantially equivalent to those prescribed by ACAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008).

§2123. List of Approved Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), repealed LR 34:1620 (August 2008).

Subchapter E. Certification Issuance, Approval of Registration of Supervising Physician or Supervising Acupuncturist's Assistant, Termination, Renewal, Reinstatement

§2125. Issuance of Certification, Approval of Registration

A. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist.

B. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncturist's assistant are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist's assistant. Issuance of certification to an applicant under this Chapter shall constitute approval of registration of the proposed supervising physician.

C. Each acupuncturist's assistant certificate issued under this Chapter shall be endorsed as Class A or Class B as follows.

1. An acupuncturist's assistant Class A certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.a or §2113.A.5.c of this Chapter.

2. An acupuncturist's assistant Class B certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.b of this Chapter. Such certificate shall be further endorsed with the name and location of the hospital, medical school, or clinic at which the applicant is to be employed to perform acupuncture exclusively for research purposes.

D. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncture detoxification specialist are met to the satisfaction of the board, the board shall certify the applicant as an ADS. Issuance of certification to an applicant under this Chapter shall

constitute approval of registration of the proposed supervising physician or proposed supervising acupuncturist's assistant.

E. Although a physician must notify the board each time he or she intends to undertake the supervision of an acupuncturist's assistant, registration with the board is only required once. Notification of supervision of a new or additional AcAs by a registered supervising physician shall be deemed given to the board upon the AcA's filing with the board of a notice of intent to practice in accordance with 2127.D of this Chapter.

F. Although a physician or acupuncturist's assistant must notify the board each time he or she intends to undertake the general supervision of an acupuncture detoxification specialist, registration with the board is only required once. Notification of supervision of a new or additional ADSs by a registered supervising physician or AcA shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with 2127.F of this Chapter.

G. The board shall maintain a list of physicians who are registered to supervise an acupuncturist's assistant and of physicians and AcAs who are registered to supervise an ADS. Each registered physician, registered AcA and ADS is responsible for updating the board within fifteen days should any of the information required and submitted change after the physician has been registered to supervise an AcA or after a physician or AcA has been registered to supervise an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1620 (August 2008).

§2127. Expiration and Termination of Certification; Modification; Notice of Intent

A. Every certification and approval issued by the board under this Chapter shall expire, and become null, void, and to no effect on the last day of the year in which such certification was issued.

B. The timely submission of an application for renewal of certification, as provided by §2129 of this Chapter, shall operate to continue the expiring certification in full force and effect pending issuance or denial of renewal certification.

C. Except as provided in Subsection D of this Section, certification as an acupuncturist's assistant whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician no longer possesses a current, unrestricted license to practice medicine in the state of Louisiana;

2. the supervising physician, whether voluntarily or involuntarily, ceases the active practice of medicine;

3. the relationship between the acupuncturist's assistant and the supervising physician is terminated; or

4. the acupuncturist's assistant's certification expires for failure to timely renew.

D. Certification shall not terminate upon termination of a relationship between a supervising physician and acupuncturist's assistant provided that:

1. the acupuncturist's assistant currently has a supervisory relationship with another supervising physician; alternatively, the acupuncturist's assistant ceases to practice

until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the acupuncturist's assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. Except as provided in Subsection F of this Section, certification as an acupuncture detoxification specialist, whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician or supervising acupuncturist's assistant no longer possesses a current, unrestricted license to practice as a physician or as an AcA in the state of Louisiana;

2. the supervising physician or supervising acupuncturist's assistant, whether voluntarily or involuntarily, ceases the active practice of medicine or practice as an AcA;

3. the relationship between the ADS and the supervising physician or the supervising AcA is terminated; or

4. the ADS's certification expires for failure to timely renew.

F. Certification shall not terminate upon termination of a relationship between a supervising physician or supervising AcA and ADS provided that:

1. the ADS currently has a supervisory relationship with another supervising physician or supervising AcA; alternatively, the ADS ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician or supervising AcA who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the ADS notifies the board of any changes in or additions to his supervising physicians or supervising AcAs within 15 days of the date of such change or addition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1620 (August 2008).

§2129. Renewal of Certification; Verification of Registration

A. Every certificate issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, in a format specified by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of certification shall be transmitted in a format approved by the board to each person holding certification issued under this Chapter on or before the first day of December of each year. Such form shall be transmitted to the primary practice site or preferred mailing

address of each certificate holder as reflected in the official records of the board.

C. Each registered supervising physician and supervising acupuncturist's assistant shall annually verify the accuracy of registration information on file with the board in a format approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008).

Subchapter F. Restricted Licensure, Permits §2131. Emergency Temporary Permit

A. Acupuncture Detoxification Specialist. The board may issue an emergency temporary permit to an acupuncture detoxification specialist, valid for a period of not more than 60 days, to provide voluntary, gratuitous acu detox services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board.

B. To be eligible for issuance of such a permit an individual shall:

1. hold a current, unrestricted license in good standing in another state to practice as an ADS;

2. prior to providing such services, present or cause to be presented to the board:

a. indisputable personal identification;

b. a copy of his or her license to practice as an ADS in another state or such other information as may be deemed satisfactory to the board on which to verify out-of-state licensure;

c. a completed application containing such information as may be required by the board; and

d. notification of intent to practice in a format approved by the board, signed by a physician or an AcA licensed or certified to practice in this state, who will fulfill the functions of a supervising physician or supervising AcA for an ADS as described in this Section. An individual is responsible for updating the board within 15 days should any of the information required and submitted on the applicant's notice of intent change after a temporary permit has been issued under this Section.

C. To be eligible for approval as a supervising physician or supervising AcA under this Section a physician or AcA shall:

1. possess a current, unrestricted license or certificate to practice as a physician or AcA in Louisiana; and

2. submit a completed application containing such information as may be required by the board.

D. Although a physician or AcA must notify the board each time he or she intends to undertake the supervision of an ADS under this Section, registration with the board is only required once. Notification of supervision of new or additional ADSs by a registered supervising physician or a registered supervising AcA shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with Subsection B of this Section.

E. The board shall maintain a list of physicians and AcAs who are registered to supervise ADSs under this

Section. Each registered supervising physician and supervising AcA is responsible for updating the board should any of the information required and submitted on the physician's or AcA's application change following registration.

F. An ADS holding a permit under this Section shall practice in this state only on a voluntary, gratuitous basis, shall perform only those acupuncture services authorized by this Section, and shall practice only at sites specified by DHH or approved by the board.

G. Services performed by an ADS issued a permit under this Section shall be limited to acu detox and approved by the supervising physician or supervising AcA. Such services may be performed under the general supervision of the supervising physician or supervising AcA. All services shall be documented in written form by the ADS and available for review by the supervising physician or supervising AcA.

H. A temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law. The board may, in addition, waive or modify any of the requirements of Chapters 21 and 51 of these rules, applicable to certification as an ADS, that it may deem necessary or appropriate to effectuate the purposes of this Section.

I. An ADS shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

J. A temporary permit creates no right or entitlement to certification as an ADS or renewal of the permit after its expiration. A temporary permit shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;
2. a date specified on the permit less than 60 days from the date of issuance;
3. the date the ADS's term of voluntary, gratuitous service is terminated; or
4. the date on which the ADS's relationship with the supervising physician or supervising AcA identified in the notice of intent terminates.

K. The board may, in its discretion, extend or renew for one or two additional 60-day periods a permit that has expired provided that all conditions prerequisite to original issuance are satisfied.

L. Following termination of a declaration of emergency the board may issue, extend or renew a 60-day permit under this Section during such period as DHH shall deem the need for emergency services to continue to exist.

M. Acupuncturist's Assistants. The board may issue an emergency temporary permit to an acupuncturist's assistant to provide voluntary, gratuitous acupuncture services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, in accordance with §412 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, R.S. 37:1356-37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006), amended LR 34:1621 (August 2008).

Subpart 3. Practice

Chapter 51. Acupuncturists, Acupuncturists' Assistants, and Acupuncture Detoxification Specialist

§5101. Scope of Chapter

A. The rules of this Chapter govern the practice of traditional Chinese acupuncture by acupuncturists, and acupuncturists' assistants and of acupuncture detoxification by acupuncture detoxification specialists in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1622 (August 2008).

§5103. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), repealed LR 34:1622 (August 2008).

§5105. Necessity of Certification

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds current certification by the board. While any physician may practice acupuncture, and may apply to the board for registration to supervise an AcA or and ADS, only a physician certified by the board under this Part may hold himself or herself out as a certified acupuncturist.

B. Any person, other than a physician, who acts as or undertakes to perform or practice acupuncture without a current acupuncturist's assistant's certificate issued under this Chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

C. Any person, other than a physician or an acupuncturist's assistant, who acts as or undertakes to perform or practice acupuncture detoxification without current certification as an ADS issued under this Chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008).

§5106. Supervision; Clinical Practice Guidelines or Protocols

A. Acupuncturist's Assistant. Supervision of an AcA shall not be construed to require the physical presence of the supervising physician. Supervision shall exist when the supervising physician gives informed concurrence of the

actions of the AcA, whether given prior to or after the action, and when the services of an AcA are:

1. provided when the supervising physician and AcA shall have the capability to be in contact with each other by telephone or other telecommunications device on a regular basis; and

2. performed in accordance with clinical practice guidelines or protocols set forth by the supervising physician and AcA that shall, at a minimum, include:

a. a description of the nature and type of services to be performed by the AcA;

b. the respective responsibilities of the supervising physician and AcA;

c. the methods to be used by the supervising physician to insure responsible direction and control of the activities of the AcA;

d. description of the procedures to be employed by the AcA including, but not limited to, adherence to procedures that shall require the use of disposable needles, proper handling and disposal of needles, and the provisions of universal precautions;

e. the AcA's documentation requirements for each visit which shall, at a minimum, include;

i. the symptoms reported by the patient in his or her words (may be recorded by the patient);

ii. a treatment plan;

iii. informed consent for the services signed by the patient; and

iv. written authority signed by the patient authorizing the supervising physician to review the patient's medical record;

f. a list of conditions and events upon which the AcA is required to notify the supervising physician; provided, however, that should the AcA have need to contact the supervising physician for any reason regarding the care of a particular patient, and the supervising physician is not immediately available, then the service shall not be provided until the supervising physician has been contacted;

g. a predetermined plan to address medical emergencies, after-hours, weekend, and vacation coverage for consultation if needed;

h. the requirements for reporting by the AcA to the supervising physician regarding patient care and the schedule by which such are to take place;

i. an acknowledgment of the mutual obligations and responsibilities of the supervising physician and AcA to comply with all requirements of Section 5111 of this Chapter; and

j. in the event that the AcA serves or intends to serve as a supervising AcA for an ADS such guidelines or protocols shall include any additional instructions or procedures that are to be followed.

B. Acupuncture Detoxification Specialist. General supervision of an ADS shall not be construed to require the physical presence of a supervising physician or supervising acupuncturist's assistant. General supervision shall exist when the services of an ADS:

1. are provided when the supervising physician or supervising AcA and the ADS shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise from the provision of

acu detox; provided, however, that should the ADS have need to contact the supervising physician or supervising AcA for any reason regarding the administration of acu detox to a particular individual, and the supervising physician or supervising AcA is not immediately available, then the acu detox service shall not be provided until the supervising physician or supervising AcA has been contacted;

2. adhere to procedures that shall require the use of disposable needles, proper handling and disposal of needles and the provisions of universal precautions; and

3. are documented in written form by an ADS and made available for review by the supervising physician or supervising AcA. Such documentation shall, at a minimum, include;

a. signed informed consent for the services by the patient; and

b. written authority signed by the patient authorizing the supervising physician or supervising AcA to review the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008).

§5107. Authority and Limitations of Acupuncturist's Assistant and Acupuncture Detoxification Specialist

A. An acupuncturist's assistant shall not:

1. practice without supervision, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as an AcA, in the absence of such certificate, registration or license; or

3. identify himself, or permit any other person to identify him, as "Doctor" or render any service to a patient unless the acupuncturist's assistant has clearly identified himself as an acupuncturist's assistant by any method reasonably calculated to advise the patient that the acupuncturist's assistant is not a licensed physician.

B. An acupuncturist's assistant holding Class B certification shall not perform or provide, or attempt to perform or provide, any acupuncture procedure, service, or function authorized by certification issued under these rules other than in the course of bona fide scientific research conducted at the direction and under the auspices of his employing hospital, medical school, or clinic.

C. An acupuncture detoxification specialist shall not:

1. practice without general supervision, as defined or provided in this Chapter;

2. perform or provide acu detox other than at the addresses, locations or types of locations identified in his or her current application;

3. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than acu detox as defined in this Part. The types of services that an ADS shall not provide include, but are not limited to, counseling, nutritional assessments, biofeedback

or any other acupuncture, medical or psychological service;
or

4. identify himself or herself, or permit any other person to identify him or her, as "doctor" or as "acupuncturist's assistant" or render any service to a patient unless the acupuncture detoxification specialist has clearly identified himself as an acupuncture detoxification specialist by any method reasonably calculated to advise the patient that he or she is not a physician or AcA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008).

§5109. Authority and Limitations of Supervising Physician and Supervising Acupuncturist's Assistant

A. The supervising physician is responsible for the responsible supervision and direction of the acupuncturist's assistant and retains responsibility to the patient for the competence and performance of the acupuncturist's assistant.

B. A supervising physician shall not concurrently supervise, or be approved to supervise, more than five acupuncturist's assistants.

C. The supervising physician or supervising acupuncturist's assistant is responsible for providing general supervision of the ADS and retains responsibility to the patient for the competence and performance of the ADS.

D. Except as may be applicable to a temporary permit issued under Section 2131 of these rules, a supervising physician or a supervising acupuncturist's assistant shall not concurrently supervise, or be approved to supervise, more than five ADSs.

E. The board may, in its discretion, grant an exception to the limitations provided in this Section on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008).

§5111. Mutual Obligations and Responsibilities

A. The acupuncturist's assistant and supervising physician shall:

1. immediately notify the board, in writing, of:

a. the termination of the acupuncturist's assistant's supervisory relationship with the supervising physician;

b. the retirement or withdrawal from active practice by the supervising physician or AcA; and

c. any change in the functions, activities, or services of the acupuncturist's assistant or the location of their performance;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the acupuncturist's assistant and/or supervising physician;

3. insure that each individual to whom the acupuncturist's assistant provides patient services is expressly advised and understands that the acupuncturist's assistant is not a physician;

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the

acupuncturist's assistant are immediately and properly documented in written form by the acupuncturist's assistant; and

5. insure that in those instances where an AcA has a primary practice site that is different from that of the supervising physician that:

a. the supervising physician shall review a random sample of the lesser of 10 percent or 20 of the AcA's records on a quarterly basis; and

b. the AcA shall maintain at his or her primary practice site, a list of records reviewed by the supervising physician reflecting the date that such records were reviewed and the signature of the supervising physician. Such list shall be kept in chronologically order and maintained by the AcA for no less than five years.

B. The acupuncturist's assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

C. The ADS, supervising physician or supervising acupuncturist's assistant shall:

1. immediately notify the board, in writing, of:

a. the retirement or withdrawal from active practice by the supervising physician or supervising AcA; and

b. any other change in the activities, or services of the ADS or the location or types of locations of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information and documentation required by this Part relative to the functions, activities, and performance of the ADS and supervising physician or supervising AcA;

3. insure that each individual to whom an ADS provides patient services is expressly advised and understands that the ADS is not a physician or an AcA; and

4. insure that, with respect to each patient, all activities, functions and services of the ADS are immediately and properly documented in written form by the ADS.

D. The ADS and the supervising physician or supervising AcA shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008).

§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions

A. The board may suspend, revoke, or impose probationary conditions and restrictions on the certification of any acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist, and/or upon the license of a supervising physician or supervising AcA, upon a finding, following hearing, that such individual is culpable of:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in

connection with the practice of acupuncture or acupuncture detoxification;

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate to practice acupuncture or acupuncture detoxification;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of acupuncture or acupuncture detoxification practice in this state;

10. knowingly performing any act which in any way assists an uncertified person to practice acupuncture or acupuncture detoxification, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist;

12. interdiction by due process of law;

13. inability to practice acupuncture or acupuncture detoxification with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate holder's physical and/or mental fitness and ability to practice acupuncture or acupuncture detoxification with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of acupuncture or acupuncture detoxification as defined by the Acupuncture Practice Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice acupuncture or acupuncture detoxification in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate; or

17. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:1356-1360.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees; and, with respect to an acupuncturist or acupuncturist's assistant, to pay a fine not to exceed the sum of \$5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994), amended LR 34:1624 (August 2008).

§5115. Appendix—Approved Acupuncture Training Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), repealed LR 34:1625 (August 2008).

Robert L. Marier, M.D.
Executive Director

0808005

RULE

Department of Health and Hospitals Board of Medical Examiners

Adjudication (LAC 46:XLV.9905)

Pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the board has amended LAC 46:XLV, Subpart 5, Chapter 99, §9905, of its rules of adjudication. The amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of

proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 60 days from the date of suspension, unless respondent waives convening a hearing during such period.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 34:1625 (August 2008).

Robert L. Marier, M.D.
Executive Director

0808006

RULE

Department of Health and Hospitals Board of Medical Examiners

Dispensation of Medications (LAC 46:XLV.6503, 6505, 6506, and 6515)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., 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 R.S. 37:1201, has amended its rules governing dispensation of medications, Title 46:XLV, Subpart 3, Chapter 65, §6503, §6505, §6506, and §6515. The amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Drugs of Concern—carisoprodol, dezocine, nalbuphine and tramadol and such other non-controlled substances, as defined by rule, which demonstrate a potential for abuse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004), LR 34:1626 (August 2008).

Subchapter B. Prohibitions, Sanctions and Exceptions

§6505. Prohibitions

A. - D. ...

E. Except as provided in §6506 of this Subchapter, a registrant shall not dispense any controlled substance or drug of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008).

§6506. Exceptions

A. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single 48 hour supply of a single controlled substance or drug of concern to a patient.

B. The prohibition contained in §6505.E of this Subchapter shall not apply to a registrant:

1. practicing in a facility maintained or operated by the state of Louisiana or a governmental entity of this state;
2. practicing in a clinic maintained or operated by the United States or by any of its departments, offices or agencies;
3. practicing in a substance abuse or addiction treatment facility licensed by the Louisiana Department of Health and Hospitals; or
4. engaged in clinical research or investigational studies regulated by the U.S. Food and Drug Administration, in compliance with all applicable state and federal laws, rules and regulations.

C. Upon written application by a physician to the board made in accordance with this Subsection the board may, with respect to an identified individual patient:

1. authorize a physician to depart from the dispensing limitation prescribed by §6506.A of this Subchapter. Such application shall contain:

a. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the dispensing limitation on controlled substances and drugs of concern, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

b. such other information and documentation as the board may request;

2. the board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of §6506.A of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in §6506.A of this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008).

Subchapter C. Registration

§6515. Registration Procedure

A. ...

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008).

Robert L. Marier, M.D.
Executive Director

0808004

RULE

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

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

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services has adopted LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is being promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part XXI. Home and Community Based Services
Waivers**

Subpart 1. General Provisions

Chapter 3. Eligibility

**§301. Termination of Coverage for Displaced
Recipients**

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 34:1627 (August 2008).

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

Alan Levine
Secretary

0808#070

RULE

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

Disproportionate Share Hospital Payments
Distinct Part Psychiatric Unit Expansions and
Mental Health Emergency Room Extensions
(LAC 50:V.2709 and 2711)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.2709 and 2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2709. Distinct Part Psychiatric Unit Expansions

A. Effective for dates of service on or after January 1, 2008, Medicaid enrolled non-state, acute care hospitals that expand their distinct part psychiatric unit beds and sign an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

B. Effective for dates of service on or after March 3, 2008, Medicaid enrolled non-state, acute care hospitals that enroll a new distinct part psychiatric unit and sign an addendum to the Provider Enrollment form (PE-50) by April 3, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

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

D. The amount appropriated for this pool in SFY 2008 is \$7,000,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$7,000,000, payment will be the lesser of each qualifying hospital's net uncompensated care costs or its pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment and multiplying by \$7,000,000.

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

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

F. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1627 (August 2008).

§2711. Mental Health Emergency Room Extensions

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

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

B. Qualifying non-state, acute care hospitals must:

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

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

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

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

E. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008).

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

Alan Levine
Secretary

0808#069

RULE

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

Medicaid Eligibility
Family Opportunity Act Medicaid Program
(LAC 50:III.2303 and 10305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted

LAC 50:III.2303 and 10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Programs

§2303. Family Opportunity Act Medicaid Program

A. The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, allows states to offer a Medicaid buy-in program to families with income up to 300 percent of the Federal Poverty Level (FPL) for children with disabilities who are not eligible for Supplemental Security Income (SSI) disability benefits due to excess income or resources. The department hereby implements a Medicaid buy-in program called the Family Opportunity Act Medicaid Program to provide Medicaid coverage to children with disabilities.

B. Eligibility Requirements. Children born on or after October 1, 1995 and who meet the following requirements may receive health care coverage through the Family Opportunity Act Medicaid Program.

1. The child must have a disability which meets the Social Security Administration's childhood disability criteria.

2. Gross family income must not be more than 300 percent of the federal poverty level using the income methodologies of the SSI program.

a. For the purpose of determining family income, the family unit shall consist of the following members:

- i. child(ren) with disabilities;
- ii. natural or legal parent(s); and
- iii. siblings under age 19.

b. Step-parents and step-siblings are excluded from the income determination.

3. The child may be uninsured or underinsured.

a. Parents are required to enroll in available employer-sponsored health plans when the employer contributes at least 50 percent of the annual premium costs. Participation in such employer-sponsored health plans is a condition of continuing Medicaid coverage.

C. Children determined eligible under the Family Opportunity Act Medicaid Program shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

D. Premium Payments. Families with gross income above 200 percent, but not more than 300 percent of the FPL, are required to pay premiums for Medicaid coverage. Families with gross income up to 200 percent of the FPL are not required to pay premiums for Medicaid coverage.

1. The amounts paid for premiums for Medicaid-required family coverage and other cost-sharing may not exceed 5 percent of a family's income for families with income up to 200 percent of the FPL and 7.5 percent of a family's income for families with income above 200 percent of the FPL.

2. For families with gross income above 200 percent, but not more than 300 percent of the FPL, the premium amount for Medicaid is determined by whether the natural or legal parent(s) living in the household is paying for other

creditable health insurance that covers the child(ren) with disabilities.

a. Families who have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. \$12 per month for families with income above 200 percent and up to 250 percent of the FPL;

ii. \$15 per month for families with income above 250 percent, but not more than 300 percent of the FPL.

b. Families who do not have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. no premium is required for families with income from 0 percent and up to 200 percent of the FPL;

ii. \$30 per month for families with income above 200 percent and up to 250 percent of the FPL;

iii. \$35 per month for families with income above 250 percent, but not more than 300 percent of the FPL.

3. The first premium is due the month following the month that eligibility is established. Prepayment of premiums is not required. A child's eligibility for medical assistance will not terminate on the basis of failure to pay a premium until the failure to pay continues for at least 60 days from the date on which the premium was past due.

4. The premium may be waived in any case where it is determined that requiring a payment would create an undue hardship for the family. Undue hardships exist when a family:

a. is homeless or displaced due to a flood, fire, or natural disaster;

b. resides in an area where there is a presidential-declared emergency in effect;

c. presents a current notice of eviction or foreclosure; or

d. has other reasons as determined by the department.

5. Families whose eligibility has been terminated for non-payment of premiums must pay any outstanding premium balances for Medicaid-covered months before eligibility can be re-established, unless:

a. the liability has been canceled by the Bureau of Appeals or the Medicaid Recovery Unit; or

b. there has been a lapse in Medicaid coverage of at least 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008).

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. For recipients in the Family Opportunity Act Medicaid Program, an income disregard of \$85 will be applied to total gross (earned and unearned) family income and then half of the remaining income will be disregarded.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008).

Alan Levine
Secretary

0808#071

RULE

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

Professional Services Program—Physician Services
Reimbursement Methodology
(LAC 50:IX.15103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:IX.15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

§15103. Physician Services

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008).

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

Alan Levine
Secretary

0808#072

RULE

Department of Public Safety and Corrections Corrections Services

Offender Payment for Electronic Monitoring (LAC 22:I.407)

In accordance with the provisions of R.S. 15:560.4(B), (C) and (D) the Department of Public Safety and Corrections, Corrections Services, promulgates LAC 22:I.407, Offender Payment for Electronic Monitoring.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding a sex offender's ability to pay for electronic monitoring.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 4. Division of Probation and Parole

§407. Offender Payment for Electronic Monitoring

A. Purpose. To establish the secretary's policy regarding a sex offender's ability to pay for electronic monitoring.

B. Applicability. chief of operations, undersecretary, assistant secretary, wardens and the Director of Probation and Parole. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy

1. It is the secretary's policy to provide for close control and/or tracking of sex offender movement and to utilize electronic monitoring to achieve this within resource limits.

D. Definitions

1. Child Sexual Predator: A person who has been convicted of a sex offense as defined in R.S. 15:541(14) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified or because he has a history of committing crimes, wrongs or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children based upon a determination made by a Louisiana Sex Offender Assessment Panel.

2. Sex Offender: An inmate committed to the custody of the Department of Public Safety and Corrections for a

crime enumerated in R.S. 15:541(14.1). A conviction for any offense provided for in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law equivalent to such offense. An individual convicted of the attempt of any of the defined sex offenses shall be considered a sex offender for the purpose of this regulation.

3. Sexually Violent Predator: A person who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who has a mental abnormality or anti-social personality disorder which makes the person likely to engage in predatory sexually violent offenses based upon a determination made by a Louisiana Sex Offender Assessment Panel.

E. Procedures

1. Sex offenders shall be placed on electronic monitoring based on the following levels of priority:

a. sex offenders with victims under the age of 13 years pursuant to R.S. 14:43.1(C), 14:43.2(C), 14:43.3(C), 14:78.1(D), 14:81.1(E) and 14:81.2(E);

b. child sexual predators and sexually violent predators based upon a determination made by a Louisiana Sex Offender Assessment Panel. Pursuant to the provisions of R.S. 15:560.4, these sex offenders shall be required to be electronically monitored utilizing electronic location tracking;

c. sex offenders under supervision by the Division of Probation and Parole who pose a high level of risk due to indicators such as past and present criminal behavior/arrests, citizen complaints/reports, officer observation and/or other related risk indicators.

2. Each sex offender being electronically monitored shall pay the cost of such monitoring. The cost attributable to the monitoring of a sex offender who has been determined unable to pay shall be borne by the department if, and only to the degree that such funds are made available by appropriation of state funds or from any other source.

a. A sliding scale of payment may be imposed if the offender is unable to pay all (or any portion) of such costs. The Division of Probation and Parole shall determine the offender's ability to pay by considering income to include all earned and unearned income (i.e., benefits, such as unemployment, disability, retirement, real estate) and all assets and basic living expenses and care of dependents, excluding mandated judgments. Factors to be considered may also include public assistance, such as food stamps, Temporary Assistance for Needy Families, Medicaid, public housing and earnings of less than 200 percent of the Federal Poverty Guideline;

b. Whenever the sex offender cannot fully pay the costs, the determination of ability to pay and amount of payment will be made by the supervising officer with the approval of his supervisor or the district administrator or designee.

c. Failure to comply with established payment responsibilities when it is determined the sex offender had sufficient income shall be deemed a major violation and dealt with according to the Division of Probation and Parole's policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560.4(B), (C), and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1630 (August 2008).

James M. Le Blanc
Secretary

0808#045

RULE

Department of Public Safety and Corrections Corrections Services

Sex Offender Assessment Panels (LAC 22:I.109)

In accordance with the provisions of R.S. 15:560.3(B) the Department of Public Safety and Corrections, Corrections Services, promulgates LAC 22:I.109, Louisiana Sex Offender Assessment Panels, pursuant to legislative intent and the provisions of Act 186 of the 2006 Regular Session and Act 126 of the 2007 Regular Session.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§109. Louisiana Sex Offender Assessment Panels

A. Purpose. To establish the secretary's policy relative to the formation of the Louisiana Sex Offender Assessment Panels pursuant to legislative intent and the provisions of Act 186 of the 2006 Regular Session and Act 126 of the 2007 Regular Session. The provisions of this regulation shall apply to all sex offenders as defined in R.S. 15:541(14.1) who are convicted or who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability: deputy secretary, chief of operations, undersecretary, assistant secretary, wardens, Director of the Division of Probation and Parole, Chairman of the Board of Pardons, Chairman of the Board of Parole and local jail administrators. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. To constitute the department's policy regarding Louisiana Sex Offender Assessment Panels pursuant to legislative intent.

D. Definitions

Child Sexual Predator—a person determined by a Louisiana Sex Offender Assessment Panel who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified by a psychiatrist or psychologist, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

Mental Abnormality—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or

apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

Sexually Violent Predator—a person who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses as determined by a Louisiana Sex Offender Assessment Panel.

E. Panel Composition and Guidelines

1. Pursuant to the provisions of R.S. 15:560.2, the secretary is hereby authorized to create not more than three Louisiana Sex Offender Assessment Panels. An employee of the Office of Adult Services shall be designated by the secretary to serve as coordinator for the panels. Each panel shall consist of three members as follows:

a. one member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years or a psychiatrist in the employ or under contract to the department whose credentials and experience are not incompatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator;

b. one member shall be the secretary or designee who shall be chairman;

c. one member shall be the warden, or in his absence the deputy warden, of the institution where the offender is incarcerated or a probation and parole officer with a minimum of 10 years experience, or a retired law enforcement officer with at least five years of experience in investigating sex offenses.

2. A majority of the members of a panel shall constitute a quorum. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons and the Board of Parole, information provided by the sex offender (which may include a personal interview), the district attorney or the assistant district attorney from the judicial district which prosecuted the sex offender and any other information obtained by the boards or the department.

5. Each panel shall have the duty to evaluate every offender who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is to be released from the custody of the department, by any means, to determine if he is a child sexual predator or a sexually violent predator in accordance with the provisions of R.S. 15:560.1.

6. Each panel shall meet and evaluate every sex offender as defined by this regulation at least six months prior to the release date of the sex offender.

7. Any decision by a panel may be appealed in accordance with Department Regulation No. B-05-005 "Administrative Remedy Procedure."

8. A panel's review will be conducted via file review utilizing the information contained in Paragraph E.4.

Telephone or video conferencing may be conducted at the discretion of the panel.

9. Panel decisions will be recorded by individual vote and official results shall be maintained on a docket sheet results form.

10. Recommendations made by individuals other than those employed by the department or the local jail facility where the inmate is housed shall be made in writing.

11. Pursuant to R.S. 15:560.3 A.(1), (2), and (3), upon a determination by a panel that a sex offender is a child sexual predator or a sexually violent predator, the sex offender shall be:

a. required to register as a sex offender in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

b. required to provide community notification in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

c. required to be electronically monitored pursuant to the provisions of R.S. 15:560.4.

F. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each sex offender determined to be a child sexual predator or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored in a fashion that provides for electronic location tracking.

2. Unless it is determined pursuant to Department Regulation No. C-07-004 "Offender Payment for Electronic Monitoring" that a sex offender is unable to pay all or any portion of the costs for electronic monitoring, each sex offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that a sex offender determined to be a child sexual predator or a sexual violent predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

G. Notification of Release

1. In accordance with R.S. 40:2528, Public Safety Services shall promulgate rules and regulations regarding the department's notification to the Office of State Police when a child sexual predator or sexually violent predator has been released from imprisonment. State police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

H. Rights of Action

1. Any employee who participates in the sex offender review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560.3(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1631 (August 2008).

James M. Le Blanc
Secretary

0808#046

RULE

Department of Public Safety and Corrections Uniform Construction Code Council

Informal Disciplinary Proceedings (LAC 55:VI.1102)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby enacts a new rule under Chapter 11 to revise the informal disciplinary procedures against those building code enforcement officers and third party providers holding a certificate of registration.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 11. Disciplinary Proceedings

§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 informal investigation, by the council administrator or his/her designee, shall notify the registrant, in writing, of the findings of the informal investigation by the council administrator. The council administrator is authorized to conduct the informal investigation by telephone or site visit as deemed necessary by the council administrator. Furthermore, for complaints involving an immediate safety threat or dangerous condition, the council administrator shall notify, in writing, the local building official of the complaint. After presentation of a report by the council administrator, the council may, in writing, order the registrant to immediately cease the conduct or violation.

B. Response. The registrant after written informal notice from the council, shall respond in writing to the council's informal notice within 21 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/her certificate of registration. In lieu of providing a written statement, the registrant may request, in writing to the council administrator, an informal conference with the council chair, code enforcement advisory committee chair, council administrator, and legal counsel. In the event that a resolution to the matter is not accomplished during the informal procedures, the council administrator shall forward a report to the council for initiation of the formal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 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), amended LR 34:1632 (August 2008).

Jill Boudreaux
Undersecretary

0808#063

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Caterer's Permits (LAC 55:VII.325)

Under the authority of R.S. 26:71.1, 271.3 and/or 793, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.325 relative to permit holders eligible to apply for and obtain Caterer's Permits.

This amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 to promulgate rules relative to issuance of Caterer's Permits.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A—Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1 or 2 below.

1. Holders of any Class A, B or C liquor or beer retail permit will be allowed to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than on the premises for which the holder's regular permit is issued.

a. This holder of a Class A—Caterer's permit must use the permit in conjunction with their A, B or C liquor and/or beer permit and shall expire at the same time as the regular A, B or C permit.

b. If the regular Class A, B or C permit ceases to be valid for cause, the caterer's permit ceases to be valid.

2. Class B liquor or beer retail permit holders shall be subject to the following terms and/or conditions.

a. Class A—Caterer's permits shall only be issued to holders of a Class B liquor and/or beer retail permit whose primary purpose is the sale of alcoholic beverages.

b. Class B liquor or beer retail permit holders who applied for and obtained a Class A—Caterer's permit prior to August 20, 2008, shall not be subject to Subparagraph a above.

3. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who operate a facility with a fully equipped kitchen where food is prepared for the purpose of catering functions, will be allowed to obtain a Class A—Caterer's permit under the following conditions.

a. This holder of a Class A—Caterer's permit must derive 70 percent of their gross annual revenue from the sale of food or food-related product, and 40 percent of the gross revenue per event must be derived from the sale of food or food-related product.

b. This holder of a Class A—Caterer's permit must maintain separate sales figures for alcoholic beverages.

c. Class A—Caterer's permits shall not be used in lieu of Special Event permits.

B.1. An application for a Class A—Caterer's permit shall be made on forms prescribed by the Commissioner of the Office of Alcohol and Tobacco Control.

2. A Class A—Caterer must display the permit on the premises of the event being catered.

3. A Class A—Caterer must only cater events in an area in which the sale of alcoholic beverages has been authorized by local option election and with permission from the local governing authority.

4. A Class A—Caterer must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

5. All alcoholic beverages at a catered event must be dispensed by the holder of the Class A—Caterer's permit or his employee, agent, or servant.

6. Class A—Caterers must comply with the provisions of the Responsible Vendor Program of R.S. 26:931 et seq.

7. The cost of the Class A—Caterer's permit is \$200 per year or any portion thereof; costs shall not be prorated.

8. Class A—Caterer permits shall be renewed annually in accordance with the provisions relative to all other retail permits, specifically R.S. 26:88 and 285 and LAC 55:VII.321.

C. Holders of a caterer's permit must specifically comply with provisions of R.S. 26:90, 26:91, 26:286 and 26:287 in addition to other provisions not exempted; however, exceptions are: when the holder of caterer's permit calls upon an industry member to serve an event; at events other than upon the premises for which the holder's regular permit is issued, the industry member must charge the holder of the caterer's permit for all equipment used and services rendered in an amount at least equal to that listed as follows:

1. labor—at a rate equal to that required as a minimum wage under the Federal Wage and Hour Act;

2. self contained electric units in which the beer container is refrigerated with the unit—\$25 per day;

3. electric unit in which the beer container sits outside the cooling unit—\$25 per day;

4. picnic pumps—\$10 per day or may be sold to the permit holder in accordance with Paragraph 9 below;

5. tubs—\$10 per day or may be sold to the permit holder in accordance with Paragraph 9 below;

6. cold plates—\$25 per day;

7. trucks designed to handle packaged beer without refrigeration—\$30 per day;

8. refrigerated trucks designed to handle packaged or draught beer or mobile units such as trailers or other vehicles designed to handle package or draught beer—\$100 per day;

9. cups, ice, additional CO₂ gas, gas picnic pumps, tubs and similar supplies and equipment—cost to industry member;

- 10. alcoholic beverages—at the price available to all other retail dealers in alcoholic beverages;
- 11. stages, including labor to erect—\$200 per day; and
- 12. tents, including labor to erect:
 - a. 12' x 12' or smaller—\$30 per day;
 - b. larger than 12' x 12'—\$50 per day.

D. Any violation of these regulations or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension, or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.1, 271.3 and/or 793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000), LR 34:1633 (August 2008).

Murphy J. Painter
Commissioner

0808#062

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Regulation Number XI—Fairs, Festivals and Special Events (LAC 55:VII.323)

Under the authority of R.S. 26:793, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.323 relative to issuance of three-day Special Event Permits to non-profit and for profit organizations and furnishing of tents and/or staging therefor.

This Rule is being promulgated with authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 to promulgate rules relative to issuance of three-day Special Event Permits to organizations authorizing temporary sales and/or service of alcoholic beverages to the public.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§323. Regulation Number XI—Fairs, Festivals and Special Events

A. For purposes of this regulation, special events are defined as events, held at any location, where alcoholic beverages are served as an incidental part of the event for payment rendered or are supplied as a part of a general admission or other type fee.

B. For such events, this office will issue a special temporary retail alcoholic beverage permit. These permits will be for a maximum duration of three consecutive days only, and no more than 12 such permits shall be issued to any one person within a single calendar year.

1. There shall be three types of temporary alcoholic beverage permits—Type A, Type B and Type C.

a. Type A permits will be issued only to non-profit organizations with tax exempt status under the United States

Internal Revenue Code, Sections 501(c)(3) and 501(c)(8). To qualify for this permit, applicants must submit written proof of their tax exempt status, a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease, contract or written permission of the owner of the property upon which the event is to be held if the property is not owned by the applicant and a completed, notarized application form. Type A permits shall be issued without charge by the Office of Alcohol and Tobacco Control.

b. Type B permits will be issued only to non-profit organizations which are able to provide some type of written proof of their non-profit status, but are unable to show written proof of their tax exempt status under the Internal Revenue Code sections cited above. To qualify for this permit, applicants must submit the same documentation as for Type A permits, substituting the written proof of non-profit status for the written proof of tax exempt status. Applicants for Type B permits will be assessed a \$10 handling fee to cover the cost of processing the application.

c. Type C permits will be issued to persons holding limited events where alcoholic beverages are sold or supplied as part of a general admission or other type fee, but who do not meet the requirements for Type A or Type B temporary permits. To qualify for a Type C temporary permit, applicants must meet the qualifications required of permit holders under R.S. 26:80 and R.S. 26:280 and must submit a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease or contract with the owner of the property on which the event is to be held if it is not owned by the applicant and a completed, notarized application form. A \$100 fee will be assessed to cover the cost of handling the Type C permit application.

2. Class A—Caterer's permits shall not be utilized in lieu of Special Event permits.

C. The holders of temporary special event permits may return unused product at the conclusion of the event for cash or credit refund.

D. The provisions of R.S. 26:90 and 26:286 shall apply to all special events for which temporary permits are issued under this regulation, and violations are punishable as provided for under the provisions of Title 26 of the Revised Statutes. The provisions of R.S. 26:81 and 26:281 shall not apply to special event permits.

E. The provisions of R.S. 26:287(9) and Regulation IX dealing with unfair business practices shall not apply to the holders of Type A and Type B special event permits, except as provided in Subsection F below, but shall fully apply to the holders of Type C special event permits.

F.1. When the holder of a special event permit of any type calls upon an industry member to service an event, the industry member must charge the permit holder for all equipment used and services rendered in an amount at least equal to that listed as follows:

a. labor—at a rate equal to that required as a minimum wage under the Federal Wage and Hour Law;

b. self contained electric units in which the beer container is refrigerated within the unit—\$25 per day;

c. electric unit in which the beer container sits outside the cooling unit—\$25 per day;

- d. picnic pumps—\$10 per day or may be sold to the permit holder in accordance with Subsection j below;
 - e. tubs—\$10 per day or may be sold to the permit holder in accordance with subsection j. below;
 - f. cold plates—\$25 per day;
 - g. trucks designed to handle packaged beer without refrigeration—\$30 per day;
 - h. refrigerated trucks or mobile units such as trailers or other vehicles designed to handle package or draught beer—\$100 per day;
 - i. cups, ice, additional CO₂ gas, gas picnic pumps, tubs and similar supplies and equipment—cost to industry member;
 - j. alcoholic beverages—at the price available to all other retail dealers in alcoholic beverage;.
 - k. stages, including labor to erect—\$200 per day; and
 - l. tents, including labor to erect:
 - i. 12' x 12' or smaller—\$30 per day;
 - ii. larger than 12' x 12'—\$50 per day.
2. Equipment such as that listed above may not be furnished to regular licensed retail dealers unless the dealer acquires a temporary special event permit. Equipment may not be provided by a wholesaler for functions where no permit is issued but beer is acquired from a retail dealer, such as private parties or receptions.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:606 (June 1991), amended LR 34:1634 (August 2008).

Murphy J. Painter
Commissioner

0808#61

RULE

**Department of State
Elections Division**

Election Poll Workers (LAC 31:I.301)

Under the authority of R.S. 18:24 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Election Supervisors has repealed the Section regarding the testing of commissioners and commissioners-in-charge.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 3. Commissioners and Commissioners-in-Charge

§301. Testing

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24.

HISTORICAL NOTE: Promulgated by the Secretary of State, Board of Elections Supervisors, LR 8:266 (May 1981), repealed LR 34:1635 (August 2008).

Jay Dardenne
Secretary of State

0808#012

RULE

**Department of State
Elections Division**

Registrars of Voters
(LAC 31:II.103)

Under the authority of R.S. 18:24, R.S. 18:53, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Election Supervisors has amended the uniform rules and regulations for the removal of a registrar of voters for cause set forth in Section 103.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 1. Registrars of Voters

§103. Removal of Registrar of Voters for Cause

A. A proceeding for the removal of a registrar shall be commenced by the state board of election supervisors upon the receipt of a resolution from a parish governing authority which includes the following information:

1. accusations of willful misconduct relating to the registrar's official duty, willful and persistent failure to perform his duties, persistent public conduct prejudicial to the administration of the laws relative to the registration of voters that brings the office into disrepute, or conviction of a felony; and

2. favorable adoption of the resolution by at least two-thirds of the membership of the parish governing authority.

B. A proceeding for the removal of a registrar may be commenced by the state board of election supervisors upon the written complaint filed with the state board of election supervisors by one or more natural persons of legal age who reside within the parish served by the registrar whose removal is sought, which complaint includes the following information:

1. the name and mailing address of each complainant;

2. the name of the registrar whose removal is sought and the parish he serves;

3. the reasons the removal is necessary;

4. a full statement of the facts, commissions or omissions upon which the complaint is based, including the names of persons, dates, places and circumstances, so as to fully inform the registrar as to the factual basis for the complaint. No evidence of any fact not alleged in the complaint shall be brought before the board during the hearing;

5. a clear statement that the complainant is seeking the removal of the registrar from office; and

6. signature of each complainant and verified under oath before a notary or two witnesses.

C. The original resolution or complaint shall be filed with the chairman of the state board of election supervisors by personal delivery to his office, or by regular or certified mail. The chairman of the state board of election supervisors shall provide notice of the resolution or complaint to the accused registrar by certified mail, return receipt requested with restricted delivery to addressee only.

D. Upon receipt of the resolution or complaint, the chairman of the board shall examine each resolution or complaint and may reject the resolution or complaint for filing if he finds that it fails to state a cause of action for removal pursuant to R.S. 18:53 or fails to comply with the filing requirements herein. If the chairman rejects the filing of the resolution or complaint, he shall notify the board, the parish governing authority or complainant and the registrar accordingly. If the chairman accepts the filing of the resolution or complaint, he shall notify the board, the registrar, and either the parish governing authority or the complainant of the scheduled hearing date, time and place, to be set no later than 30 days from receipt of the complaint. All notices to the registrar and parish governing authority or complainant shall be by certified mail return receipt requested with restricted delivery. The notice of hearing shall be in compliance with the provisions of R.S. 49:955.

E. If the chairman rejects the filing of the resolution or complaint, the parish governing authority or complainant may amend the resolution or complaint to state a claim within 10 days of the mailing date shown thereon of the rejection of the filing. If the parish governing authority or complainant fails to file an amended resolution or complaint within the time allowed, the chairman of the board shall dismiss the resolution or complaint.

F. The board may consolidate complaints if they relate to common issues or to the same actions or events.

G. The board shall compile and maintain an official record in connection with each resolution or complaint, containing at a minimum a copy of the following:

1. the resolution or complaint, and any board authorized amendments;
2. any written submissions by the parish governing authority, respondent(s), or other interested persons, including any responses authorized by the board;
3. a written report of any investigation conducted or commissioned by the board;
4. copies of all notices and correspondence to or from the board in connection with the resolution or complaint;
5. originals or copies of any tangible evidence produced at any hearing conducted pursuant to these rules;
6. original tape recording produced at any hearing conducted pursuant to these rules and a copy of any hearing transcript; and
7. a copy of any final decision issued by the board.

H. The respondent registrar may file a written answer to the resolution or complaint, notarized or witnessed as provided for herein, prior to the hearing wherein he may admit or deny specifically each of the allegations of the

resolution or complaint, and otherwise answer to the resolution or complaint. The board for good cause shown may allow an extension of the time period for answering, if requested by the respondent.

I. Postponements or continuances of any hearing are subject to board approval.

J. Either party or the board, at their cost, may order copies of the transcription of the testimony using the state's uniform fee schedule for copies of public records.

K. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

L. The board shall render its decision within 10 days after the hearing. All decisions shall comply with the requirements of R.S. 49:958. The decision shall become final 30 days after the mailing date shown thereon, unless a rehearing has been timely requested by either party, or unless the registrar, whose removal has been ordered, files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

M. A rehearing may be requested within 10 days from the date of the board's written decision on the grounds listed in R.S. 49:959, and if requested timely, the board shall follow the procedures for rehearing in accordance with R.S. 49:959.

N. If the respondent registrar requests a rehearing, the decision upon rehearing, or denial thereof, shall become final 30 days after the mailing date shown thereon, unless the registrar files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

O. All filings and correspondence shall be addressed to State Board of Election Supervisors, Secretary of State, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24 and R.S. 18:53.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 5:328 (October 1979), amended LR 34:1635 (August 2008).

Jay Dardenne
Secretary of State

0808#013

RULE

Department of State Secretary of State

Address Confidentiality Program
(LAC 4:XIX.Chapter 1)

Under the provisions of R.S. 44:52(A)(2), R.S. 36:742, and the Administrative Procedure Act (R.S. 49:950 et seq.), the Secretary of State has adopted guidelines for the Address Confidentiality Program.

Title 4
ADMINISTRATION

Part XIX. Secretary of State

Chapter 1. Address Confidentiality Program

§101. Summary of Program

A. The Address Confidentiality Program (ACP) provides relocated victims of abuse, sexual assault, or stalking with a substitute address to use in place of their actual address when they apply for or receive state or local government services (e.g., driver's license, voter registration, public school records, etc.). The goal of the program is to prevent an assailant or potential assailant from finding the location of a victim through the state's public records. The program is not a witness protection program and does not assist participants in obtaining new names, Social Security numbers, or in relocating them to a new residence. The ACP does not provide legal advice to the participant.

B. The ACP acts as the agent of an ACP participant for purposes of service of process and forwards all first-class, certified, or registered mail to the participant.

C. The ACP works with state and local government agencies to ensure compliance of ACP legislation and to facilitate the use of the substitute address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§103. Eligibility Requirements

A. Any person attempting to escape from actual or threatened abuse, sexual assault, or stalking can apply for participation in the ACP. To participate in the program, a victim must meet the following criteria:

1. be a victim of abuse, sexual assault, or stalking;
2. be concerned for the safety of self, children, or household members;
3. be a resident of Louisiana;
4. relocate or plan to relocate to an address unknown to his/her abuser;
5. not have made any public record in new location (i.e., telephone number, utilities, driver's license, etc.);
6. live in a residence that the victim does not own (The ACP cannot protect victims if a house has been purchased in their name.); or
7. be 18 years of age or older:
 - a. be a parent or guardian acting on behalf of a minor; or
 - b. be a parent or guardian acting on behalf of an incapacitated individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§107. ACP Process

A. A victim of abuse, sexual assault, or stalking moves to a new location (in Louisiana) that is unknown to his/her abuser, and a public record of the new address has not been created (i.e., telephone number, driver's license, utilities, etc.).

B. The victim calls the ACP and is referred to an agency with a certified ACP Application Assistant.

C. The victim meets with an ACP Application Assistant to apply for participation in the ACP.

D. The ACP Application Assistant sends the application to the ACP.

E. The ACP reviews the information on the application and if all conditions have been met, the victim is certified as a program participant.

F. The new participant is assigned an ACP code, and an ACP authorization card is issued for each member of the household.

G. The program participant (and co-participants) can now apply for state and local government services using the substitute address as his/her legal address.

H. The ACP forwards all first-class, certified, and registered mail to the program participant's actual mailing address.

I. The program participant's actual residential address and telephone number are not public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§109. Definition of a Participant and Co-Participant(s)

A. A victim becomes an ACP participant after he/she meets the criteria set forth by the ACP legislation. A co-participant is a household member (i.e., child, spouse, sister, etc.) who lives with the participant and is listed on the ACP application. Household members are not required to be in the ACP; however, it is strongly advised that they be a part of the ACP as it is important for everyone in the household to use the substitute address.

B. The participant and co-participants share the same ACP code and the same substitute address. The participant and co-participants are afforded the same legal protections of the ACP and must agree to abide by the same rules and guidelines of participation in the ACP.

C. Once the participant has completed the proper application form, the secretary of state shall certify the applicant as a program participant which certification shall be valid for four years following the date of filing unless the certification is cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§111. Substitute Address

A. The substitute address assigned to participants has no relationship to participants' actual address and all participants use the same address.

B. The substitute address can be used as the participant's residential, school, and work address. The address should always be used when applying for state and local government services. Private companies are not required to accept the substitute address; however, upon request, many companies use the substitute address. Program participants should also use the ACP address with work associates, friends, and family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:54, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§113. Authorization Card

A. Each applicant is asked to sign an ACP authorization card and the card of every co-applicant under the age of 18. Co-applicants that are 18 or older, sign their own

authorization card. The ACP issues an ACP authorization card for each member of the household. Use of the substitute address may begin when participants receive their ACP authorization card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1637 (August 2008).

§115. ACP Code

A. The ACP code is a specific number assigned to each participant and co-participant and is used to sort and distribute participant mail. Participants and co-participants in the same household share the same ACP code and all mail addressed to a participant should include this number. If the ACP code is not included as part of an address; delivery of a participant's mail can be delayed and in some cases, may be returned to the sender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§117. Mail-Forwarding Service

A. The ACP provides first-class mail forwarding service to participants using the substitute address. All first-class, certified, and registered mail received at the substitute address is forwarded as first-class mail to the mailing address provided on the application by the participant. The ACP does not forward books, magazines, periodicals, packages, or junk mail. Packages are returned to the sender and junk mail or magazines are discarded. Program participants can expect their mail to be delayed 5 to 10 days as all mail is forwarded from a Baton Rouge address. The ACP does not track or maintain records of any mail received on behalf of the program participants unless the mail is certified or registered.

B. Participants are asked to directly communicate with all their business/personal contacts to inform them of the substitute address they will be using as their mailing address and the address for public record. Participants are asked not to submit a change of address form to the U.S. Postal Service as this can cause confusion for the post office and can delay the participant's mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§119. Voter Registration

A. A program participant may vote absentee by mail upon meeting the necessary requirements. The participant's substitute address shall be used for registration and voting and the participant's name and physical address shall not be included on any list of registered voters available to the public. A program participant shall not vote during early voting in-person or in-person at the polls on election day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§121. Service of Process

A. A program participant designates the ACP as an agent for service of process and receipt of mail and legal documents. The ACP receipt of documents constitutes the

participant's receipt of the documents. Participants cannot use the program to avoid legal action or to hide from legal responsibilities by refusing to accept mail forwarded by the ACP. Participants are legally responsible for obligations contained in all documents forwarded to them by the ACP. ACP will accelerate delivery (i.e., Fed Ex, UPS, etc.) on legal papers participants are served. All legal delays for service of citation or other process on a program participant shall be extended 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§123. Disclosure of Records

A. The ACP is prohibited from disclosing the address or telephone number of a program participant except under the following circumstances.

1. The information is requested by a federal, state, or local law enforcement agency for official use only.

2. The information is required by direction of a court order.

3. The information is requested by an agency to verify the participation of a program participant when the verification is for official use only. ACP will give no additional information except to verify participation in the program.

B. The ACP will provide immediate notification of disclosure to program participants when disclosure is made under LAC 4:XIX.123.A.2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§125. Notification to Courts

A. If at the time of application, a program participant is subject to court order or is involved in a court action related to divorce proceedings, child support, child custody, or child visitation, the ACP shall notify the court that issued the order or the court having jurisdiction over the action, of the certification of the program participant in the ACP and of the substitute address designated by the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§127. State and Local Government Agency Exemption

A. A state or local government agency may request a waiver from the requirements of the ACP by submitting a waiver request. The waiver is an explanation of why the agency cannot meet its statutory or administrative obligations by using the ACP substitute address. If the ACP accepts the waiver, the agency will only use the participant's actual address for statutory or administrative purposes and will not be public record. Acceptance or denial of an agency's waiver request is not subject to further review.

B. Participants subject to the Sex Offender and Public Protection Registration Programs must disclose their actual residential address as required by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1638 (August 2008).

§129. Certification

A. Applicants are certified as participants for four years following the date of certification unless withdrawal or cancellation occurs before the expiration date. Participants can renew their certification if they still consider themselves at risk by completing another application with an ACP Application Assistant within 30 days prior to their expiration date. Upon the receipt and approval of a completed ACP application, the applicant will be on record as a certified program participant and will receive a welcome packet with more detailed information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:53, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:1639 (August 2008).

Jay Dardenne
Secretary of State

0808#011

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

**Voluntary Deductions from Retiree Benefits Payroll
(LAC 58.I:1101 and 1103)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58.I:1101 and LAC 58.I:1103, which provide for voluntary deductions by LASERS retirees from their retirement benefits. They have been amended in order to streamline the process for adding additional insurance vendors. This Rule complies with and is enabled by R.S. 11:515.

**Title 58
RETIREMENT**

**Part I. State Employees' Retirement System
Chapter 11. Voluntary Deductions from Retiree
Benefits Payroll**

**§1101. Application Process for Voluntary Payroll
Deduction**

A. - B.7. ...

8. other insurance companies approved by the executive director.

C. ...

D. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008).

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the executive director.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008).

Cindy Rougeou
Executive Director

0808#056

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Fur Trapping Seasons (LAC 76:V.129)

The Wildlife and Fisheries Commission does hereby amend the fur trapping regulations for the state of Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§129. Fur Trapping Seasons

A. Season Dates. The statewide open trapping season for nongame quadrupeds shall open on November 20 and close on March 31. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

B. Bobcat and Otter Tagging Requirements

1. To obtain federal approval to export bobcat and river otter out of the United States, the Department of Wildlife and Fisheries is required to ensure that only Louisiana trapped river otter and bobcat are tagged with Louisiana export tags. To accomplish this, a special possession tag will be made available to fur buyers, fur dealers and trappers.

2. A blue tag for river otter and a red tag for bobcat must be filled out by the trapper at the time the pelt is sold. The information required includes trapper name, trapper license number, parish caught in and date trapped. No bobcat or river otter pelts shall be purchased from a trapper or be in the possession of a fur buyer without a possession tag until they are submitted to the department in exchange for export tags. Dealers shall not purchase bobcat or river otter pelts without an accompanying possession tag.

3. No bobcat or river otter pelt shall be shipped from the state without an export tag attached. Dealers will obtain export tags for bobcat and river otter by providing the department with one completed possession tag for each pelt to be shipped from the state. It shall be illegal to falsify possession tags or attach Louisiana export tags to out-of-state bobcat and river otter pelts. Once possession tags have been received and counted by department personnel, export tags will be mailed immediately. Trappers shipping bobcat and river otter out-of-state must provide completed possession tags to the department in order to receive export tags.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:259(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1882 (September 2007), amended LR 34:1639 (August 2008).

Robert J. Barham
Secretary

0808#034

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro Consumer Services

Petroleum Products and Motor Fuels (LAC 7:XXXV.Chapter 3)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:4608 and 3:4680, the Commissioner of Agriculture and Forestry, proposes to amend regulations to place regulations regarding motor fuels within the chapter dealing with petroleum products; to redefine biodiesel to coincide with the definition of biodiesel that is in federal and state law; to define what is a biodiesel blend; to make technical changes; and to adopt regulation governing labeling of dispensers from which diesel, biodiesel and gasoline-ethanol blends of motor fuel are sold.

It is essential that wholesalers, retailers, and consumers of motor vehicle fuels are made aware of the type of motor fuel that is being received and whether the motor fuel is blended with biodiesel, ethanol, or other types of motor fuels. The proper labeling of dispensers of diesel, biodiesel and gasoline-ethanol blends of motor fuel allow purchasers and consumers of these motor fuels to be aware of the nature of the motor fuel that is being purchased or consumed, so that they may make an informed decision as to whether they want to purchase or use the motor fuel. These regulations provide for the labeling of motor fuel dispensers to achieve this purpose.

This Rule is enabled by R.S. 3:4608 and 3:4680.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

§301. Definitions

* * *

Biodiesel—a fuel comprised of mono-alkyl esters of long chain fatty acids derived from renewable resources including but not limited to vegetable oils, waste grease, or animal fat, and meeting the requirements of the American Society for Testing and Materials (ASTM) D-6751 or a diesel fuel substitute produced from non-petroleum renewable resources (inclusive of vegetable oils and animal fats) that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and any blending components derived from renewable fuel.

Biodiesel Blend—a blend of diesel fuel and biodiesel suitable for use as a fuel in compression ignition engines.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4602, 3:4608, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:28 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.1.c. ...

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 pounds per square inch (psi).

3. - 8. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, 3:4680, and 3:4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§325. Diesel Fuel

A. Diesel Fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), No. 2-D (ultra-low sulfur) or No. 4-D.

B. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser-consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:32 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§327. Biodiesel

A. A biodiesel blend containing more than 5 percent of a biodiesel by volume shall be identified by the term "biodiesel blend." A blend containing 5 percent or less of a biodiesel by volume shall not be required to be identified by the term "biodiesel blend."

B. Each dispenser of biodiesel blends containing more than 5 percent but no more than 20 percent of a biodiesel shall be labeled with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "biodiesel blend," (i.e., B10 biodiesel blend; B20 biodiesel blend), or the phrase "biodiesel blend between 5 percent and 20 percent" or similar words.

1. Each label shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

2. The color of the lettering shall be in definite contrast to the background color to which it is applied.

C. The distributor of a biodiesel blended fuel that contains more than 5 percent of a biodiesel by volume shall, at the time of delivery, provide the retailer with a written statement, whether on an invoice, bill of lading, or shipping paper, or other document, of the volume by percent of biodiesel in the fuel. The retailer shall keep this information as part of his records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§329. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:32 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§331. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§333. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§335. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning—Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673 and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§337. Gasoline-Alcohol Blends

A. A dispenser of motor fuel containing greater than 1 percent but no more than 10 percent ethanol by volume shall have a label on both sides of the dispenser stating "contains ethanol" or "contains up to 10 percent ethanol," or "may contain up to 10 percent ethanol," or similar wording approved by the commissioner.

1. These labels shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

2. The color of the lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§339. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005),

repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§341. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§343. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§345. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005),

repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§347. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005),

repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§349. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity—business name, address(es), and telephone number(s).

2. Address—mailing address if different than business address.

3. Business Type—type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature—an authorized signature, title, and date for each registration.

5. Product Description—product brand name and product description.

6. Product Specification—a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability—the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

§351. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005),

repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:

Family Impact Statement

The proposed amendments to Louisiana Administrative Code, Title 7, Part XXXV, Chapter 3 to amend regulations defining biodiesel and biodiesel blends, to make technical changes, and to adopt regulations governing labeling of dispensers from which diesel, biodiesel and gasoline-ethanol blends of motor fuel are sold 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 rules.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Todd Thompson, Director of Weights and Measures, at the Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 26th day of September, 2008. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Petroleum Products and Motor Fuels

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no costs or savings to state or local governmental units. This amendment places motor fuels within the Chapter dealing with petroleum products to redefine biodiesel to coincide with the definition of biodiesel that is in the federal and state law; define what is a biodiesel blend; make technical changes; and adopt regulations governing labeling of dispensers from which diesel, biodiesel and gasoline-ethanol blends of motor fuel are sold.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to retailers who sell motor fuel consisting of or containing biodiesel and ethanol is estimated to be a total of \$15,500. To the extent that the signage cost is \$0.25 and there are 62,000 gas dispensers, the \$15,500 represents the aggregate costs of all gasoline retailers in Louisiana. The out year costs will be minimal, if any. This cost involves the placement of signs on motor fuel dispensers from which motor fuels consisting of or containing biodiesel or ethanol.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed regulations and amendments are not anticipated to have an effect on competition and employment.

Craig Gannuch
Assistant Commissioner
0808#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Boxing and Wrestling Commission**

**Boxing and Wrestling Standards
(LAC 46:XI.Chapters 1 and 7)**

The Louisiana State Boxing and Wrestling Commission hereby exercises the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D), and proposes the following Rules. The Louisiana State Boxing and Wrestling Commission, by this Notice of Intent, will make changes to Chapter 1, General Rules §102 Annual License Fees to properly reflect the amendments to and language of R.S. 4:65 Licenses, Fees, Bond previously promulgated by HB 348 in 2007. It will also add a required minimum of \$10,000 injury/\$10,000 death insurance for each contestant to be provided by the promoter of said event to Chapter 1. General Rules.

This proposed Rule will also delete redundant rules that are addressed in other Sections of the Mixed Technique Event Chapter previously published as an Emergency Rule in March 2008 and to make minor changes to update these new rules to reflect the norms accepted by national associations regulating oversight of Mixed Technique Events.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§102. Annual License Fees

- A. The following is a scale of fees for licensees.
- | | |
|--|-------|
| 1. Wrestling and Mixed Technique Event Promoters | \$250 |
| 2. Boxing Promoters | \$500 |
| 3. Matchmakers | \$250 |
| 4. Referees | \$ 25 |
| 5. Managers | \$ 25 |
| 6. Announcers | \$ 25 |
| 7. Professional Boxing Contestants in Main Bouts | \$ 25 |
| 8. Seconds | \$ 25 |
| 9. Professional Wrestling Contestants | \$ 25 |
| 10. Other licenses | \$ 25 |

B. ...

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

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), LR 34:

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission

physician a certified medical certificate evidencing that the contestant has been tested for HIV and said test results are negative. Said test and certificate shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at the time of "weigh in."

B. A promoter shall provide insurance and pay all deductibles for contestants, to cover medical, surgical and hospital care with a minimum limit of \$10,000 for injuries sustained while participating in a contest and \$10,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least ten calendar days before an event the promoter shall provide to the Department for each event to be conducted, a certificate of insurance showing proper coverage. The promoter shall supply to those participating in the event the proper information for filing a medical claim.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended LR 34:

Chapter 7. Mixed Technique Events

§737. Mixed Technique Event Exhibition Rules

A. MTE Exhibitions shall be conducted using §707, Professional Mixed Technique Rules above with the following modifications.

1. Conduct of Promotion: If you are interested in staging a Mixed Technique Event Exhibition contest you must notify the commission in writing, and to be considered for approval, you must:

a. submit the name of the referee(s) you intend to use; however, the commission may mandate that you use a referee approved by the commission;

b. agree to abide by any other conditions which the commissioner may impose on this new activity as events are reviewed and amendments may be made;

c. agree in writing that you will observe all mixed technique event rules;

d. submit in writing a statement to the effect that the fighter is not being paid any gratuity for participating in the event, and memorialize each and every actual expense, to a maximum of \$100 that is being reimbursed to the fighter;

e. if you are not a promoter who also owns and operates his own gym you must utilize a matchmaker approved by the commission who shall arrange and approve all fights on the card; and

f. ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be a large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements.

B. Equipment. Exhibition contestants shall use a minimum 6-ounce open fingered gloves

C. Acts Constituting Fouls. In addition to those listed under §707, Professional Mixed Technique Event Rules, Paragraph G Acts Constituting Fouls:

1. illegal techniques while standing:

a. elbowing; and

b. kneeing to the head;

2. illegal techniques while on the ground:

a. any downward striking to an opponent's head while the back of that opponent's head is pinned to the mat or when the opponent has both shoulders pinned to the mat;

3. additional items:
 - a. if punch or kick (excluding kicks to the legs or leg sweeps) causes a knockdown:
 - i. the action will not continue;
 - ii. the standing fighter will not continue to attack;
 - iii. the referee will begin a 10 count and the standing fighter must go to a neutral corner during the count; and
 - iv. if the referee determines that the downed fighter can continue, then the fight shall resume with the fighters in a standing position;
 - a. in the event that the referee believes that the fighter is in trouble he is authorized to give an eight count; this shall be a standing eight while the parties are standing; or simply an eight count if they are on the ground with the position of the fighters to be maintained when the actions continues;
 - b. in the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters;
 - c. the referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment; which will require stoppages much sooner than those in a professional mixed technique event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters;
 - d. in the event that the commission member in attendance feels that the promoter has violated any of the rules of this Section concerning mixed technique exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall, at the close of the fight issue a summons to that promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

D. At each MTE exhibition event there shall also professional MTE bouts equaling either 25 percent of the number of bouts on the card or a minimum of two professional bouts whichever is greater; however this rule will be inapplicable to venues with a occupancy capacity of 500 people or less, as set by the fire marshal, with the further understanding that this rule shall always apply to any outdoor event or other venue where it is impossible for the fire marshal to set the occupancy capacity.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:

Alvin Topham
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Boxing and Wrestling Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs anticipated as a result of the introduction of mandatory insurance coverage for all contestants under the jurisdiction of the LA State Boxing & Wrestling Commission.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and/or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

At present, injury and accidental death insurance policies for contestants have been purchased by promoters for their contestants on a voluntary basis. This rule seeks to pursue mandatory minimum requirements of \$10,000 injury/\$10,000 accidental death policies for all contestants under the jurisdiction of this commission. The cost of these policies, purchased on a per event basis, will be borne by the promoters of events and/or exhibitions. This rule seeks to ensure medical and/or death benefits for contestants and/or their families in the event of serious injury or death.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no expected effects on competition and/or employment by the introduction of mandatory insurance.

Addie L. Feilds
Administrative Assistant
0808#083

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development**

Entertainment Industry Tax Credit Programs
(LAC 61:I. Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to adopt the following rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. The purpose of this Rule is to establish program policies and procedures in the

administration of the Motion Picture Incentive program which includes a production and infrastructure portion.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Motion Picture Investor Tax Credit Program

§1601. Purpose

A. The purpose of this Chapter is to implement the Motion Picture Investor Tax Credit Program as established by R.S. 47:6007.

B. This Chapter shall be administered to achieve the following:

1. to encourage development of a strong capital and infrastructure base within the state for the motion picture and related industries;

2. to achieve a self-supporting, independent, indigenous industry; and

3. to encourage development of state of the art motion picture production and post-production facilities:

a. in the short term, to attract private investors in state certified productions and state certified infrastructure projects;

b. in the long term, to encourage the development of a skilled state workforce trained in the film and video industry.

C. This Chapter shall apply to any person:

1. claiming a credit;

2. transferring or selling a credit; or

3. acquiring a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

§1603. General Description

A. The program offers two distinctive incentives; production and infrastructure.

1. Production

a. If the total base investment exceeds \$300,000, each investor shall be allowed a tax credit based upon their investment as follows:

i. a 25 percent tax credit for state certified productions approved on or after January 1, 2006, but before July 1, 2010;

ii. a 20 percent tax credit for state certified productions approved on or after July 1, 2010, but before July 1, 2012;

iii. a 15 percent tax credit for state certified productions approved on or after July 1, 2012.

b. An additional 10 percent payroll tax credit will be allowed for any base investment expended on behalf of employing Louisiana residents on state certified productions.

i. This additional credit shall apply for all three time periods listed above.

2. Infrastructure

a. If the total base investment exceeds \$300,000, each investor shall be allowed a tax credit based upon their investment as follows:

i. a 40 percent tax credit for state certified infrastructure projects, with applications received prior to January 1, 2009:

(a) however, for applications received after August 1, 2007, the total tax credit allowed for a state certified infrastructure project shall not exceed \$25,000,000 per project.

B. Investor tax credits shall be transferable under the following conditions.

1. Tax credit shall be earned by investors at the time expenditures are made in a state-certified production or state certified infrastructure project.

2. Credits become transferable only after final certification of expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

§1605. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Allocatee—an individual or entity that received an allocation of investment tax credits.

Allocator—an individual or entity that makes an allocation of investment tax credits.

Base Investment—the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person in the development of a state-certified infrastructure project. Infrastructure expenditures shall include, but are not limited to, expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, equipment for distribution companies domiciled within Louisiana, transportation equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, and financing costs. Infrastructure expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the state-certified infrastructure project.

Commissioner—Commissioner of the Division of Administration.

Department—Louisiana Department of Economic Development, or its successor.

Developer—a person in the development of a state-certification infrastructure project.

Director—Director of the Office of Entertainment Industry Development (the Office) or their designee.

Division—Division of Administration, for purposes of R.S. 47:6007(B)(1), shall mean:

a. in the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean services procured and performed in the state;

Expenditure—actual payment of cash or cash equivalent for goods or services, as evidenced by an invoice, receipt or other such document.

Louisiana Resident—residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. "Resident" or "resident of Louisiana" means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

Non-Applicable Production Expenditures—the following expenses are not eligible to earn tax credits:

a. overhead and similar expenses, do not qualify as production expenditures unless the expenditures were incurred in Louisiana and directly used in a state-certified production;

b. the costs of the independent audit as required by law is not an allowable expense;

c. the application fee as required by law is not an allowable expense;

d. post production expenditures for marketing and distribution are not allowable expenses;

e. any amounts that are later reimbursed are not allowable expenses;

f. any costs related to the transfer of tax credits are not allowable expenses;

g. any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production are not allowable expenses.

Office—Office of Entertainment Industry Development.

Payroll—includes all salary, wages, and other compensation, including related benefits sourced or apportioned to Louisiana.

Production Expenditures—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, whether the production company directly contracts or subcontracts such work, including without limitation the following:

a. set construction and operation;

b. wardrobes, make-up, accessories, and related services;

c. costs associated with photography and sound synchronization, lighting, and related services and materials;

d. editing and related services;

e. rental of facilities and equipment;

f. leasing of vehicles;

g. costs of food and lodging;

h. digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in Louisiana);

i. total aggregate payroll (limited to the amount of total payroll expended in Louisiana and which is taxable to the recipient in Louisiana. A Louisiana tax return is required to be filed reflecting the amount of compensation paid while the recipient is located in Louisiana. If the recipient is not a Louisiana resident, then a non-resident income tax return should be filed);

j. music, if performed, composed or recorded by a Louisiana musician, or released or published by a Louisiana-domiciled and headquartered company;

k. airfare, if purchased through a Louisiana-based travel agency or travel company;

l. insurance costs or bonding, if purchased through a Louisiana-based agency;

m. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state-certified production;

Production Facility—a physical facility that provides the goods and services necessary for completing the major activities of motion picture production.

Secretary—Secretary of the Department of Economic Development.

State-Certified Infrastructure Project—an infrastructure project that meets the definition of a production facility and is approved by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration. The term *infrastructure project* shall not include movie theaters or other commercial exhibition facilities.

State-Certified Production—a production approved by the Office of Entertainment Industry Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

Transferee—an individual or entity that receives a transfer of investor tax credits.

Transferor—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

§1607. Certification Procedures

A. Application.

1. An application for initial certification shall be submitted with an application fee payable to the office, as required by R.S. 47:6007(D)(2)(b).

a. All applications shall include information as required by R.S. 47:6007(D)(2)(a).

b. In addition, the following program specific information is required.

i. Production:

(a). working title of the production. Should the title change, the state-certified production needs to inform the Office as soon as that change is made;

(b). name of the requesting production company;

(c). name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;

(d). approximate beginning and ending date of production in Louisiana;

(e). Louisiana office address;

(f). telephone number of requesting company's Louisiana office address;

(g). estimated total production-related costs of production;

(h). estimated total amount of production-related costs to be expended in Louisiana;

(i). estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production;

(j). a preliminary budget including the estimated Louisiana payroll and estimated in-state investment;

(k). a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant;

(l). list of principal creative elements such as principal cast, producer, and director; and

(m). facts sufficient for the office and the department to determine each of the following:

(i). that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(6);

(ii). that the requesting production company is domiciled and headquartered in Louisiana; and

(iii). that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production.

ii. Infrastructure:

(a). working title of the infrastructure project;

(b). name of the requesting infrastructure company;

(c). name, telephone number, e-mail address and attesting signature of the requesting infrastructure company's contact person;

(d). approximate beginning and ending date of construction in Louisiana;

(e). Louisiana office address;

(f). telephone number of requesting company's Louisiana office address;

(g). estimated total project-related costs or total costs associated with the infrastructure project;

(h). a preliminary operating budget including the estimated Louisiana payroll and estimated in-state investment;

(i). a detailed business plan outlining the exact proposed costs;

(j). total number of jobs to be created by the infrastructure project.

B. Initial Certification

1. After receiving a completed application and the appropriate application fee, initial certification will be issued as follows.

a. Production

i. The office and the department shall issue written approval of a production as a state certified production.

b. Infrastructure

i. The office, the department and the division shall issue written approval of a project as a state certified infrastructure project.

2. Additional information may be requested by the office, the department and/or the division in order to make a determination of eligibility for the program.

3. Initial certifications shall be issued in the amount determined to be eligible.

a. Initial certifications shall contain a unique identifying number for each production or project.

4. Duration of Effect

a. Once an initial certificate is issued by the office, the department (and the division where appropriate), the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status.

b. For productions, initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

C. Final Certification and Audit Requirements

1. Prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain a final certification.

2. To obtain final certification, a cost report of expenditures must be submitted to the office, the secretary and the division where appropriate.

a. The cost report shall be certified by a state licensed, independent certified public accountant and comply with the minimum standards as required by R.S. 47:6007(D)(2)(d).

b. The cost report may be subject to additional audit by either the Department of Economic Development or the Department of Revenue.

c. An applicant may be required to reimburse the Office for any additional audits required in relation to granting the credit.

d. Additional information may be requested in order to make a determination on qualified expenditures.

3. After the audit is submitted and reviewed, final certification shall be issued by the office.

a. An original tax credit letter shall be issued and signed by the director, secretary and the commissioner, where appropriate.

4. Multiple requests for final certification of state certified productions may be submitted;

a. Each submission must be accompanied by an audited cost report indicating expenditures.

b. Two submissions shall be certified at no additional fee by the office.

c. Additional charges may apply for three or more certification requests.

D. Appeal Process

1. In the event that an application for initial or final certification is denied:

a. The office shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

2. An applicant who is denied certification may appeal to the secretary or his designee, who will review the existing record and make a written determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

§1609. Specific Program Provisions

A Production

1. Additional Payroll Tax Credit

a. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of 10 percent of such payroll.

i. However, if the payroll to any one person exceeds \$1,000,000, this additional credit shall exclude any salary for that person in excess of \$1,000,000.

B Infrastructure

1. Tax credits may be granted only for infrastructure projects directly related to the acquisition and construction of facilities related to the motion picture industry.

a. No tax credits shall be granted for infrastructure projects which the office, department and division deem unrelated to the motion picture industry.

i. Examples of projects which may be deemed unrelated include, but are not limited to; a hotel, lodging facility and retail shopping facility.

b. Infrastructure projects may include secondary investments that are deemed directly related.

i. Certification for directly related secondary investments shall include terms and conditions;

(a) Immovables

(i) The office, department and division may determine that an immovable (real property) or fixed asset, with multiple purposes, may be a necessary component of a state certified infrastructure project.

(ii) In which case, an applicant must provide assurances that:

[a]. such assets will exclusively support the approved film infrastructure project; and

[b]. that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana.

(b) Movables

(i) The office, department and division may determine that a movable asset may be a necessary component of a state certified infrastructure project.

(ii) In which case, an applicant must provide assurances that:

[a]. the moveable assets shall remain in Louisiana;

[b]. be used in the production of motion pictures or other visual media productions within the state of Louisiana; and

[c]. used for not less than 80 percent of the asset's useful life.

ii. Assurances shall be secured by appropriate agreements, including, but not limited to the following terms and conditions:

(a) a requirement of approval prior to sale of such assets;

(b) a requirement for a minimum number of years before such assets may be transferred to a different owner;

(c) limitations on transferability of the tax credits for current or future holders;

(d) a reserve fund that may be recaptured by the state; and/or

(e) a structured release of tax credits.

iii. Any conditions to meet the requirements of this Subsection shall be explicitly stated in the certification issued for the project.

(a) In the event an applicant fails to meet the conditions, as specified in the certification letter, any such acts, omissions or failures shall constitute a default, and the office shall retain all rights to modify the terms and conditions of the certification, and to reclaim disbursed credits in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state. Reclamation shall not begin unless the office has determined, after an analysis of the benefits of the project to the state and the unmet performance objectives, that the state has not satisfactorily or adequately recouped its costs through the benefits provided by the project.

2. For infrastructure applications received prior to August 1, 2007:

a. the applicant shall have 24 months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the 40 percent tax credits earned on expenditures;

b. infrastructure expenditures incurred after January 1, 2010, are not eligible for tax credits;

c. tax credits on infrastructure projects shall generally be considered earned in the year in which expenditures were made:

i. however, a minimum of 20 percent, of the total base investment, (as provided for in the preliminary certification) or \$10,000,000, whichever is less, must be expended before infrastructure tax credits can be certified;

d. payment of tax credits may extend beyond, or be made after, the year expenditures are made.

3. For infrastructure applications received after August 1, 2007, and before January 1, 2009:

a. the tax credit shall be 40 percent of the base investment expended in this state on projects, provided that:

i. the total base investment expended in this state, exceeds \$300,000;

ii. the total tax credit allowed shall not exceed \$25,000,000;

b. an infrastructure project shall be approved if it is a film, video, television, or digital production or postproduction facility;

c. if all or portion of an infrastructure project is a facility which may be used for other purposes unrelated to production or postproduction activities, then the project shall be approved only if a determination is made that the multiple-use facility or secondary investments will support and will be necessary to secure production or postproduction activity for the production and postproduction facility and the applicant provides sufficient contractual assurances that:

i. the facility will be used as a production or postproduction facility, or as a support and component thereof, for the useful life of the facility;

ii. no tax credits shall be earned on such multiple-use facilities or secondary investments until the production or postproduction facility is complete;

d. construction of the infrastructure project shall begin within six months of the preliminary certification;

e. credits may not be earned until 25 percent of the total base investment, provided for in the preliminary certification of an infrastructure project, has been certified as expended;

f. no tax credit shall be allowed for expenditures made for any infrastructure project after December 31, 2008, unless 50 percent of the total base investment provided for in the preliminary certification of the project has been expended prior to that date. The expenditures may be finally certified at a later date;

g. expenditures shall be certified by the department, office and division and credits are not transferable until such certification:

i. for purposes of allowing tax credits against state income tax liability and transferability of the tax credits, the tax credits shall be deemed earned at the time expenditures are made, provided that all requirements of this Subsection have been met and after the tax credits have been certified;

ii. the department, office and division may require the tax credits to be taken and/or transferred in the period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years;

iii. the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

§1611 Application of the Tax Credit

A. The investor tax credit may be earned, transferred, allocated, and claimed as follows:

1. earn: individuals or entities may earn investor tax credits pursuant to R.S. 47:6007(C)(1):

a. once tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee, may transfer or allocate the investor tax credits;

2. transfer: by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

3. allocate: if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation, the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement. These terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

a. the allocating entity:

i. may be treated as a "partnership" for federal or state tax purposes; or

ii. may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes;

4. claim: tax credits may be claimed as follows:

a. an owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10 year carryforward period;

b. in the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides otherwise;

c. any individual or entity shall be allowed to claim the investor tax credit against its Louisiana income tax liability:

i. whether or not any such individual is a Louisiana resident; and

ii. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana;

d. an Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years:

i. however, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c):

(a) penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid;

(b) the date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

B. If the investor tax credits (evidenced by a tax credit certification letter) are transferred or allocated as provided herein.

1. The transferor shall submit to the office the original certificate of ownership, evidencing the investor tax credits being transferred or allocated, as required by R.S. 47:6007(C)(5).

2. After receipt, the office may issue to each transferee or allocatee, a certificate of ownership signed by the director reflecting:

a. such transferee's or allocatee's name;

b. the dollar amount of investor tax credits transferred or allocated;

c. the calendar year in which the investor tax credits were originally earned;

d. the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits; and

e. the identifying number assigned to such state-certified infrastructure project or state-certified production.

3. If the certificate of ownership submitted evidences more investor tax credits than actually transferred or allocated, then the office may issue an additional certificate of ownership, reflecting any remaining investor tax credit balance.

4. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit.

a. In such cases, the office may issue comports certificates of ownership to transferees or allocates, designated by the transferor or allocator in writing, until such time as the tax credits represented in the original certificate have been exhausted.

5. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Department of Revenue, with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office or the transfer notice pursuant to this rule, evidencing the dollar amount of the investor tax credits being claimed.

6. The failure of the office to timely issue a certificate of ownership in accordance with this rule shall not:

a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;

b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability, if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47:6007 and these rules; or

c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 34:

Family Impact Statement

The proposed Rule LAC 61:I.Chapter 16, Subchapter A. Louisiana Motion Picture Investor Tax Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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 the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Christopher Stelly through the close of business on September 10, 2008, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by

email to cstelly@la.gov or by fax to 225-342-5554. A meeting for the purpose of receiving the presentation of oral comments will be held on September 25, 2008, at the Department of Economic Development, 1051 North Third St., Baton Rouge, LA 70802.

Sherri McConnell
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Entertainment Industry Tax Credit Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not directly increase state governmental expenditures. The Louisiana Legislature passed the Motion Picture Production and Infrastructure Tax Credit program in 2005 and there are three full time staff assigned to Motion Picture Tax Credits at the Department of Economic Development in Fiscal Year 2008-09 at an annual cost of approximately \$200,000. These three staff are part of 13 staff and approximately \$1.4 million in funding assigned to the Entertainment Industry activity at the Department of Economic Development in Fiscal Year 2008-09. The proposed rules will have no affect on local governmental expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The latest available analysis of film and video production activity in the state associated with the tax credit program estimated that it has resulted in state and local tax receipts of approximately \$51.4 million over the 2002-2005 period (dollar estimates by Economics Research Associates, 2007), with approximately 53.5% of these receipts or \$27.5 million received by state government and 46.5% or \$23.9 million received by local governments (shares estimated by the Legislative Fiscal Office, 2005). Production activity is expected to generate more than \$25 million per year of combined state and local tax receipts in subsequent years, growing by at least 5% per year.

Investor and Employment tax credits generated over the 2002-2005 period were \$232.8 million (data from the Louisiana Economic Development Department), and tax credits actually realized against state personal and corporate income taxes and state corporate franchise taxes during state fiscal years 2004-2006 were \$122.8 million (data from the Louisiana Department of Revenue). The current state official revenue forecast expects investor and employment tax credit realizations to be approximately \$100 million per year in Fiscal Year 2008-09 and beyond.

Infrastructure projects proposed so far could generate in excess of \$200 million of tax receipts to both state and local governments over the construction periods of these projects (40 projects with nearly \$4 billion of estimated total budgets reported by the Louisiana Economic Development Department; tax receipt estimates by the Legislative Fiscal Office). State income tax and corporate franchise tax credits associated with the proposed budgets of these projects would be some \$1.6 billion. Each project's credits would be granted only as expenditures occur and would be realized against state tax receipts over two-four year periods. It is highly uncertain to what extent these proposed projects will actually complete participation in the program. As of early summer 2008, only \$27 million of actual expenditures had been certified along with \$10.7 million of tax credits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Film and video production activity in the state has resulted in compensation paid to workers directly employed by film productions in the state of \$140.3 million, over the 2002-2005 period (estimated by Economics Research Associates, 2007), with full-time equivalent employment approximating 3,000 positions per year. Additional employment and earnings are also indirectly generated in the economy as a result of the industry's activity.

Infrastructure projects proposed so far could result in as much as \$4 billion of construction and equipping activity in the state over the next few years. This activity will also generate earnings and employment over the periods of construction. It is highly uncertain to what extent these proposed projects will actually complete participation in the program and operate as ongoing concerns in subsequent periods

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These proposed rules aim to maintain and improve Louisiana's attractiveness for motion picture projects. These projects will stimulate demand for a variety of worker skills, and increase the amount of employment in the state.

Sherri Mc Connell
Director Entertainment
0808#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**General Conditions for Air Permits
(LAC 33:III.535 and 537)(AQ286)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air regulations, LAC 33:III.535 and 537 (Log #AQ286).

Every air permit issued by LDEQ contains General Conditions. Part 70 (Title V) permits for major sources include both 40 CFR Part 70 and Louisiana General Conditions, whereas minor source and prevention of significant deterioration (PSD) permits contain only Louisiana General Conditions. This rule will codify the General Conditions into LAC 33:III.Chapter 5. The General Conditions are subject to revision as underlying federal and state rules are amended or internal department procedures change. Because the most current version of the General Conditions is incorporated into permits as they are finalized, the universe of effective permits includes differing versions of these conditions. Once codified, all permittees will be subject to the same General Conditions. Further, future revisions to the General Conditions must be effected by the rulemaking process in accordance with the Administrative Procedure Act, ensuring transparency and opportunity for public review and comment. The basis and rationale for this rule are to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5. 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.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§535. Part 70 General Conditions

A. The Part 70 General Conditions listed in the table in this Section (numbered as contained in a permit) apply only when referenced by an effective permit issued pursuant to LAC 33:III.501 and 507.

40 CFR Part 70 General Conditions	
	A. The term of the permit shall be five years from date of issuance unless otherwise specified. Unless a timely and complete renewal application has been submitted pursuant to LAC 33:III.507, the permit shall expire at the end of the effective duration. Permit expiration terminates the owner's and operator's right to operate the source pursuant to 40 CFR 70.7(c)(ii). Any permit application to renew an existing permit shall be submitted at least six months prior to the date of permit expiration, or at such earlier time as may be required by the existing permit or approved by the permitting authority. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration. Operation may continue under the conditions of the permit during the period of the review of the application for renewal.
	B. The conditions of the permit are severable; and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of that provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
	C. The permittee shall comply with all conditions of the 40 CFR Part 70 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
	D. 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.
	E. The permit does not convey any property right of any sort, or an exclusive privilege.
	F. The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality. A claim of confidentiality does not relieve the permittee of the requirement to provide the information.
	G. The permittee shall pay fees in accordance with LAC 33:III.Chapter 2 and 40 CFR 70.6(a)(7).
	H. Upon presentation of such credentials and other documents as may be required by law, the permittee shall allow the permitting authority or authorized representative to: <ol style="list-style-type: none"> 1. enter upon the permittee's premises where a 40 CFR Part 70 source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit; 2. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; 3. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and 4. as authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

40 CFR Part 70 General Conditions

I. All required monitoring data and supporting information shall be kept available for inspection at the facility or alternate location approved by the agency for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes calibration and maintenance records and all original strip-chart recordings from continuous monitoring instrumentation, and all reports required by the permit.

J. Records of required monitoring shall include the following:
1. the date, place as defined in the permit, and time of sampling or measurements;
2. the dates analyses were performed;
3. the company or entity that performed the analyses;
4. the analytical techniques or methods used;
5. the results of such analyses; and
6. the operating conditions that existed at the time of sampling or measurement.

K. The permittee shall submit, at least semiannually, a report of any required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements. For previously-reported deviations, in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be certified by a responsible official and submitted to the Office of Environmental Compliance by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. The semiannual report shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation. The semiannual report may include any semiannual deviation report required to be submitted by March 31 or September 30 in accordance with Part 70 General Condition R as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report.

L. The permittee shall submit at least semiannual reports on the status of compliance pursuant to 40 CFR 70.5(c)(8) and a progress report on any applicable schedule of compliance pursuant to 40 CFR 70.6(c)(4).

M. Compliance certifications required by LAC 33:III.507.H.5 shall be submitted to the administrator as well as the permitting authority. For previously-reported compliance deviations, in lieu of attaching the individual deviation reports, the annual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The compliance certifications shall be submitted to the Office of Environmental Compliance by March 31 for the preceding calendar year. The compliance certification shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.

N. If the permittee seeks to reserve a claim of an affirmative defense as provided in LAC 33:III.507.J.2, the permittee shall, in addition to complying with any emergency or upset provisions in any applicable regulation, notify the permitting authority within two working days of the time when emission limitations were exceeded due to the occurrence of an upset, as defined in LAC 33:III.507.J.1. In the event of such an upset, which results in excess emissions, the permittee shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. an upset occurred and the cause was identified;
2. the permitted facility was being operated properly at the time;
3. during the period of the upset, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standard or requirement of the permit; and
4. the permittee notified the permitting authority in accordance with LAC 33:I.Chapter 39.

O. The permittee shall maintain emissions at a level less than or equal to that provided for under the allowances that the 40 CFR Part 70 source lawfully holds in accordance with Title IV of the Clean Air Act or the regulations promulgated thereunder. No permit revision shall be required for increases in emissions that are authorized by allowances acquired in accordance with the federal acid rain program (40 CFR Parts 72-78), provided that such increases do not require a permit revision under any other applicable requirement. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.

P. Any permit issued in accordance with 40 CFR Part 70 may be subject to reopening prior to the expiration of the permit for any of the conditions specified in 40 CFR 70.7(f) or LAC 33:III.529.

40 CFR Part 70 General Conditions

Q. The permittee may request an administrative amendment to the permit to incorporate test results from compliance testing if the criteria in LAC 33:III.523.A.1.a-f are met.

R. The permittee shall submit prompt reports of all permit deviations as specified below to the Office of Environmental Compliance. All such reports shall be certified by a responsible official as defined in LAC 33:III.502.A.

1. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33:I.Chapter 39.

2. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer.

3. A written report shall be submitted semiannually to address all permit deviations not included in Paragraph 1 or 2 of Part 70 General Condition R. Unless required by an applicable reporting requirement, a written report is not required during periods in which there is no deviation. The semiannual deviation reports may be consolidated with the semiannual reports required by Part 70 General Condition K as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report. For previously-reported permit deviations (not reported in accordance with Paragraph 1 or 2 of Part 70 General Condition R), in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be submitted by March 31, for the preceding period encompassing July through December, and by September 30, for the preceding period encompassing January through June.

4. Any written report submitted in advance of the time frames specified in Paragraphs 1-3 of Part 70 General Condition R, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided the report is certified in accordance with 40 CFR 70.5(d) and contains all information relevant to the permit deviation. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33:I.Chapter 39, LAC 33:III.Chapter 9, and LAC 33:III.5107.

S. The permittee shall continue to comply with applicable requirements on a timely basis, and shall meet on a timely basis applicable requirements that become effective during the permit term.

T. The permittee shall comply with the standards for recycling and emissions reduction in 40 CFR Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B.

1. Persons opening appliances for maintenance, service, repair, or disposal must comply with the practices required in 40 CFR 82.156.

2. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment in 40 CFR 82.158.

3. Persons maintaining, servicing, repairing, or disposing of appliances must be certified by an approved technician certification program in accordance with 40 CFR 82.161.

4. Persons disposing of small appliances and MVACs, and MVAC-like appliances as defined in 40 CFR 82.152, must comply with recordkeeping requirements in 40 CFR 82.166.

5. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements in 40 CFR 82.156.

6. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances in accordance with 40 CFR 82.166.

U. If the permittee performs a service on motor vehicles that involves an ozone-depleting substance refrigerant (or a regulated substitute substance) in the motor vehicle air conditioner (MVAC), the permittee is subject to all the applicable requirements specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term "motor vehicle" as used in Subpart B does not include a vehicle whose final assembly has not been completed. The term "MVAC" as used in Subpart B does not include an air-tight sealed refrigeration system used for refrigerated cargo, or a system used on passenger buses that uses HCFC-22 refrigerant.

40 CFR Part 70 General Conditions

V. Data Availability for Continuous Monitoring, or Monitoring to Collect Data at Specific Intervals. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including calibration checks and required zero and span adjustments), the permittee shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the emissions unit is operating. For purposes of reporting monitoring deviations under Part 70 General Conditions K and R, and unless otherwise provided for in the permit or an applicable federal or state regulation, the minimum degree of data availability shall be at least 90 percent (based on a monthly average) of the operating time of the emissions unit or activity being monitored. This Condition does not apply to leak detection and repair (LDAR) programs for fugitive emissions (e.g., 40 CFR 60 Subpart VV, 40 CFR 63 Subpart H).

W. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a "permit shield" as described in 40 CFR 70.6(f) and LAC 33:III.507.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§537. Louisiana General Conditions

A. The Louisiana General Conditions listed in the table in this Section (numbered as contained in a permit) apply only when referenced by an effective permit issued pursuant to LAC 33:III.501.

Louisiana Air Emission Permit General Conditions

I. Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.

II. The permittee is subject to all applicable provisions of the Louisiana Environmental Quality Act (the EQA, R.S. 30:2001 et seq.) and the Louisiana air quality regulations. Violation of any of the terms and conditions of the permit constitutes a violation of the EQA.

III. The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements sections of the permit establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit.

Louisiana Air Emission Permit General Conditions

IV. A permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if:

A. construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years (18 months for PSD permits) after issuance of the permit; or

B. construction is discontinued for a period of two years (18 months for PSD permits) or more.

The permitting authority may extend this time period upon a satisfactory showing that an extension is justified.

This provision does not apply to the time period between construction of the approved phases of a phased construction project. However, each phase must commence construction within two years (18 months for PSD permits) of its projected and approved commencement date.

V. The permittee shall submit semiannual reports of progress to the Office of Environmental Compliance outlining the status of construction and noting any design changes, modifications, or alterations in the construction schedule that have or may have an effect on the emission rates or ambient air quality levels. These reports shall continue to be submitted until such time as construction is complete. Furthermore, prior approval shall be obtained from the Office of Environmental Services for any significant change in the design.

VI. The permittee shall notify the Department of Environmental Quality, Office of Environmental Services, of construction completion, within ten calendar days from the date that construction is complete, and provide the estimated date of start-up of operation. The appropriate Regional Office shall also be so notified within the same time frame.

VII. Any emissions testing performed for purposes of demonstrating compliance with the limitations set forth in Louisiana General Condition III shall be conducted in accordance with the methods described in the Specific Requirements of the permit. Any deviation from or modification of the methods used for testing shall have prior approval from the Office of Environmental Assessment.

VIII. The emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.

IX. The permittee shall, within 180 days after start-up and shakedown of each project or unit, report to the Office of Environmental Compliance any significant difference in operating emission rates as compared to those limitations specified in Louisiana General Condition III. This report shall also include, but not be limited to, malfunctions and upsets. A request for permit modification shall be submitted, if necessary, as required in Louisiana General Condition I.

X. The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of the permit for a minimum of at least five years.

Louisiana Air Emission Permit General Conditions

XI. If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below.

A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.

B. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer.

C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.

D. Each report submitted in accordance with this Condition shall contain the following information:

1. a description of noncomplying emissions;
2. the cause of noncompliance;
3. the anticipated time the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance;
4. the steps taken by the permittee to reduce and eliminate the noncomplying emissions; and
5. the steps taken by the permittee to prevent recurrences of the noncomplying emissions.

E. Any written report submitted in advance of the time frames specified in Paragraphs A-C of Louisiana General Condition XI, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided all information specified in Paragraph D of Louisiana General Condition XI is included. For Part 70 sources, reports submitted in accordance with Part 70 General Condition R set forth in LAC 33:III.535.A shall serve to meet the requirements of this Condition provided all specified information is included. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.

XII. The permittee shall allow the authorized officers and employees of the Department of Environmental Quality, at all reasonable times and upon presentation of identification, to:

A. enter upon the permittee's premises where regulated facilities are located, where regulated activities are conducted, or where records required under the permit are kept;

B. have access to and copy any records that are required to be kept under the terms and conditions of the permit, the Louisiana Environmental Quality Act, or the federal Clean Air Act;

C. inspect any facilities, equipment (including inspections of monitoring methods and operation and maintenance inspections), or operations regulated under the permit; and

D. sample or monitor, for the purpose of assuring compliance with the permit or as otherwise authorized by the Clean Air Act or regulations adopted thereunder, any substances or parameters at any location.

XIII. If samples are taken under Louisiana General Condition XII, the officer or employee obtaining such samples shall give the owner, operator, or agent in charge a receipt describing the samples obtained. If requested to do so prior to leaving the premises, the officer or employee shall give a portion of each sample equal in volume or weight to the portion retained to the owner, operator, or agent in charge. If an analysis is made of such samples, a copy of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

XIV. The permittee shall allow authorized officers and employees of the Department of Environmental Quality, upon presentation of identification, to enter upon the permittee's premises to investigate potential or alleged violations of the Clean Air Act or the regulations adopted thereunder. In such investigations, the permittee shall be notified at the time entrance is requested of the nature of the suspected violation. Inspections under this Condition shall be limited to the aspects of alleged violations. However, this shall not in any way preclude prosecution of all violations found.

XV. Reserved.

XVI. In the event of any change in ownership of the source described in the permit, the permittee and the succeeding owner shall notify the Office of Environmental Services in accordance with LAC 33:I.Chapter 19.

Louisiana Air Emission Permit General Conditions

XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must:

1. generally be less than 5 TPY;
2. be less than the minimum emission rate (MER);
3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or
4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example).

This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.

XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.

XIX. If any Part 70 General Condition conflicts with any Louisiana General Condition, then the Part 70 General Condition controls. If any Part 70 General Condition duplicates any Louisiana General Condition, then the Part 70 and Louisiana provisions shall be enforced as one Condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, 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) 219-3471. Two hours of free parking are allowed in the Galvez Garage 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 AQ286. Such comments must be received no later than October 2, 2008, 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) 219-3398 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ286. 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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Conditions for Air Permits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
All facilities required to obtain air permits pursuant to LAC 33:III.Chapter 5 will be affected by the proposed action. However, no effect on costs, including workload adjustments or additional paperwork, is expected. This rule codifies into the regulations the "General Conditions" already contained in every air permit issued by LDEQ.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0808#048

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

IAEA Transportation Safety Standards
(LAC 33:XV.455, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, and 1599)(RP048ft)

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 Radiation Protection regulations, LAC 33:XV.455, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, and 1599 (Log #RP048ft).

This proposed rule is identical to federal regulations found in 10 CFR Part 71, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This

rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule will update the state regulations to be compatible with the changes in the federal regulations. The change in the state regulations is a category B (must do) requirement of the NRC agreement. The state radiation protection regulations in LAC 33:XV.Chapter 15 are being amended and reorganized to mirror the federal regulations; some entire sections and parts of some sections are being moved and renumbered. The federal "IAEA Transportation Safety Standards and Other Transportation Safety Amendments" requirements are in 10 CFR Part 71. The federal rule covers transportation of radioactive material on public routes of roadways, railways, and waterways, and by air. It includes the types of containers that can be used, radiation levels at the surface of the package, labeling of the containers, and markings on the vehicles used for transport. The basis and rationale for this rule are to be compatible with the federal regulations and maintain an adequate Agreement State program. 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.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 4. Standards for Protection against Radiation

Subchapter G. Precautionary Procedures

§455. Procedures for Receiving and Opening Packages

A. Each licensee or registrant who expects to receive a package containing quantities of radioactive material in excess of a *Type A quantity*, as defined in LAC 33:XV.1503, shall make arrangements to receive:

A.1. – B.1....

2. monitor the external surfaces of a labeled⁵ package for radiation levels unless the *package* contains quantities of *radioactive material* that are less than or equal to the *Type A quantity*, as defined in LAC 33:XV.1503; and

B.3. – C....

D. The licensee or registrant shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Office of Environmental Compliance at (225) 765-0160 when:

1. removable radioactive surface contamination exceeds the limits of LAC 33:XV.1516.A.9; or

2. external radiation levels exceed the limits of LAC 33:XV.1516.A.10.

E. – F. ...

⁵Labeled with a Radioactive White I, Yellow II or Yellow III label as specified in U.S. Department of Transportation regulations 49 CFR 172.403 and 172.436-440.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 28:1951 (September 2002)), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 15. Transportation of Radioactive Material

§1501. Purpose

A. The regulations in this Chapter establish requirements for packaging, preparation for shipment, and transportation of radioactive material.

B. The packaging and transport of radioactive material are also subject to other Chapters of LAC 33:XV (such as LAC 33:XV.Chapters 3 and 4), and to the regulations of other agencies (such as the United States Department of Transportation (U.S. DOT)) and the United States Postal Service) having jurisdiction over means of transport. The requirements of this Chapter are in addition to, and not in substitution for, other requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1502. Scope

NOTE: Former Subsections B-D have moved to §1504.

A. The regulations in this Chapter apply to any specific or general licensee authorized to receive, possess, use, or transfer radioactive material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision in this Chapter authorizes possession of radioactive material.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000), LR 27:1238 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1503. Definitions

A. As used in this Chapter, the following definitions apply.

A₁—the maximum activity of special form radioactive material permitted in a Type A package. This value is listed in 10 CFR Part 71, Appendix A, Table A-1, A-2, A-3, or A-4, incorporated by reference in LAC 33:XV.1599.A, or may be derived in accordance with the procedure prescribed in LAC 33:XV.1599.B-F.

A₂—the maximum activity of radioactive material, other than special form, low specific activity (LSA), and surface contaminated object (SCO) material, permitted in a Type A package. This value is listed in 10 CFR Part 71, Appendix A, Table A-1, A-2, A-3, or A-4, incorporated by reference in LAC 33:XV.1599.A, or may be derived in accordance with the procedure prescribed in LAC 33:XV.1599.B-F.

Carrier—a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

Certificate Holder—a person who has been issued a certificate of compliance or other package approval by the U.S. NRC.

Certificate of Compliance (CoC)—the certificate issued by the U.S. NRC that approves the design of a package for the transportation of radioactive material.

Close Reflection by Water—immediate contact by water of sufficient thickness for maximum reflection of neutrons.

Consignment—each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

Containment System—the assembly of components of the packaging intended to retain the radioactive material during transport.

Conveyance—for transport by public highway or rail, any transport vehicle or large freight container; for transport by water, any vessel, or any hold, compartment, or defined deck area of a vessel, including any transport vehicle on board the vessel; and for transport by aircraft, any aircraft.

Criticality Safety Index (CSI)—the dimensionless number (rounded up to the first decimal place) assigned to and placed on the label of a fissile material package, to designate the degree of control accumulation of packages containing fissile material during transportation. Determination of the *criticality safety index* is described in LAC 33:XV.1511 and 1512 and in 10 CFR 71.59.

Deuterium—for the purposes of LAC 33:XV.1505.C and 1511, *deuterium* and any *deuterium* compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

Exclusive Use—the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

Fissile Material—the radionuclides plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. *Fissile material* means the fissile nuclides themselves, not material containing fissile nuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only, are not included in this definition. Certain exclusions from *fissile material* controls are provided in LAC 33:XV.1505.C.

Graphite—for the purposes of LAC 33:XV.1505.C and 1511, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

Licensed Material—byproduct, source, or special nuclear material that is received, possessed, used, or transferred under a general or specific license issued by the department in accordance with this Chapter.

Low Specific Activity (LSA) Material—radioactive material with limited specific activity that is nonfissile or that is excepted under LAC 33:XV.1505.C, and that satisfies the descriptions and limits set forth below. Shielding materials surrounding the *LSA material* may not be considered in determining the estimated average specific activity of the package contents. *LSA material* must be in one of three groups:

a. LSA-I:

i. uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing

naturally occurring radioactive radionuclides that are not intended to be processed for the use of these radionuclides;

ii. solid unirradiated natural uranium, depleted uranium, natural thorium, or their solid or liquid compounds or mixtures;

iii. radioactive material for which the A_2 value is unlimited; or

iv. other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with LAC 33:XV.1599.E.

b. LSA-II:

i. water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

ii. other material in which the activity is distributed throughout, and the average specific activity does not exceed 10^{-4} A_2/g for solids and gases, and 10^{-5} A_2/g for liquids.

c. LSA-III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

i. the radioactive material is distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (e. g., concrete, bitumen, ceramic, etc.);

ii. the radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, would not exceed 0.1 A_2 ; and

iii. the estimated average specific activity of the solid does not exceed 2×10^{-3} A_2/g .

Low Toxicity Alpha Emitters—natural uranium, depleted uranium, and natural thorium; uranium-235, uranium-238, thorium-232, thorium-228, or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

Maximum Normal Operating Pressure—the maximum gauge pressure that would develop in the containment system in a period of one year under the heat condition specified in 10 CFR 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

Natural Thorium—thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

Normal Form Radioactive Material—radioactive material which has not been demonstrated to qualify as special form radioactive material.

Optimum Interspersed Hydrogenous Moderation—the presence of hydrogenous material between packages to such an extent that the maximum nuclear reactivity results.

Package—the packaging together with its radioactive contents as presented for transport.

a. *Fissile Material Package, Type AF Package, Type BF Package, Type B(U)F Package, or Type B(M)F Package*—a fissile material packaging together with its fissile material contents.

b. *Type A Package*—a Type A packaging together with its radioactive contents. A *Type A package* is defined

and must comply with the U.S. DOT regulations in 49 CFR Part 173.

c. *Type B Package*—a Type B packaging together with its radioactive contents. On approval, a *Type B package* design is designated by the NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lb/in²) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see U.S. DOT regulations in 49 CFR Part 173. A *Type B package* approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in 10 CFR 71.19.

Packaging—the assembly of components necessary to ensure compliance with the packaging requirements of this Chapter. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

Regulations of the U.S. Department of Transportation—the regulations in 49 CFR Parts 100-189.

Special Form Radioactive Material—radioactive material that satisfies the following conditions:

a. it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

b. the piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

c. it satisfies the test requirements of 10 CFR 71.75.

A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on June 30, 1983 (see 10 CFR Part 71, revised as of January 1, 1983), and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR Part 71, revised as of January 1, 1983), and constructed before April 1, 1998, may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

Specific Activity of a Radionuclide—the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

Spent Nuclear Fuel or Spent Fuel—fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies.

State—a State of the United States, or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin

Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

Surface Contaminated Object (SCO)—a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCOs must be in one of two groups with surface activity not exceeding the following limits:

a. SCO-I. A solid object on which:

i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10⁻⁴ microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10⁻⁵ microcurie/cm²) for all other alpha emitters;

ii. the fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1.0 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

b. SCO-II. A solid object on which the limits for SCO-I are exceeded and on which:

i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² (10⁻² microcurie/cm²) for beta and gamma and low toxicity alpha emitters or 40 Bq/cm² (10⁻³ microcurie/cm²) for all other alpha emitters;

ii. the fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8x10⁵ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters or 8x10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters; and

iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8x10⁵ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or 8x10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

Transport Index—the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The *transport index* is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 ft) from the external surface of the package by 100, and is equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft).

Type A Quantity—a quantity of radioactive material, the aggregate radioactivity of which does not exceed A₁ for special form radioactive material, or A₂, for normal form radioactive material, where A₁ and A₂ are given in Table A-1 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A, or may be determined by procedures described in LAC 33:XV.1599.E.

Type B Quantity—a quantity of radioactive material greater than a Type A quantity.

Unirradiated Uranium—uranium containing not more than 2 x 10³ Bq of plutonium per gram of uranium-235, not more than 9 x 10⁶ Bq of fission products per gram of uranium-235, and not more than 5 x 10⁻³ grams of uranium-236 per gram of uranium-235.

Uranium: Natural, Depleted, Enriched—

a. *Natural Uranium*—uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

b. *Depleted Uranium*—uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

c. *Enriched Uranium*—uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

U.S. DOT—the U.S. Department of Transportation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1504. Requirements for the Transportation of Radioactive Material

[Formerly Subsections C-E existed in §1502.]

A. Except as authorized in a general or specific license issued by the department, or as exempted in accordance with this Chapter, no licensee may transport radioactive material or deliver radioactive material to a carrier for transport.

B. Each licensee who transports licensed material outside the site of usage, as specified in the license, or transports licensed material on public highways, or delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. DOT regulations in 49 CFR Parts 107, 171-180, and 390-397, appropriate to the mode of transport.

C. The licensee shall particularly note U.S. DOT regulations in the following areas:

1. packaging—49 CFR Part 173, Subparts A, B, and I;
2. marking and labeling—49 CFR Part 172, Subpart D, Paragraphs 172.400-172.407 and 172.436-172.441 of Subpart E;
3. placarding—49 CFR Part 172, Subpart F, in particular Paragraphs 172.500-172.519, 172.556; and Appendices B and C;
4. shipping papers and emergency information—49 CFR Part 172, Subparts C and G;
5. accident reporting—49 CFR 171.15 and 171.16;
6. hazardous material shipper/carrier registration—49 CFR Part 107, Subpart G;
7. hazardous material employee training—49 CFR Part 172, Subpart H; and
8. security plans—49 CFR Part 172, Subpart I.

D. The licensee shall also note U.S. DOT regulations pertaining to the following modes of transportation:

1. rail—49 CFR Part 174, Subparts A-D and K;
2. air—49 CFR Part 175;

3. vessel—49 CFR Part 176, Subparts A-F and M; and
4. public highway—49 CFR Part 177 and Parts 390-397.

E. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection B of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with and approved by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1505. Exemptions

A. Any physician licensed by the state of Louisiana to dispense drugs in the practice of medicine is exempt from LAC 33:XV.1504 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under LAC 33:XV.Chapter 7.

B. A licensee is exempt from all the requirements of this Chapter with respect to shipment or carriage of the following low-level materials:

1. natural material and ores containing naturally occurring radionuclides that are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the values specified in Table A-2 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A; and

2. materials for which the activity concentration is not greater than the activity concentration values specified in Table A-2 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A, or for which the consignment activity is not greater than the limit for an exempt consignment found in Table A-2 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A.

C. Fissile material meeting at least one of the following requirements is exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but is subject to all other requirements of this Chapter, except as noted:

1. an individual package containing 2 grams or less of fissile material;

2. individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package, but must not be included in determining the required mass for solid nonfissile material;

3. low concentrations of solid fissile material commingled with solid nonfissile material, provided that there is at least 2000 grams of solid nonfissile material for every gram of fissile material, and there is no more than 180 grams of fissile material distributed within 360 kg of

contiguous nonfissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package, but must not be included in determining the required mass of solid nonfissile material;

4. uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass;

5. liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a U.S. DOT Type A package; and

6. packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1506. Deliberate Misconduct

NOTE: Former §1506 has been repealed.

A. This Section applies to any:

1. licensee;
2. certificate holder;
3. quality assurance program approval holder;
4. applicant for a license, certificate, or quality assurance program approval;
5. contractor (including a supplier or consultant) or subcontractor, to any person identified in Paragraph A.4 of this Section; or
6. employee of any person identified in Paragraph A.1, 2, 3, 4, or 5 of this Section.

B. A person identified in Subsection A of this Section who knowingly provides to any person listed in Paragraph A.1, 2, 3, 4, or 5 of this Section any component, material, or other goods or services that relate to a licensee's, a certificate holder's, a quality assurance program approval holder's, or an applicant's activities subject to this Chapter may not:

1. engage in deliberate misconduct that causes, or would have caused if not detected, a licensee, a certificate holder, a quality assurance program approval holder, or any applicant to be in violation of any rule, regulation, or order, or of any term, condition, or limitation of any license, certificate, or approval issued by the department; or

2. deliberately submit to the department, or to a licensee, a certificate holder, a quality assurance program approval holder, an applicant for a license, certificate, or quality assurance program approval, or a licensee's, an applicant's, a certificate holder's, or a quality assurance program approval holder's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect.

C. A person who violates Subsection B of this Section may be subject to enforcement action in accordance with the procedures in LAC 33:XV.108.

D. For the purposes of Paragraph B.1 of this Section, *deliberate misconduct* by a person means an intentional act or omission that the person knows:

1. would cause a licensee, a certificate holder, a quality assurance program approval holder, or an applicant for a license, certificate, or quality assurance program approval to be in violation of any rule, regulation, or order, or of any term, condition, or limitation of any license or certificate issued by the department; or

2. constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, a certificate holder, a quality assurance program approval holder, an applicant, or the contractor or subcontractor of any of them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1507. General Licenses for Carriers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000), repealed by the Office of the Secretary, Legal Affairs Division, LR 34:

§1508. General License: NRC Approved Packages

A. A general license is issued to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance (CoC), or other approval has been issued by the department.

B. This general license applies only to a licensee who:

1. has a quality assurance program approved by the department as satisfying the provisions of 10 CFR Part 71, Subpart H;

2. has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

3. complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Chapter; and

4. prior to the licensee's first use of the package, has registered with the U.S. NRC.

C. The general license in this Section applies only when the package approval authorizes use of the package under this general license.

D. For a Type B or fissile material package, the design of which was approved by the U.S. NRC before April 1, 1996, the general license is subject to additional restrictions of 10 CFR 71.19.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June

2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1509. General License: DOT Specification Container

[Formerly §1510]

NOTE: Former §1509 has been repealed.

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT at 49 CFR Parts 173 and 178.

B. This general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the provisions of 10 CFR Part 71, Subpart H.

C. This general license applies only to a licensee who:

1. has a copy of the specification; and

2. complies with the terms and conditions of the specification and the applicable requirements of this Chapter and of 10 CFR Part 71, Subparts A, G, and H.

D. This general license is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in U.S. DOT regulations at 49 CFR 173.403.

E. This Section expires October 1, 2008.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1510. General License: Use of Foreign Approved Package

[Formerly §1511]

NOTE: Former §1510 has moved to §1509.

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12.

B. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the applicable provisions of 10 CFR Part 71, Subpart H.

C. This general license applies only to shipments made to or from locations outside the United States.

D. This general license applies only to a licensee who:

1. has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

2. complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Chapter and of 10 CFR Part 71, Subparts A, G, and H. With respect to the quality assurance provisions of 10 CFR Part 71, Subpart H, the licensee is exempt from design, construction, and fabrication considerations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1511. General License: Fissile Material

NOTE: Former §1511 has moved to §1510.

A. A general license is issued to any licensee of the department to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped in accordance with this Section. The fissile material need not be contained in a package that meets the standards of LAC 33:XV.1513; however, the material must be contained in a Type A package. The Type A package must also meet the U.S. DOT requirements of 49 CFR 173.417(a).

B. The general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the provisions of 10 CFR Part 71, Subpart H.

C. The general license applies only when a package's contents:

1. contain no more than a Type A quantity of radioactive material; and
2. contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium.

D. The general license applies only to packages containing fissile material that are labeled with a criticality safety index (CSI) that:

1. has been determined in accordance with Subsection E of this Section;
2. has a value less than or equal to 10; and
3. for a shipment of multiple packages containing fissile material, the sum of the CSIs is less than or equal to 50, for shipment on a nonexclusive use conveyance, or less than or equal to 100, for shipment on an exclusive use conveyance.

E. The following requirements must be met when determining the CSI.

1. The value for the CSI must be greater than or equal to the number calculated by the following equation.

$$CSI = 10 \left[\frac{\text{grams of } ^{235}\text{U}}{X} + \frac{\text{grams of } ^{233}\text{U}}{Y} + \frac{\text{grams of Pu}}{Z} \right]$$

2. The calculated CSI must be rounded up to the first decimal place.

3. The values of X, Y, and Z used in the CSI equation must be taken from Tables 1 or 2 of this Section, as appropriate.

4. If Table 2 of this Section is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero.

5. Table 1 values for X, Y, and Z must be used to determine the CSI if:

- a. uranium-233 is present in the package;
- b. the mass of plutonium exceeds 1 percent of the mass of uranium-235;
- c. the uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
- d. substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.

Table 1 Mass Limits for General License Packages Containing Mixed Quantities of Fissile Material or Uranium-235 of Unknown Enrichment		
Fissile material	Fissile material mass mixed with moderating substances having an average hydrogen density less than or equal to H ₂ O (grams)	Fissile material mass mixed with moderating substances having an average hydrogen density greater than H ₂ O ^a (grams)
²³⁵ U (X)	60	38
²³³ U (Y)	43	27
²³⁹ Pu or ²⁴¹ Pu (Z)	37	24

^aWhen mixtures of moderating substances are present, the lower mass limits shall be used if more than 15 percent of the moderating substance has an average hydrogen density greater than H₂O.

Table 2 Mass Limits for General License Packages Containing Uranium-235 of Known Enrichment	
Uranium enrichment in weight percent of ²³⁵ U, not exceeding	Fissile material mass of ²³⁵ U (X) (grams)
24	60
20	63
15	67
11	72
10	76
9.5	78
9	81
8.5	82
8	85
7.5	88
7	90
6.5	93
6	97
5.5	102
5	108
4.5	114
4	120
3.5	132
3	150
2.5	180
2	246
1.5	408
1.35	480
1	1,020
0.92	1,800

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1512. General License: Plutonium-Beryllium Special Form Material

NOTE: Former §1512 has moved to §1515 and §1516.

A. A general license is issued to any licensee of the department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Section. This material need not be contained in a package that meets the standards of LAC 33:XV.1513; however, the material must be contained in a Type A package. The Type A package must also meet the U.S. DOT requirements of 49 CFR 173.417(a).

B. The general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the provisions of 10 CFR Part 71, Subpart H.

C. The general license applies only when a package's contents:

1. contain no more than a Type A quantity of radioactive material; and

2. contain less than 1000 grams of plutonium, provided that plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 grams of the total quantity of plutonium in the package.

D. The general license applies only to packages labeled with a CSI that:

1. has been determined in accordance with Subsection E of this Section;

2. has a value less than or equal to 100; and

3. for a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs is less than or equal to 50, for shipment on a nonexclusive use conveyance, or less than or equal to 100, for shipment on an exclusive use conveyance.

E. The following requirements must be met when determining the CSI.

1. The value for the CSI must be greater than or equal to the number calculated by the following equation.

$$CSI = 10 \left[\frac{\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu}}{24} \right]$$

2. The calculated CSI must be rounded up to the first decimal place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1513. External Radiation Standards for all Packages

NOTE: Former §1513 has moved to §1517.

A. Except as provided in Subsection B of this Section, each package of radioactive materials offered for transportation must be designed and prepared for shipment so that under conditions normally incident to transportation the radiation level does not exceed 2 mSv/h (200 mrem/h) at any point on the external surface of the package, and the transport index does not exceed 10.

B. A package that exceeds the radiation level limits specified in Subsection A of this Section must be transported by exclusive use shipment only, and the radiation levels for such shipment must not exceed the following during transportation:

1. 2 mSv/h (200 mrem/h) on the external surface of the package, unless the following conditions are met, in which case the limit is 10 mSv/h (1000 mrem/h):

a. the shipment is made in a closed transport vehicle;

b. the package is secured within the vehicle so that its position remains fixed during transportation; and

c. there are no loading or unloading operations between the beginning and end of the transportation;

2. 2 mSv/h (200 mrem/h) at any point on the outer surface of the vehicle, including the top and underside of the vehicle, or, in the case of a flat-bed style vehicle, at any point on the vertical planes projecting from the outer edges of the vehicle, on the upper surface of the load or enclosure, if used, and on the lower external surface of the vehicle; and

3. 0.1 mSv/h (10 mrem/h) at any point 2 meters (80 inches) from the outer lateral surfaces of the vehicle (excluding the top and underside of the vehicle), or, in the case of a flat-bed style vehicle, at any point 2 meters (6.6 feet) from the vertical planes projecting from the outer edges of the vehicle (excluding the top and underside of the vehicle); and

4. 0.02 mSv/h (2 mrem/h) in any normally occupied space, except that this provision does not apply to private carriers, if exposed personnel under their control wear radiation dosimetry devices in accordance with LAC 33:XV.431.

C. For shipments made under the provisions of Subsection B of this Section, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

D. The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1514. Assumptions as to Unknown Properties

NOTE: Former §1514 has been repealed.

A. When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or any other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown property has a credible value that will cause the maximum neutron multiplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1515. Preliminary Determinations

[Formerly §1512.A]

NOTE: Former §1515 has been repealed.

A. Before the first use of any packaging for the shipment of licensed material, the licensee shall:

1. ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

2. where the maximum normal operating pressure will exceed 35 kPa (5 lbs/in²) gauge, test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

3. conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the U.S. NRC. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. NRC.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1516. Routine Determinations

[Formerly §1512.B]

NOTE: Former §1516 has moved to §1519.

A. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this Chapter and of the license. The licensee shall verify that:

1. the package is proper for the contents to be shipped;
2. the package is in unimpaired physical condition except for superficial defects such as marks or dents;
3. each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
4. any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
5. any pressure relief device is operable and set in accordance with written procedures;
6. the package has been loaded and closed in accordance with written procedures;
7. for fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
8. any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;
9. the level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in U.S. DOT regulations at 49 CFR 173.443;
10. external radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in LAC 33:XV.1513 at any time during transportation; and
11. accessible package surface temperatures shall not exceed the limits specified in 10 CFR 71.43(g) at any time during transportation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1517. Air Transport of Plutonium

[Formerly §1513]

NOTE: Former §1517 has moved to §1599.A.

A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Chapter or included indirectly by citation of 49 CFR Chapter I, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

1. the plutonium is contained in a medical device designed for individual human application;

2. the plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for plutonium specified in Table A-2 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A, and in which the radioactivity is essentially uniformly distributed;

3. the plutonium is shipped in a single package containing not more than an A₂ quantity of plutonium in any isotope or form and is shipped in accordance with LAC 33:XV.1504; or

4. the plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the U.S. NRC.

B. Nothing in Subsection A of this Section is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24.

C. For a shipment of plutonium by air that is subject to Paragraph A.4 of this Section, the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, U.S. DOT regulations, applicable to the air transport of plutonium.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1518. Opening Instructions

A. Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to open the package safely have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with LAC 33:XV.455.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1519. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

[Formerly §1516]

A. As specified in Subsections B, C, and D of this Section, each licensee shall provide advance notification to the governor, or to the governor's designee, of the shipment of licensed material through, or across the boundary of, Louisiana before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage. A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the *Federal Register* on June 30, 1995 (60 FR 34306), and the list will be published annually in the *Federal Register* on or about June 30 to reflect any changes in the information. The list of the names and mailing addresses of the governors' designees is also available on request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Washington, DC 20555. In Louisiana, the governor's designee is the Louisiana State Police, 7919

Independence Boulevard, Box 66614 (#A2621), Baton Rouge, LA 70896-6614.

B. Advance notification is required for shipments of irradiated reactor fuel in quantities less than that subject to advance notification requirements of 10 CFR 73.37(f). Advance notification is also required for shipments of licensed material, other than irradiated fuel, meeting the following three conditions:

1. the licensed material is required to be in Type B packaging for transportation;

2. the licensed material is being transported to or across the boundary of the state en route to a disposal facility or to a collection point for transport to a disposal facility; and

3. the quantity of licensed material in a single package exceeds the least of the following:

a. for special form radioactive material, 3000 times the A_1 value of the radionuclides as specified in Table A-1 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A;

b. for normal form radioactive material, 3000 times the A_2 value of the radionuclides as specified in Table A-1 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A; or

c. 1000 TBq (27,000 Ci).

C. The following procedures shall be used to submit advance notification.

1. The notification must be made in writing to the governor or to the governor's designee and to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Washington, DC 20555.

2. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

3. A notification delivered by any means other than mail must reach the office of the governor or the governor's designee at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

4. The licensee shall retain a copy of the notification as a record for three years.

D. Each advance notification of shipment of irradiated reactor fuel or nuclear waste shall contain the following information:

1. the name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;

2. a description of the irradiated reactor fuel or nuclear waste contained in the shipment, as specified in the regulations of U.S. DOT in 49 CFR 172.202 and 172.203(d);

3. the point of origin of the shipment, and the seven-day period during which departure of the shipment is estimated to occur;

4. the seven-day period during which arrival of the shipment at the boundary of the state is estimated to occur;

5. the destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

6. a point of contact, with a telephone number, for current shipment information.

E. A licensee who finds that schedule information previously furnished to the governor or to the governor's designee, in accordance with this Section, will not be met shall telephone a responsible individual in the office of the governor or of the governor's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

F. Each licensee who cancels an irradiated reactor fuel or nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the governor or to the governor's designee previously notified, and to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Washington, DC 20555. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled. The licensee shall retain a copy of the notice as a record for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2190 (October 2007), LR 34:

§1520. Quality Assurance

A. Quality Assurance Requirements

1. This Section describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in this Section, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component in accordance with predetermined requirements. The licensee, certificate holder, and applicant for a CoC are responsible for the quality assurance requirements as they apply to design, fabrication, testing, and modification of packaging. Each licensee is responsible for the quality assurance provision that applies to its use of a packaging for the shipment of licensed material subject to the quality assurance requirements of this Section.

2. Each licensee, certificate holder, and applicant for a CoC shall establish, maintain, and execute a quality assurance program that satisfies each of the applicable criteria of this Section and that satisfies any specific provisions that are applicable to the licensee's activities, including procurement of packaging. The licensee, certificate holder, and applicant for a CoC shall execute the applicable criteria in a graded approach to an extent that is commensurate with the quality assurance requirement's importance to safety.

3. Before using any package for the shipment of licensed material subject to this Section, each licensee shall

obtain U.S. NRC approval of its quality assurance program. Using an appropriate method listed in 10 CFR 71.1(a), each licensee shall file a description of its quality assurance program, including a discussion of which requirements of this Section are applicable and how they will be satisfied, by submitting the description to the Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Washington, DC 20555.

4. A U.S. NRC approved quality assurance program that satisfies the applicable criteria of 10 CFR Part 71, Subpart H, 10 CFR Part 50, Appendix B, or 10 CFR Part 72, Subpart G, and that is established, maintained, and executed regarding transport packages, will be accepted as satisfying the requirements of Paragraph A.2 of this Section. Before first use, the licensee, certificate holder, and applicant for a CoC shall notify the U.S. NRC, in accordance with 10 CFR 71.1, of its intent to apply its previously-approved Subpart H, Appendix B, or Subpart G quality assurance program to transportation activities. The licensee, certificate holder, and applicant for a CoC shall identify the program by date of submittal to the U.S. NRC, Docket Number, and date of U.S. NRC approval.

5. A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices, and meeting the requirements of LAC 33:XV.547.B, is deemed to satisfy the requirements of LAC 33:XV.1507.B and Paragraph A.2 of this Section.

B. Quality Assurance Organization

1. The licensee (or anyone who designs, fabricates, assembles, and tests the package before the package approval is issued), certificate holder, and applicant for a CoC shall be responsible for the establishment and execution of the quality assurance program. The licensee, certificate holder, and applicant for a CoC may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program. The delegatable activities include performing the functions associated with attaining quality objectives and the quality assurance functions.

2. The quality assurance functions consist of assuring that an appropriate quality assurance program is established and effectively executed, and verifying, by procedures such as checking, auditing, and inspection, that activities affecting the functions that are important to safety have been correctly performed.

3. The person or organization performing quality assurance functions must be given sufficient authority and organizational freedom to:

- a. identify problems with quality;
- b. initiate, recommend, or provide solutions; and
- c. verify implementation of solutions.

4. A person or organization performing quality assurance functions must report to a management level that assures that the required authority and organizational freedom, including sufficient independence from cost and schedule factors, when opposed to safety considerations, are provided.

5. Because of the many variables involved, such as the number of personnel, the type of activity being performed,

and the location(s) where activities are performed, the organizational structure for executing the quality assurance program may take various forms, provided that persons and organizations assigned the quality assurance functions have the required authority and organizational freedom.

6. Irrespective of the organizational structure, any individual assigned the responsibility for assuring effective execution of any portion of the quality assurance program, at any location where activities subject to this Section are being performed, must have direct access to the levels of management necessary to perform this function.

C. Quality Assurance Program

1. The licensee, certificate holder, and applicant for a CoC shall establish, at the earliest practicable time consistent with the schedule for accomplishing the activities, a quality assurance program that complies with the requirements of this Section. The licensee, certificate holder, and applicant for a CoC shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which the packaging is used. The licensee, certificate holder, and applicant for a CoC shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

2. The licensee, certificate holder, and applicant for a CoC, through a quality assurance program, shall provide control over activities affecting the quality of the identified materials and components to an extent consistent with their importance to safety, and as necessary to assure conformance to the approved design of each individual package used for the shipment of radioactive material. The licensee, certificate holder, and applicant for a CoC shall assure that activities affecting quality are accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanliness; and assurance that all prerequisites for the given activity have been satisfied. The licensee, certificate holder, and applicant for a CoC shall take into account the need for special controls, processes, test equipment, tools, and skills to attain the required quality, and the need for verification of quality by inspection and test.

3. The licensee, certificate holder, and applicant for a CoC shall base the requirements and procedures of the quality assurance program on the following considerations concerning the complexity and proposed use of the package and its components:

- a. the impact of malfunction or failure of the item on safety;
- b. the design and fabrication complexity or uniqueness of the item;
- c. the need for special control of, and surveillance over, processes and equipment;
- d. the degree to which functional compliance can be demonstrated by inspection or test; and
- e. the quality history and degree of standardization of the item.

4. The licensee, certificate holder, and applicant for a CoC shall provide for indoctrination and training of

personnel performing activities affecting quality, as necessary to assure that suitable proficiency is achieved and maintained. The licensee, certificate holder, and applicant for a CoC shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall review regularly the status and adequacy of that part of the quality assurance program they are executing.

D. Handling, Storage, and Shipping Control. The licensee, certificate holder, and applicant for a CoC shall establish measures to control, in accordance with instructions, the handling, storage, shipping, cleaning, and preservation of materials and equipment to be used in packaging to prevent damage or deterioration. When necessary for particular products, special protective environments, such as an inert gas atmosphere and specific moisture content and temperature levels, must be specified and provided.

E. Inspection, Test, and Operating Status

1. The licensee, certificate holder, and applicant for a CoC shall establish measures to indicate, by the use of markings such as stamps, tags, labels, or routing cards, or by other suitable means, the status of inspections and tests performed upon individual items of the packaging. These measures must provide for the identification of items that have satisfactorily passed required inspections and tests, where necessary, to preclude inadvertent bypassing of the inspections and tests.

2. The licensee shall establish measures to identify the operating status of components of the packaging, such as tagging valves and switches, to prevent inadvertent operation.

F. Nonconfirming Materials, Parts, or Components. The licensee, certificate holder, and applicant for a CoC shall establish measures to control materials, parts, or components that do not conform to the licensee's requirements in order to prevent their inadvertent use or installation. These measures must include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items must be reviewed and accepted, rejected, repaired, or reworked in accordance with documented procedures.

G. Corrective Action. The licensee, certificate holder, and applicant for a CoC shall establish measures to assure that conditions adverse to quality, such as deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and corrected. In the case of a significant condition adverse to quality, the measures must assure that the cause of the condition is determined and corrective action is taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken must be documented and reported to appropriate levels of management.

H. Quality Assurance Records. The licensee, certificate holder, and applicant for a CoC shall maintain sufficient written records to describe the activities affecting quality. The records must include the instructions, procedures, and drawings required by 10 CFR 71.111 to prescribe quality assurance activities and must include closely related specifications such as required qualifications of personnel,

procedures, and equipment. The records must include instructions or procedures that establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility. The licensee, certificate holder, and applicant for a CoC shall retain these records for three years beyond the date when the licensee, certificate holder, and applicant for a CoC last engaged in the activity for which the quality assurance program was developed. If any portion of the written procedures or instructions is superseded, the licensee, certificate holder, and applicant for a CoC shall retain the superseded material for three years after it is superseded.

I. Audits. The licensee, certificate holder, and applicant for a CoC shall carry out a comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits must be performed in accordance with written procedures or checklists by appropriately trained personnel not having direct responsibilities in the areas being audited. Audited results must be documented and reviewed by management having responsibility in the area audited. Follow-up action, including re-audit of deficient areas, must be taken where indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§1599. Appendix—Incorporation by Reference of 10 CFR Part 71, Appendix A, Tables A-1, A-2, A-3, and A-4; Procedures for Determining A₁ and A₂ [Formerly §1517]

A. Tables A-1, A-2, A-3, and A-4 in 10 CFR Part 71, Appendix A, January 1, 2007, are hereby incorporated by reference. These tables are used to determine the values of A₁ and A₂, as described in Subsections B-F of this Section.

B. Values of A₁ and A₂ for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations, are given in Table A-1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A₁ and A₂ are unlimited, the values are for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

C. For individual radionuclides whose identities are known, but which are not listed in Table A-1, the A₁ and A₂ values contained in Table A-3 may be used. Otherwise, the licensee shall obtain prior U.S. NRC approval of the A₁ and A₂ values for radionuclides not listed in Table A-1, before shipping the material. For individual radionuclides whose identities are known, but which are not listed in Table A-2, the exempt material activity concentration and exempt consignment activity values contained in Table A-3 may be used. Otherwise, the licensee shall obtain prior U.S. NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in Table A-2, before shipping the material. The licensee shall submit the requests for prior approval

described in this Subsection to the U.S. NRC, in accordance with 10 CFR 71.1.

D. In the calculations of A_1 and A_2 for a radionuclide not in Table A-1, a single radioactive decay chain, in which radionuclides are present in their naturally-occurring proportions, and in which no daughter radionuclide has a half-life either longer than 10 days, or longer than that of the parent radionuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied, shall be those corresponding to the parent radionuclide of that chain. In the case of radioactive decay chains in which any daughter radionuclide has a half-life either longer than 10 days, or greater than that of the parent radionuclide, the parent and those daughter radionuclides shall be considered as mixtures of different radionuclides.

E. For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply.

1. For special form radioactive material, the maximum quantity that may be transported in a Type A package is as follows.

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where:

$B(i)$ = the activity of radionuclide I

$A_1(i)$ = the A_1 value for radionuclide I

2. For normal form radioactive material, the maximum quantity that may be transported in a Type A package is as follows.

$$\sum B(i)/A_2(i) \leq 1$$

where:

$B(i)$ = the activity of radionuclide i

$A_2(i)$ = the A_2 value for radionuclide i

3. Alternatively, the A_1 value for mixtures of special form material may be determined as follows.

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where:

$f(i)$ = the fraction of activity for radionuclide I in the mixture

$A_1(i)$ = the appropriate A_1 value for radionuclide I

4. Alternatively, the A_2 value for mixtures of normal form material may be determined as follows.

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where:

$f(i)$ = the fraction of activity for radionuclide I in the mixture

$A_2(i)$ = the appropriate A_2 value for radionuclide I

5. The exempt activity concentration for mixtures of nuclides may be determined as follows.

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

where:

$f(i)$ = the fraction of activity concentration of radionuclide I in the mixture

$[A]$ = the activity concentration for exempt material containing radionuclide I

6. The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows.

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

where:

$f(i)$ = the fraction of activity of radionuclide I in the mixture

A = the activity limit for exempt consignments for radionuclide I

F. When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped, and the lowest A_1 or A_2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in Subsection E. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values for the alpha emitters and beta/gamma emitters.

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 33:641 (April 2007), LR 34:867 (May 2008), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, 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) 219-3471. Two hours of free parking are allowed in the Galvez Garage 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 RP048ft. Such comments must be received no later than September 25, 2008, 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) 219-3398 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 RP048ft. 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

0808#051

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Mercury Risk Reduction
(LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711,
2713, 2715, 2717, 2719, and 2721)(OS077)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Office of the Secretary regulations, LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721 (Log #OS077).

This rule implements Act 126 of the 2006 Regular Session of the Legislature regarding the control of mercury releases to the environment. This rule creates a comprehensive system for control of mercury-containing products; requires notification to the DEQ by manufacturers of mercury-containing products; phases out mercury-containing products with increasingly stringent restrictions on sales; requires manufacturers to provide collection plans for discarded mercury-containing products; provides for labeling of mercury-containing products and public outreach on the dangers of mercury; bans certain methods of disposal of mercury-containing products; bans certain uses of mercury-containing products; and provides for exemptions to the requirements. Specific language is included for the disposal ban and proper management of mercury in scrap metal facilities and for providing for the continued use of dental amalgam. The basis and rationale for this rule are to implement Act 126 of the 2006 Regular Session of the Legislature regarding the control of mercury releases to the environment in order to reduce risks of mercury exposure. 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.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 27. Mercury Risk Reduction

Subchapter A. Requirements Related to the Sale of Mercury-Added Products

§2701. Authority

A. Regulations for the purpose of mercury risk reduction in the state of Louisiana are hereby established by the department pursuant to R.S. 30:2571-2588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571-2588.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2703. Purpose

A. The purpose of this Chapter is to supplement procedures and requirements set forth in the Louisiana Mercury Risk Reduction Act, R.S. 30:2571 et seq., for manufacturers of mercury-added products offered for sale, users of mercury-added products in drinking water and wastewater treatment systems, and dismantlers of end-of-life products that contain mercury-added products within the state of Louisiana. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in Title 33 of the *Louisiana Administrative Code*. Furthermore, nothing in this Chapter shall prevent a manufacturer of mercury-added products, or the department, from providing additional means for public information and participation consistent with this Chapter or any other Chapter of Title 33 of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2705. Definitions

A. 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.

Amalgam—any of various alloys of mercury and other metals, as with tin or silver.

Amalgam Sludge—the mixture of liquid and solid material collected within vacuum pump filters or other amalgam capture devices.

Appliances (White Goods)—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Chair Side Traps—devices that capture amalgam waste during amalgam placement or removal procedures.

Contact Amalgam—amalgam that has been in contact with a patient. Examples include extracted teeth with amalgam restorations, carving scrap collected at chair side, and amalgam captured by chair side traps, filters, or screens.

Empty Amalgam Capsule—an individually-dosed container left over after mixing pre-capsulated dental amalgam.

Fabricated Mercury-Added Product—a product that consists of a combination of individual components that combine to make a single unit including, but not limited to, mercury-added measuring devices, lamps, and switches.

Formulated Mercury-Added Product—a chemical product, including, but not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals, and coating materials, that is sold as a consistent mixture of chemicals.

Health Care Facility—any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

Manufacturer—any person, firm, association, partnership, corporation, governmental entity, organization, or combination or joint venture that produces a mercury-added product, or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the *manufacturer* is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the *manufacturer* is the importer or domestic distributor.

Mercury-Added Novelty—a mercury-added product intended mainly for personal or household enjoyment or adornment. *Mercury-added novelties* include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel including footwear, and similar products.

Mercury-Added Product—a product, commodity, or chemical, or a product with a component, that contains mercury or a mercury compound intentionally added to the product, commodity, chemical, or component in order to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason. These products include *formulated mercury-added products* and *fabricated mercury-added products*, as defined in this Subsection. The presence of mercury as a contaminant does not of itself make a product a *mercury-added product*.

Mercury Fever Thermometer—a mercury-added product that is used for measuring body temperature.

Motor Vehicle—an automobile, motor home, motorcycle, all-terrain vehicle, recreational vehicle trailer, boat trailer, semitrailer, truck, truck-tractor, and any other device that is self-propelled and drawn, in, upon, or by which any person or property is or may be transported or drawn either upon or off a public highway, except such as is moved by animal power, or is used exclusively upon stationary rails or tracks, or is an implement of husbandry.

Non-Contact Amalgam (Scrap)—excess amalgam mix left over at the end of a dental procedure that has not come into physical contact with a patient.

Vacuum Pump Filter—a device used for filtering amalgam solids from vacuum lines that may contain amalgam sludge and water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2707. Notifications

A. Effective January 1, 2007, no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Louisiana without prior notification in writing by the manufacturer of the product to the Office of the Secretary in accordance with the requirements of this Section. The Interstate Mercury Education and Reduction Clearinghouse (IMERC) report may be used for notification purposes; a form can be obtained from IMERC, the department, or the department's website.

1. The notification to the department shall, at a minimum, include:

a. a brief description of the product to be offered for sale, use, or distribution;

b. the amount of, and purpose for, mercury in each unit of the product;

c. the total amount of mercury contained in all products manufactured by the manufacturer; and

d. the name and address of the manufacturer, and the name, address, and phone number of a contact at the manufacturer.

2. For purposes of complying with this Section, the manufacturer may submit to the department a copy of the report sent by the manufacturer to IMERC. At a minimum, the copy of the report shall contain the information listed in Subparagraphs A.1.a-d of this Section.

B. Any mercury-added product for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this Section.

C. With the approval of the department, the manufacturer may supply the information required in this Section for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is a change in the information, or when requested by the department, within 90 days of the change. A notification in accordance with this Subsection is to be submitted to the Office of the Secretary.

D. A manufacturer may request confidentiality for certain submitted information by following the procedures in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2709. Notification of Restrictions Governing Sale of Certain Mercury-Added Products

A. The final sale or use or distribution of certain mercury-added products have been restricted in R.S. 30:2575(A)-(D).

B. Manufacturers that produce and sell such materials shall notify retailers about these restrictions in writing. The notification shall contain the following information:

1. the date of restriction;

2. proper handling and disposal instructions;

3. recycling options; and

4. proper clean-up instructions in case of spills.

C. Manufacturers shall keep records documenting this notification and make them immediately available for the

department's inspection upon request. These records shall be maintained for at least three years after the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2711. Petitions for Exemptions from Phase Outs

A. The manufacturer of a mercury-added product subject to the phase-out provisions of R.S. 30:2576 may petition the administrative authority for an exemption.

B. Applications for exemption from mercury-added product phase-out must contain the following information:

1. documentation of the basis for the requested exemption or renewal of exemption;

2. a description of how the manufacturer will ensure that a system exists for the proper collection, transportation, and processing of the products at the end of their useful lives;

3. documentation of the readiness of all necessary parties to perform as intended in the planned system;

4. a statement of the consistency of the exemption request with the practices of other IMERC states;

5. criteria considering whether use of the product is beneficial to the environment or protective of public health or protective of public safety, and, if so, how;

6. criteria considering whether there exist any technically feasible alternatives to the use of mercury in the product, and, if so, a description of such alternatives; and

7. criteria considering whether any comparable non-mercury added products are available at a reasonable cost, and, if so, a description of such products and their costs.

C. A mercury-added product shall be exempt from the limits on total mercury content set forth in R.S. 30:2576(A), if the level of mercury or mercury compounds contained in the product is required in order to comply with federal or state health, safety, or homeland security requirements. In order to claim an exemption under this provision the manufacturer must notify, in writing, the Office of the Secretary and provide the legal justification for the claim of exemption.

D. The administrative authority may provide exemptions from the limits on total mercury content set forth in R.S. 30:2576(A) for a product or category of products when requested to do so, and when such an exemption is deemed appropriate after consideration of the factors enumerated in Paragraphs B.1-7 of this Section, as well as any other pertinent factors.

E. The administrative authority shall decide whether to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

F. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of this Section and of compliance by the manufacturer with the conditions of its original approval. Exemptions may be renewed one or more times, and each renewal shall be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2713. Labeling of Mercury-Added Products

A. The responsibility for product and package labels required by this Section and R.S. 30:2577 shall be on the manufacturer and not on the wholesaler or retailer unless the wholesaler or retailer agrees with the manufacturer to accept responsibility in conjunction with implementation of an alternative to the labeling requirements of this Section approved under R.S. 30:2579 and LAC 33:I.2715. In the case of a multi-component product the responsible manufacturer is the last manufacturer to produce or assemble the product or, if the multi-component product is produced in a foreign country, the responsible manufacturer is the importer or domestic distributor.

B. Except for items described in R.S. 30:2578, mercury-added products and their associated packaging manufactured after July 1, 2008, shall be labeled in accordance with this Section.

C. The following labeling standards shall apply to all mercury-added consumer products and associated packaging. The label shall:

1. be clearly visible to the product purchaser prior to sale and at the point of sale;

2. be printed in English using a 10 point font or larger;

3. be mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;

4. bear the wording "Contains Mercury" or equivalent wording;

5. state that the product cannot be placed in the trash and must be recycled, handled as a universal waste, or disposed of as a hazardous waste. This requirement can be satisfied by any of the following wordings, or other wordings that are substantially equivalent.

"Contains Mercury. Don't Put In Trash.
Recycle or Dispose as Hazardous Waste."

"Contains Mercury. Dispose of According to
Local, State, and Federal Laws."

"Contains Mercury. Dispose of Properly"



D. The labeling requirements of Subsection C shall not apply to non-consumer replaceable lamps and components as long as directions for proper disposal are included in the technician's repair manual.

E. If a mercury-added product is a component of another product, the product containing the mercury-added component and the component itself must both be labeled. The product containing a mercury-added component shall be labeled in accordance with Paragraphs C.1-5 of this Section. The label on the larger product must clearly identify the internal mercury-added component with sufficient detail so

that it may be readily located for removal. The labeling requirements of this Subsection shall not apply to non-consumer lamps and components as long as directions for proper disposal are included in the technician's repair manual. This requirement can be satisfied by the following wording, or other wording that is substantially equivalent.

"The [insert description of component] in this product contains mercury. Dispose of according to local, state, and federal laws."

F. If the product is sold in packaging that obscures the label, the packaging also must be labeled.

1. The label on the packaging must:
 - a. be visible at the time of purchase;
 - b. bear the wording "Contains Mercury" in a 10 point or larger font;
 - c. identify the mercury-added component within the package (e.g., "Lamp Contains Mercury." if the product is a light fixture that includes a fluorescent lamp); and
 - d. bear the wording "Dispose of according to local, state, and federal laws." or "Do not place in trash. Dispose of as a hazardous waste." or some equivalent wording.

2. Manufacturers of products packaged but not yet sold before the effective date of this Section may apply to the department for an exemption from the labeling requirements of this Section.

G. If the product is offered for sale or use or promotional purposes by catalog, telephone, or Internet such that the label on the product or packaging is not visible prior to purchase or receipt, the consumer must be made aware prior to purchase or receipt that there is intentionally-added mercury in the product by placing a label or providing other information in sales literature, on website pages, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2715. Alternative Methods of Public Notification

A. A manufacturer may apply to the department for an alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713 where strict compliance with the requirements is not feasible, or the proposed alternative would be at least as effective in providing pre-sale notification of mercury content and in providing instructions on proper disposal, or federal law governs labeling in a manner that preempts state authority.

B. The manufacturer of a mercury-added product subject to the labeling provisions of R.S. 30:2577 and LAC 33:I.2713 may apply to the department for approval of an alternative labeling plan. Applications for approval of an alternative labeling plan must contain the following information:

1. documentation of the justification for the requested alternative, which shall include, but not be limited to, any claim that strict compliance with the requirements of R.S. 30:2577 and LAC 33:I.2713 is not feasible, and any claim that federal law governs labeling in a manner that preempts state authority;
2. a description of how the alternative ensures that purchasers or recipients of mercury-added products will be made aware of mercury content prior to purchase or receipt;
3. a description of how a person discarding the product will be made aware of the need for proper handling

to ensure that the product is not disposed of with trash or garbage or in a sewer system;

4. documentation of the readiness of all necessary parties to implement the proposed alternative; and

5. a description of the performance measures to be utilized by the manufacturer to demonstrate that the alternative is providing effective pre-sale notification and pre-disposal notification.

C. The department may approve, deny, modify, or condition a requested alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713. Approval of the application for the alternative method of public notification shall be for a period of no more than two years and may, upon continued eligibility under the criteria of R.S. 30:2577 and this Section and compliance with the conditions of its prior approval, be renewed for two-year intervals. Prior to approving an alternative, the department shall consult with neighboring states and regional and national organizations to ensure that the alternative labeling requirements are consistent with those of other governments in the region.

D. Requests for renewals of alternative labeling plans shall be submitted to the Office of the Secretary in writing six months prior to the renewal anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2717. Collection of Mercury-Added Products

A. A manufacturer of any mercury-added product containing more than 10 milligrams of mercury that is offered for final sale or use or distributed for promotional purposes in the state must implement a collection system plan that has been approved by the department. A manufacturer may develop a collection system plan either on its own or in concert with others.

B. The collection system plan must provide for the removal and collection of the mercury-added component or the collection of both the mercury-added component and the product containing it.

C. Prior to offering any mercury-added product containing more than 10 milligrams of mercury for final sale or use or distribution for promotional purposes in Louisiana, the manufacturer shall submit a written collection system plan to the Office of the Secretary and receive the department's approval. The proposed plan shall include the following information:

1. the manufacturer's name, mailing address, and if available, Internet address;
2. the contact person's name and phone number;
3. documentation describing a public education program, including implementation dates, that will inform the public about the purpose of the collection system program and how to participate in it;
4. identification of the targeted capture rate for the mercury-added product, product category, or component;
5. a plan for implementation of the proposed collection system, including documentation demonstrating the financing thereof;
6. documentation of the willingness of all necessary parties to implement and participate in the program, and their contact information;

7. a description of the performance measures to be used to demonstrate that the collection system is meeting capture rate targets;

8. a description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met;

9. a description of a recycling or disposal plan;

10. a signed certification stating that the person signing:

a. has personally examined and is familiar with the information submitted within the collection system plan and all attachments; and

b. is authorized to sign the certification by the entity on whose behalf he is signing.

D. Within a year of the department's approval of the collection system plan, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall ensure that a convenient and accessible recovery system for the users of those products is in full operation. Two years following the implementation of the collection system plan required under this Section, and every two years thereafter, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall submit a report on the effectiveness of the collection system. The report shall be submitted to the Office of the Secretary by July 1 of each reporting year. The report shall include the following information:

1. an estimate of the amount of mercury that was collected;

2. the capture rate for the mercury-added products or components;

3. the results of the other performance measures included in the manufacturer's collection system plan; and

4. such other information as the department may require.

E. Mercury-added formulated products intended to be totally consumed in use, such as cosmetics, pharmaceuticals, and reagents and other laboratory chemicals, shall be exempt from the requirements of this Section.

F. The manufacturer of a mercury-added product subject to the collection system requirements of R.S. 30:2581 and this Section may apply to the department for an exemption from R.S. 30:2581 and this Section for a product or category of products. An exemption request shall contain, at a minimum, the following information:

1. the amount of mercury in the mercury-added product;

2. the total amount of the mercury-added product sold in Louisiana;

3. the total amount of the mercury-added product disposed of in Louisiana;

4. the feasibility of a collection system; and

5. the overall risk to human health and the environment posed by the mercury-added product.

G. The administrative authority shall decide whether to grant the requested exemption within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

H. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of R.S. 30:2581 and

this Section and of compliance by the manufacturer with the conditions of its original approval and any other conditions the department may have added. Exemptions may be renewed one or more times, and each renewal may be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2719. Disposal Ban and Proper Management of Mercury in Scrap Metal Facilities

A. On and after January 1, 2007, mercury shall not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with applicable local, state, and federal requirements.

B. No person, including, but not limited to, Louisiana-licensed dismantlers and parts recyclers, motor vehicle crushers, and scrapped motor vehicle dealers, shall crush, bale, shear, or shred a motor vehicle unless the person has made a reasonable effort, to the extent safe and practicable, to remove, or verify the removal of, the mercury-containing convenience lighting switches and antilock braking system components. The person removing, or verifying the removal of, the mercury-containing convenience lighting switches and antilock braking system components shall maintain written certification of the removal or verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed to the extent safe and practicable. Verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed shall be accomplished by:

1. adoption of a best management practice (BMP) governing component mercury-added products in motor vehicles, which is provided by or approved by the department, or any other such BMP that is submitted to and approved by the department. A copy of an approved BMP and lists of known recent makes and models of motor vehicles with mercury-containing switches is available from the department and can be obtained from the department's website; and

2. participation in the EPA-partnered National Vehicle Mercury Switch Recovery Program (NVMSRP), also known as End of Life Vehicle Solutions (ELVS).

C. Any facility receiving vehicles that have been scrapped by being dismantled, crushed, scrapped, shredded, baled, sheared, or otherwise rendered more easily transported to the recycler shall obtain the certification from a duly authorized representative of the person delivering the scrap that the mercury-containing convenience lighting switches and antilock braking system components required to be removed have been removed and are not contained in the scrap being delivered. Persons receiving the vehicles shall also conduct a visual inspection, as practicable, of the scrap delivered to verify that the component mercury-added products have been removed.

D. No person shall crush, bale, shear, or shred an appliance containing mercury-containing switches or other mercury-added products unless the person has made a reasonable effort, to the extent safe and practicable, to verify that the component mercury-added products and/or switches have been removed. Verification of the removal of

component mercury-added products and/or mercury-containing switches contained within the appliance shall be accomplished by:

1. adoption of a best management practice (BMP) governing component mercury-added products in appliances (white goods), which is provided by or approved by the department, or any other such BMP that is submitted to and approved by the department. A copy of an approved BMP and lists of known recent makes and models of appliances with mercury-containing switches is available from the department and can be obtained through the department's website; and

2. maintenance of written certification of the screening and removal of the mercury-added products and/or mercury-containing switches by the person removing, or verifying the removal of, the component mercury-added products and/or mercury-containing switches.

E. Any facility receiving appliances for scrapping that contained mercury-added products and/or mercury-containing switches shall obtain a certification by a duly authorized representative of the person delivering the scrap that the mercury-added products and/or mercury-containing switches have been removed and are not included in the scrap delivered. The person receiving the scrap shall conduct a visual inspection, as safe and practicable, to verify that all of the mercury-added products and/or mercury-containing switches have been removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2721. Best Management Practices for Health Care Facilities

A. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a current and appropriate Material Safety Data Sheet (MSDS), as defined in 42 U.S.C. 11049, for any elemental mercury used.

B. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a statement signed by its authorized representative that certifies that its employees and other persons acting under its direction or control:

1. will use the mercury only for medical, dental, research, or manufacturing purposes;

2. understand that mercury is toxic, and will store, use, and otherwise handle such mercury in accordance with Subsection C of this Section; and

3. will dispose of the elemental mercury, formulated mercury-added product, fabricated mercury-added product, or mercury-added product in accordance with Subsection C or F of this Section.

C. Within 180 days of the effective date of these regulations, any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product shall develop, maintain, and comply with a Mercury Management Plan (MMP) that is designed to eliminate or capture mercury in waste. The MMP shall contain, at a minimum, the following requirements.

1. A baseline inventory of mercury-containing devices and substances at the facility shall be listed.

2. A timeline for the reduction and eventual elimination of mercury-containing equipment and chemicals, with the exception of dental amalgam, shall be established.

3. Mercury management protocols for safe handling, mercury spill cleanup procedures, disposal procedures, and education and training of employees shall be established.

4. Discarded mercury-containing devices and substances shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Discarded mercury-containing devices and substances:

a. shall only be offered for recycling to treatment, storage, or disposal facilities that, if located in the United States, are either:

i. permitted under 40 CFR 270, LAC 33:V.Subpart 1, or a RCRA-approved hazardous waste program of any other state; or

ii. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271; and

b. shall not be offered for disposal by incineration.

5. Management and storage of discarded mercury-containing devices and substances waste shall be protective of human health and the environment. Storage shall be in structurally sound, leak-proof, sealed, labeled containers that are impervious to mercury vapors. An example of a container meeting these criteria would be a clear glass container. Glass containers shall be secured inside a sturdy, padded box in order to prevent breakage of the glass and subsequent release of mercury.

6. An environmentally preferable purchasing (EPP) policy for mercury products and a process to regularly review mercury use reduction and elimination progress shall be established.

7. All other aspects of the MMP shall, at a minimum, conform to any best management practices (BMP) developed by the American Hospital Association or the American Medical Association or the American Dental Association or by Hospitals for a Healthy Environment (H2E). The H2E BMP is known as the Mercury Waste Virtual Elimination Model Plan.

D. Use of Dental Amalgam. Within 180 days of the effective date of these regulations, any health care facility using dental amalgam shall develop, maintain, and comply with a Dental Amalgam Management Plan that is designed to capture mercury in dental amalgam waste and excess. This management plan shall contain, at a minimum, the following requirements.

1. Chair-side traps and vacuum pump filters shall be used for the purpose of waste amalgam capture. Such devices shall be operated according to the manufacturer's recommendations.

2. Disposal of elemental mercury, dental amalgam, and used, disposable amalgam capsules shall be minimized by implementing practices that reduce mercury in waste, such as use of a variety of amalgam capsule sizes to minimize non-contact amalgam waste.

3. Waste amalgam (amalgam sludge and contact and non-contact amalgam) shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three

years. Waste amalgam shall be disposed of in accordance with Paragraph C.4 of this Section.

4. Management and storage of amalgam waste shall be in accordance with Paragraph C.5 of this Section.

5. Water line cleaners shall be of a type that will minimize dissolution of amalgam. Only pH neutral, non-bleach, non-chlorine-containing suction line cleaners shall be used. Water lines shall be cleaned daily on chairs where restorative dentistry is performed and as necessary, or according to the vacuum pump manufacturer's recommendations, on other chairs.

6. All other aspects of the Dental Amalgam Management Plan shall, at a minimum, conform to the BMP for amalgam waste as developed by the American Dental Association (ADA) and effective on June 2, 2006. The ADA publishes BMPs for the disposal of dental amalgam waste. The ADA may be contacted through their website or at American Dental Association, 211 East Chicago Ave., Chicago, IL 60611-2678; phone 312-440-2500.

E. Manufacturers of mercury-containing devices and substances shall establish a convenient and accessible collection system for formulated mercury-added products, fabricated mercury-added products, and/or mercury-added products from medical facilities in accordance with LAC 33:I.2717.

F. Mercury-containing devices and substances that contain mercury in sufficient quantities to be considered a hazardous waste as defined in LAC 33:V.Subpart 1, Hazardous Waste Regulations shall be subject to that Subpart if such waste cannot be recycled in accordance with Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, 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) 219-3471. Two hours of free parking are allowed in the Galvez Garage 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 OS077. Such comments must be received no later than October 2, 2008, 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) 219-3398 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the

DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS077. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mercury Risk Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Minimal to no costs or savings will be realized for the implementation of this proposed rule. All activities associated with this rule can be accomplished through use of existing personnel and budget with no or minimal increases in time or budget expenditures. Tracking notifications, phase-outs, labeling, and collections of mercury-added products are simplified through membership in the Interstate Mercury Education and Reduction Clearinghouse (IMERC), where multiple member states work together to accomplish these mutual goals. Mercury-added products can be replaced with non-mercury alternatives with similar functionality and at similar prices. If no non-mercury alternative exists for a specific product, the manufacturer may apply for administrative exemption from the sales ban or phase-out in order to continue sales supporting a demonstrated need, which will allow local government to continue purchasing the specific product.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase or decrease in revenues for state and local government as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Dental facilities, mercury-added products manufacturers (none known in Louisiana), steel recycling facilities, and salvage yards will be most affected by this proposed rule. Most actions they will need to take are being done voluntarily for other programs in which they are participating. Some of these programs pay the facilities for the mercury-added product they remove or the mercury they collect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are expected. This proposed rule provides consistency with other states regarding mercury risk reduction in manufacturing.

Herman Robinson, CPM
Executive Counsel
0808#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Stage II Vapor Recovery
(LAC 33:III.2132) (AQ291)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2132 (Log #AQ291).

The proposed rule will provide an exemption from Stage II vapor recovery requirements for dispensers used exclusively for the initial fueling and/or refueling of vehicles equipped with onboard refueling vapor recovery (ORVR) equipment. Refueling emissions are captured via vehicle ORVR equipment instead of the dispenser. This rule will enable E85 (85 percent ethanol and 15 percent gasoline) fuel pumps to operate and dispense E85 fuel within the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. Louisiana's Stage II vapor recovery rule requires California Air Resource Board (CARB) certification or equivalent for gasoline dispensing units in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. However, at this time there is no CARB certification available for E85 units. These E85 dispensers are used exclusively to dispense fuel to E85-capable vehicles, which are equipped with ORVR equipment. The ORVR systems are considered to be as efficient as Stage II vapor recovery equipment in reducing emissions from fueling and refueling. Since the majority, if not all, of the E85-capable vehicles have ORVR, the EPA via its December 12, 2006, guidance memo to regional air directors allows states flexibility for exempting E85 pumps from Stage II requirements. Additionally, this rule will exempt vehicle manufacturing and rental car facilities where dispensers are used solely for fueling vehicles equipped with ORVR. This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to prevent the unnecessary expense of complying with Stage II requirements when emissions that would be vented to the atmosphere are captured via vehicle ORVR instead of the Stage II dispenser. 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.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. - B.7. ...

8. Exemption. Any segregated motor vehicle fuel dispensing system used exclusively for the fueling and/or refueling of vehicles equipped with onboard refueling vapor recovery equipment (e.g., initial fueling of new vehicles at automobile assembly plants, refueling of rental cars at rental car facilities, and refueling of flexible fuel vehicles at E85 dispensing pumps), located at a facility subject to this regulation, is exempt from the requirements in Paragraphs B.5 and 6 of this Section.

9. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Assessment within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage 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 AQ291. Such comments must be received no later than October 2, 2008, 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) 219-3398 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ291. 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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Stage II Vapor Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no appreciable costs/savings anticipated to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no appreciable increase or decrease in revenues anticipated to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no appreciable impact anticipated to purchasers of E85 (85 percent ethanol and 15 percent gasoline) fuel. Sellers of this fuel will see the benefit of an additional cost avoided as they will not have to invest in stage II vapor recovery systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no appreciable effect anticipated on competition or employment as everyone operating the E85 pumps will incur the same costs and benefits.

Herman Robinson, CPM
Executive Counsel
0808#049

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Training and Education Requirements for Authorized Users of Radioactive Materials (LAC 33:XV.763)(RP050ft)

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 Radiation Protection regulations, LAC 33:XV.763 (Log #RP050ft).

This proposed rule is identical to federal regulations found in 10 CFR 35.55(b)(1)(i), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule will update the state regulations to be compatible with the changes in the federal regulations relating to the training and education requirements of a physician who is a radiation safety officer overseeing uptake, dilution, or excretion studies, and/or imaging and localization studies. Amendments to the *Code of Federal Regulations* in 10 CFR

Part 35 have been completed regarding the training and education requirements of a radiation safety officer. Louisiana is required to adopt or amend the state radiation regulations pertaining to the training and education requirements of an authorized user of radioactive material in order to maintain an adequate Agreement State program. The basis and rationale for this rule are to mirror the federal regulations and maintain an adequate Agreement State program. 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.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 7. Use of Radionuclides in the Healing Arts

§763. Training

A. – K.2. ...

a. has completed 700 hours in a structured educational program consisting of both:

i. 200 hours of classroom and laboratory training in the following areas:

K.2.a.i.(a). – M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, 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) 219-3471. Two hours of free parking are allowed in the Galvez Garage 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 RP050ft. Such comments must be received no later than September 25, 2008, 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) 219-3398 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 RP050ft. 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

0808#052

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System—Proficient in English
(LAC 28:LXXXIII.4001)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part 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 that are required to change in response to state and federal laws and regulations. Proposed changes in Bulletin 111, §4001, establish reasonable guidelines for Limited English Proficient (LEP) students to achieve English proficiency. It will allow districts to focus limited resources on those students in greatest need of services. Current standards were deemed excessively high during discussion with the U.S. Department of Education and representatives from other states. These changes also allow special consideration for LEP students with disabilities.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 40. Definitions Related to English Proficiency §4001. Proficient in English

A. To be considered English proficient and exit limited English proficient (LEP) status, a LEP student must score as follows.

1. For grades K-2:
 - a. two years at composite level 5 on the English language development assessment (ELDA); or
 - b. one year at composite level 5 on ELDA; and
 - c. one year at grade-level/benchmark/low-risk on a standardized reading assessment, such as DRA or DIBELS.
2. For grades 3-12:
 - a. composite level 5 on ELDA; or

- b. one year at composite level 4 on ELDA; and
- c. one year at proficient on English language arts portion of the *i*LEAP, LEAP, GEE, LAA 1, or LAA 2.

B. Students with disabilities who are unable to meet the above exit criteria after 4 years or more in LEP status because of their disability, as decided only by consensus of the members of the school building level committee (SBLC), may be exited from LEP status (but will still be required to take statewide assessments).

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), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System Proficient in English

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes in Bulletin 111 §4001 establish reasonable guidelines for Limited English Proficient (LEP) students to achieve English proficiency. It will allow districts to focus limited resources on those students in greatest need of services. Current standards were deemed excessively high during discussion with the U.S. Department of Education and representatives from other states. These changes also allow special consideration for LEP students with disabilities.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0808#024

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:CXI.501, 511, 1801, 2007,
2011, 2015, 2305, 2311, and 3505)

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*: §501. District Test Coordinator Role; §511. School Test Coordinator; §1801. Description; §2007. Performance Standards; §2011. Grade 4 Achievement Level Descriptors; §2015. Grade 8 Achievement Level Descriptors; §2305. Format; §2311. Proficiency Standards; and §3505. Foreign Exchange Students. The document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new and edited guidelines to the responsibilities of district and school test coordinators and the end-of-course tests. New policy language, updates, and scaled-score ranges are being added to Chapter 20, Louisiana Alternate Assessment Level 2 (LAA 2) and English Language Development Assessment (ELDA). Policy language is added to Chapter 35 which updates the assessment of Foreign Exchange students.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 5. Test Coordinator Responsibilities

Subchapter A. District Test Coordinator Role

§501. District Test Coordinator Role

A.1. - A.2.w. ...

x. distributing student reports and summary reports to school test coordinators and principals in a timely manner.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008), LR 34:

Subchapter B. School Test Coordinator Role

§511. School Test Coordinator

A. - A.21. ...

22. distributing student reports and summary reports to teachers and parents in a timely manner.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008), LR 34:

Chapter 18. End-of-Course Tests

§1801. Description

A. - B. ...

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 shall participate in the fall test regardless of the grade earned during the fall semester.

2. Students completing the course at the end of the spring semester shall participate in the spring test regardless of the grade earned during the spring semester.

D. - F.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:258 (February 2007), amended LR 34:432 (March 2008), LR 34:1353 (July 2008), LR 34:

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter C. Achievement Levels and Performance Standards

§2007. Performance Standards

A. - D. ...

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	306-340	301-340
Approaching Basic	263–300	282–314	263-305	272-300
Foundational	227–262	248–281	224-262	250-271
Pre-Foundational	100–226	100–247	100-223	100-249

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 5			
Basic	286-340	282-340		
Approaching Basic	247-285	250-281		
Foundational	213-246	215-249		
Pre-Foundational	100-212	100-214		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 6			
Basic	280-340	281-340		
Approaching Basic	239-279	248-280		
Foundational	177-238	201-247		
Pre-Foundational	100-176	100-200		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 7			
Basic	286-340	292-340		
Approaching Basic	236-285	255-291		
Foundational	185-235	220-254		
Pre-Foundational	100-184	100-219		

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	305-340	297-340
Approaching Basic	269–314	296–320	267-304	263-296
Foundational	223–268	263–295	222-266	237-262
Pre-Foundational	100–222	100–262	100-221	100-236

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:270 (February 2007), amended LR 33:2350 (November 2007), LR 34:

Subchapter D. Achievement Level Descriptors

§2011. Grade 4 Achievement Level Descriptors

A. - B. ...

* * *

C. Grade 4 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. perform simple scientific tasks when given clear, sequential directions;

2. recognize questions that are appropriate to investigation;
3. organize and present data in a graphic form and draw conclusions based on data;
4. demonstrate basic knowledge/understanding about properties of objects, motion of objects, and forms of energy as they apply to their everyday life;
5. demonstrate basic knowledge/understanding about characteristics, life cycles, and environments of organisms and relationships;
6. demonstrate basic knowledge/understanding about basic concepts related to properties of Earth materials, weather, and objects in the night sky; and
7. demonstrate basic knowledge/understanding about basic components of an ecosystem and recognize how change impacts the system.
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. perform portions of simple scientific tasks when given clear, sequential directions;

<ol style="list-style-type: none"> 2. read/interpret some data in a graphic form; 3. respond to simple directed questions; 4. exhibit partial understanding of properties of objects, motion of objects, and forms of energy as they apply to their everyday life; 5. exhibit partial understanding of characteristics, life cycles, and environments of organisms and relationships; 6. exhibit partial understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and 7. exhibit partial understanding of basic components of ecosystems and recognize how change impacts systems.
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> <ol style="list-style-type: none"> 1. Students scoring at this level generally exhibit the ability to 2. demonstrate limited understanding of fundamental scientific tasks; 3. read/interpret simple data in graphic form; 4. make simple observations and respond to directed questions, when prompted; 5. exhibit limited understanding of the ways in which properties of objects, motion of objects, and forms of energy apply to their everyday life; 6. exhibit limited understanding of characteristics, life cycles, and environments of organisms; 7. exhibit limited understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and 8. exhibit limited understanding of basic components of an ecosystem.
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> <ol style="list-style-type: none"> 1. Students scoring at this level need to develop the ability to 2. demonstrate understanding of fundamental scientific tasks; 3. read/interpret simple data in graphic form; 4. make simple observations and respond to directed questions; 5. exhibit understanding of the ways in which properties of objects, motion of objects, and forms of energy apply to their everyday life; 6. exhibit understanding of characteristics, life cycles, and environments of organisms; 7. exhibit understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and 8. exhibit understanding of basic components of an ecosystem.

D. Grade 4 Social Studies 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. Geography: recognize major geographic features on maps and globes; define geographic vocabulary; describe the connection between people and the environment; interpret geographical data; define the world in spatial terms; and define processes that shape Earth. 2. Civics: identify the branches and major responsibilities of government; and list the rights and responsibilities of citizens as stated in the Bill of Rights. 3. Economics: identify fundamental economic concepts and terms; recognize that the decisions made by individuals, households, businesses, and governments result in economic outcomes. 4. History: identify and describe important people, events, and documents in American history; demonstrate an understanding of the concepts of historical perspective and time; distinguish between primary and secondary historical sources; and describe some scientific and technological advancements.
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. Geography: identify major geographic features on maps and globes; select words that define geographic vocabulary; explain the connection between people, places, man and the environment; identify geographical data; identify the world in spatial terms; and identify processes that shape Earth. 2. Civics: recognize that the United States has a government that is divided into branches; and state that citizens have rights and responsibilities. 3. Economics: identify some fundamental economic concepts and terms. 4. History: recognize a few of the most important people, events, and documents in American history; demonstrate a limited understanding of the concepts of historical perspective and time; and identify some important scientific and technological advancements.
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. Geography: identify limited geographic features on maps and globes; recognize words that define geographic vocabulary; state the connection between people, places, man and the environment; identify some geographical data; demonstrate limited understanding of the world in spatial terms; and identify some processes that shape Earth. 2. Civics: demonstrate limited knowledge of the structure of the United States government and limited understanding that citizens have rights and responsibilities. 3. Economics: recognize some fundamental economic concepts and terms. 4. History: recognize a limited number of the most important people, events, and documents in American history; demonstrate a fundamental understanding of the concepts of historical perspective and time; and recognize some important scientific and technological advancements.
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. Geography: identify major geographic features on maps and globes; select words that define geographic vocabulary; explain the connection between people, places, man and the environment; identify geographical data; identify the world in spatial terms; and identify processes that shape Earth. 2. Civics: recognize that the United States has a government that is divided into branches; and state that citizens have rights and responsibilities. 3. Economics: identify fundamental economic concepts and terms. 4. History: recognize a few of the most important people, events, and documents in American history; demonstrate basic understanding of the concepts of historical perspective and time; and identify important scientific and technological advancements.

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 33:271 (February 2007), amended LR 34:

§2015. Grade 8 Achievement Level Descriptors

A. - B. ...

* * *

C. Grade 8 Science 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 a fundamental knowledge of some theories and concepts; 2. identify elements of a system and state one limiting factor when given a particular example; 3. identify a simple model; 4. begin to understand the nature of science; and 5. show an awareness that science is subject to change. <p>When given a problem, students at this level can</p> <ul style="list-style-type: none"> o design a simple investigation by asking appropriate questions; o identify the important variables and select appropriate tools to gather data; and o interpret basic data and communicate a conclusion. <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>
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. identify related elements of a system; 2. identify elements of a simple model; and 3. show some awareness that science is developing and changing. <p>When given an investigation, students at this level can</p> <ol style="list-style-type: none"> 1. answer specific scientific questions; 2. identify at least one variable in an experiment; and 3. seek and identify basic scientific data and communicate it. <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>
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. identify some elements of a system; 2. demonstrate limited understanding of elements of a simple model; and 3. show limited awareness that science is developing and changing. <p>When given an investigation, students at this level can</p> <ol style="list-style-type: none"> 1. answer simple scientific questions; and 2. show limited knowledge and understanding of variables in an experiment and basic 3. scientific data. <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>
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. identify elements of a system; 2. demonstrate understanding of elements of a simple model; and 3. show awareness that science is developing and changing. <p>When given a problem, students at this level can</p> <ol style="list-style-type: none"> 1. answer simple scientific questions; and 2. demonstrate knowledge and understanding of variables in an experiment and 3. scientific data. <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>

D. Grade 8 Social Studies 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. Geography: utilize vocabulary of geographic concepts relating to patterns, relationships, distance, direction, and location; use latitude and longitude to locate places; identify continents, oceans, or selected countries and cities; explain the differences between maps and globes, read map scales, and use an atlas/almanac; illustrate relationships that exist between the physical environment and human activity; identify the distinguishing characteristics of a region; and describe the movement of people, goods, services, and ideas. 2. Civics: explain the major purposes of government; identify and explain the importance of basic principles of American constitutional democracy; describe major foreign policy of the U.S.; and describe the requirements of citizenship and naturalization in the U.S. 3. Economics: compare basic concepts related to economics; explain the causes and consequences of economic decision making; distinguish how specialization, skills, and knowledge affect the economic process; compare various economic systems and their historical impacts; and explain the role of supply and demand on production and distribution of goods and services. 4. History: identify and categorize people, places, events, and documents in historical context; understand the impact of diverse cultures on American life; explain the significance of major historical events; and explain the fundamental political ideas and institutions of American life.
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. Geography: obtain information from geographic models; draw a variety of maps; memorize various geographic data; and recognize that human activity is affected by the environment. 2. Civics: recognize types of government; identify the basic principles of American constitutional democracy; recognize a foreign policy issue; and list the rights and responsibilities of American citizens. 3. Economics: identify basic concepts and vocabulary terms related to economics; and discuss how supply and demand affects the price of goods and services. 4. History: identify historical people and places; demonstrate awareness of diverse cultures in America; name a variety of historical events; and recognize the fundamental political ideas and institutions of American life.
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. Geography: obtain some information from geographic models; draw a map; recognize some geographic data; and demonstrate some awareness that human activity is affected by the environment. 2. Civics: recognize basic types of government; identify some basic principles of American constitutional democracy; demonstrate limited awareness of major foreign policy issues; and recognize the rights and responsibilities of American citizens. 3. Economics: identify a few basic concepts and vocabulary terms related to economics; and recognize some of the effects of supply and demand on the price of goods and services. 4. History: identify a limited number of major historical people and places; demonstrate a limited awareness of diverse cultures in America; recognize some major historical events; and recognize some fundamental political ideas and institutions of American life.

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. Geography: obtain information from geographic models; draw a variety of maps; memorize various geographic data; and recognize that human activity is affected by the environment.
2. Civics: recognize types of government; identify the basic principles of American constitutional democracy; recognize a foreign policy issue; and list the rights and responsibilities of American citizens.
3. Economics: identify basic concepts and vocabulary terms related to economics; and discuss how supply and demand affects the price of goods and services.
4. History: identify historical people and places; develop an awareness of diverse cultures in America; name a variety of historical events; and recognize the fundamental political ideas and institutions of American life.

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), amended LR 33:2037 (October 2007), LR 34:

Chapter 23. English Language Development Assessment (ELDA)

Subchapter C. ELDA Test Design

§2305. Format

A. - A.4. ...

5. Speaking Constructed Responses (CR)—grade levels 3-12

	Listening	Speaking	Reading	Writing
K	Inventory: 7 specified tasks	Inventory: 8 specified tasks	Inventory: 14 specified tasks	Inventory: 9 performance activities
1-2	Inventory: 7 specified tasks	Inventory: 8 specified tasks	Inventory: 14 specified tasks	Inventory: 9 performance activities
3-5	50 MC	16 CR	50 MC	3 SCR 1 ECR 15 MC
6-8	50 MC	16 CR	50 MC	3 SCR 1 ECR 15 MC
9-12	50 M	16 CR	60 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), amended LR 34:

Subchapter E. Proficiency Levels and Proficiency Standards

§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.

ELDA Proficiency Level Scaled-Score Ranges

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Kindergarten					
Listening	50–99	100–130	131–170	171–191	192–230
Speaking	40–99	100–130	131–166	167–196	197–230
Reading	30–99	100–127	128–164	165–184	185–240
Writing	30–99	100–135	136–156	157–192	193–220
Grade Cluster 1–2					
Listening	50–114	115–145	146–178	179–199	200–230
Speaking	40–112	113–135	136–170	171–199	200–230
Reading	30–107	108–141	142–167	168–199	200–240
Writing	30–94	95–138	139–159	160–199	200–220
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	669–844	845–950
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
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), amended LR 34:

Chapter 35. Assessment of Students in Special Circumstances

§3505. Foreign Exchange Students

A. Foreign exchange students shall take the appropriate assessment for their enrolled grade during the scheduled assessment period.

Since foreign exchange students are expected to be fully English proficient, they are not eligible for test accommodations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will provide new and updated statewide test information regarding District and School Test Coordinators responsibilities during statewide assessment, End-of-Course Tests, Foreign Exchange Students, LAA 2 Achievement Level Descriptors, LAA 2 Achievement Levels, and LAA 2 Scaled Score Ranges for grades 4 and 8 science and social studies content. ELDA Test Design was updated to identify constructed-response items in the Speaking domain for grade levels 3 through 12 (the table was edited to list the

specific number of items per domain for kindergarten and grade cluster 1—2) and identify constructed-response items for grade clusters 3—5, 6—8, and 9—12. Newly implemented ELDA Proficiency Level Scaled-Score Ranges for Kindergarten and Grade Cluster 1-2 are updated. ELDA Writing cut score is edited to reflect revision of Levels 4 and 5. 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
Deputy Superintendent
0808#025

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapter 23)

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 amendments to *Bulletin 741—Louisiana Handbook for School Administrators*: §2375. Business Education, §2377. General Career and Technical Education, §2383. Marketing Education, and §2387. Trade and Industrial Education. The action is being proposed to up-date career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§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

Course Title(s)	Recommended Grade Level	Units
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
Web Design II	10-12	1
Word Processing	11-12	1

B.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:

§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
Finance Academy		
Economics and the World of Finance	11-12	1/2
Financial Services	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
Principles of Finance	11-12	1/2
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Geography	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

Course Title(s)	Recommended Grade Level	Units
Logic for Programming	11-12	1/2
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Engineering Design I, II	11-12	1

B.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:

§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
Customer Service	12	1
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), LR 33:1615 (August 2007), LR 34:

§2387. Trade and Industrial Education

A. Trade and industrial education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3

Course Title(s)	Recommended Grade Level	Units
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3
Switching Basics & Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:

Family Impact Statement

In accordance with Sections 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., October 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to bring current Career and Technical course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained and qualified pool from which to select employees.

Elizabeth Scioneaux
Deputy Superintendent
0808#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.903 and 911)

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 746—Louisiana Standards for State Certification of School Personnel*: §903. Definitions and §911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked Due to Criminal Convictions and/or Submission of Fraudulent Documents. This revision will indicate that a Louisiana certificate can be suspended, revoked, and/or denied if an applicant has committed any offense listed in R.S.

15:587.1(C) or any felony offense whatsoever including the two additional crimes of R.S. 14:283.1, Voyeurism, and R.S. 14:284. Peeping Tom.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 9. Actions Related to Criminal Offenses
and/or the Submission of Fraudulent
Documentation**

§903. Definitions

A. ...

B. The following crimes are reported under R.S.15:587.1:

1. R.S. 14:283.1, R.S. 14:284, R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the *Federal Criminal Code* having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

R.S. 14:283.1	Voyeurism
R.S. 14:282	Peeping Tom
*R.S. 14:30	First degree murder
*R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
*R.S. 14:41	Rape
*R.S. 14:42	Aggravated rape
*R.S. 14:42.1	Forcible rape
*R.S. 14:43	Simple rape
*R.S. 14:43.1	Sexual battery
*R.S. 14:43.2	Aggravated sexual battery
*R.S. 14:43.3	Oral sexual battery
*R.S. 14:43.4	Aggravated oral sexual battery
*R.S. 14:43.5	Intentional exposure to the AIDS virus
*R.S. 14:44	Aggravated kidnapping
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
*R.S. 14:78	Incest
*R.S. 14:79.1	Criminal abandonment
*R.S. 14:80	Carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
*R.S. 14:81.1	Pornography involving juveniles
*R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
*R.S. 14:86	Enticing persons into prostitution
*R.S. 14:89	Crime against nature

*R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm
R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution
*R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution

*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.

C. ...

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 32:1850 (October 2006), LR 34:

§911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents

A. Issuance/reinstatement will never be considered for teachers convicted of the following crimes: 14:283.1, 14:284, 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. - E.4. ...

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 32:1831 (October 2006), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., October 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This revision will indicate that a Louisiana certificate can be suspended, revoked, and/or denied if an applicant has committed any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever including the two additional crimes of R.S. 14:283.1 Voyeurism and R.S. 14:284 Peeping Tom. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0808#026

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943—Policies and Procedures for Louisiana
Teacher Assistance and Assessment
(LAC 28:XXXVII.Chapter 5)

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 1943—Policies and Procedures for Louisiana Teacher Assistance and Assessment* (LAC Part Number XXXVII): §503. Teachers Subject to the Program, §505. Definitions, and §507. Procedures to Request Exclusion. Current policy and statute identifies certain conditions under which an experienced teacher moving to Louisiana can be excluded from the Louisiana Teacher Assistance and Assessment Program (LaTAAP). Revisions to the language of the current policy will affect who can apply for exclusion, previous experience from another state, and the timeline for the exclusion application. Changes to the current policy will allow all

certificated professionals (principals, supervisors, etc.) who begin teaching in Louisiana from out-of-state the option of applying for exclusion. A revised policy will recognize previous teaching experience from nonpublic schools, not just public schools, and the revisions will eliminate a six-week window for submitting exclusion applications. Applicants will have a full school year to submit their exclusion applications with supporting evidence to the department.

**Title 28
EDUCATION**

**Part XXXVII. Bulletin 1943—Policies and Procedures
for Louisiana Teacher Assistance and Assessment
Chapter 5. Assessment**

§503. Teachers Subject to the Program

A. New teachers subject to this assistance and assessment program, as specified by Act 1 of the 1994 Third Extraordinary Session of the Louisiana Legislature and its 1997 amendments, include general education teachers, vocational education teachers, special education teachers, and "any person employed as a full-time employee of a local board who is engaged to directly and regularly provide instruction to students." Teachers required to participate in this program include those who hold standard certificates (type C, level 1, practitioner license), those who hold non-standard certificates (temporary authority to teach, out-of-field authorization to teach, or temporary employment permit), teachers moving for the first time from Louisiana nonpublic schools to public schools, and new teachers from another state who do not meet the conditions outlined in Subsection B of this Section.

B. Beginning August 1, 1998, experienced teachers from other states who enter Louisiana public schools for the first time and provide appropriate evaluation results from their immediate previous teaching assignment are excluded from participation in the Louisiana Teacher Assistance and Assessment Program. (Section 3891 of R.S. 17:3881-3895 Amended 1997). To implement this legislation, the following definitions and guidelines have been established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:278 (February 2002), amended LR 29:553 (April 2003), LR 34:

§505. Definitions

Appropriate Evaluation Results—as satisfactory annual evaluation results as defined by and certified by the immediate previous school district(s) from another state.

Experienced in Other States—as two or more years of creditable experience in a public or non public school approved/accredited by the state or regional accreditation agency.

Immediate Previous Teaching Assignment—as it pertains to assessment shall be defined as the applicant's last position of professional employment in a public or nonpublic school or school system which employment required professional certification and which position was held by the applicant for at least two creditable years within a five-year period immediately preceding employment in a Louisiana school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:278 (February 2002) amended LR 34:

§507. Procedures to Request Exclusion

A. To request exclusion from the Teacher Assistance and Assessment Program, the teacher must have submitted to the Louisiana Department of Education (LDE), Office of Quality Educators, Division of Professional Development, Professional Accountability Section the following materials:

1. a completed exclusion request form forwarded by the employing Louisiana school system. Each teacher applying for exclusion shall sign a release to solicit needed personnel evaluation information from the previous school system(s).

B. The request for exclusion will be reviewed by an appropriate LDE staff member, and notification indicating approval or denial of the request will be returned to the employing LEA submitting the request.

C. Experienced teachers from another state holding a National Board for Professional Teaching Standards (NBPTS) Certificate will be approved for exclusion from the Louisiana Teacher Assistance and Assessment Program upon submission of the completed exclusion form and a copy of their valid NBPTS Certificate.

NOTE: The National Board Certified Teacher (NBCT) applicant from out-of-state must follow all procedures and must attach a copy of their valid NBPTS Certificate for review.

NOTE: Approval of requests for exclusion will be granted if the completed exclusion request form contains the signature(s) of the administrative authority(ies) responsible for authorizing the results of the evaluation(s). Initial Requests for Exclusion and Release of Evaluation Information and signed verification of previous experience must be returned to the LDE within a single school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:278 (February 2002), amended LR 31:2766 (November 2005), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., October 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1943—Policies and Procedures
for Louisiana Teacher Assistance and Assessment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These changes to current Bulletin 1943 policy modify the Department of Education's procedures used to implement an out-of-state exclusion process for the Louisiana Teacher Assistance and Assessment Program. There are no costs to the Department of Education associated with the adoption of this policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that this policy will promote the retention of experienced teachers from other states seeking employment.

Beth Scioneaux
Deputy Superintendent
0808#016

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Certified Public Accountants**

Annual Renewals of CPA Certificate,
Inactive Status, and Firm Permits
(LAC XIX.1105 and 1501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana hereby provides notice of its intent to amend LAC 46:XIX:1105 and 1501. Currently, these rules only address annual renewal requirements in terms of paper forms and mailing due dates. The objective of this action is to provide for renewal of licenses and registrations of CPAs and CPA firms electronically via the Internet. No preamble has been prepared with respect to the revised Rule which appear below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XIX. Certified Public Accountants

Chapter 11. Issuance and Renewal of Certificate

**§1105. Certificate Application, Annual Renewals,
Inactive Registration, Reinstatement,
Notification under Substantial Equivalency**

A. - A.2. ...

B. Renewals and Current Year Reinstatement—
Certificates

1. Each certified public accountant shall renew his certificate annually during the period for online renewal by means of the Internet, or if the board allows renewal by mail on or before the last day of December preceding the year for which renewal is applicable.

2. The board shall set the period of time for online renewal, or the board may mail forms for renewal to the last known address of each certified public accountant or post a downloadable form on its website.

3. Certificates expire on the last day of each calendar year, or on a date following December 31, if another date is determined by the board for good cause.

4. The board shall send a notice of default to the last known address or email address of each certified public accountant who fails to renew his certificate.

5. Application for annual renewal of certified public accountant certificates shall be made online via the Internet, or on forms that may be furnished by the board, and shall be accompanied by renewal fees fixed by the board. The fee for annual renewal of a certificate shall not exceed \$100. The renewal forms shall not be altered from the original text by the applicant and shall contain all of the items and information requested in the appropriate space in order to be acceptable.

6. The board may reinstate any certificate which has expired because of nonrenewal in the current year, upon payment of the renewal fee and such penalty fee as may be prescribed by the board, provided that the applicant for such renewal is otherwise completely qualified for certification.

7. A delinquent renewal fee equal to the current renewal fee shall be assessed against those certified public accountants who have not renewed prior to February 1; and a reinstatement renewal fee equal to twice the current renewal fee shall be assessed against those persons whose certificates have expired for failure to renew prior to March 1.

8. A certified public accountant whose certificate has expired and has not been reinstated prior to April 16 of the current year shall submit an application, subject to board approval, for reinstatement of a current year certificate. In addition to the renewal fee and the other renewal fees assessed in Paragraphs 6 and 7 above, the board may assess an additional fee within the limits prescribed by law.

9. In addition to the above fees, a fee may be assessed against those certified public accountants who have received three suspensions within the previous six years.

10. For good cause, the board may waive or suspend in whole or in part any of the fees, due dates, and procedures provided for in this Section.

11. Certified public accountants who have not timely renewed their certificates are in violation of R.S. 37:83 and therefore may be subject to the provisions of R.S. 37:81.

12. Failure to Timely Remit or Respond

a. No certificate of any certified public accountant who has failed to timely remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the certified public accountant owes the board or has been ordered to pay to the board shall be annually renewed, or reinstated.

b. The board may refuse to renew, or to reinstate, any certificate of any certified public accountant who has failed to comply with §1707.H.

C. Annual Registration of CPA Inactive Status

1. Each person entitled to use the designation "CPA inactive" under R.S. 37:76.D(2) and R.S. 37:75.I shall register such "CPA inactive" status annually during the period for online renewal by means of the Internet, or if the board allows renewal by mail on or before the last day of December preceding the year for which renewal is applicable.

2. Application for annual registration of "CPA inactive" status shall be made online via the Internet, or on forms that may be furnished by the board, and shall be accompanied by renewal fees fixed by the board. The fee for the annual registration shall not exceed \$60. The renewal forms shall not be altered from the original text by the registrant and shall contain all of the items and information requested in the appropriate space in order to be acceptable.

3. The board shall set the period of time for online renewal, or the board may mail forms for renewal to the last known address of the "CPA inactive" registrant or post a downloadable form on its website.

4. Annual registration expires on the last day of each calendar year, or on a date following December 31, if another date is determined by the board for good cause.

5. The board may send a notice of default to the last known address or email address of each registrant who fails to renew.

6. For good cause, the board may waive or suspend in whole or in part any of the fees, due dates, and procedures provided for in this Section.

7. The registrant shall affirm upon each annual registration form that he will abide by the applicable statutes and rules of the board governing the use of the designation "CPA inactive".

8. The board may reinstate the "CPA inactive" registration of any person upon the payment of the current year registration fee plus the registration fees for all years since the registrant was last registered.

D. - E.5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 9:208 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1974 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007), LR 34:

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement; Internet Practice

A. - D.10. ...

E. Firm Permit Renewals

1. Firm Permit renewals shall be made available and filed generally in accordance with methods established for certificate renewals, i.e., renewals are due by December 31, delinquent if not renewed prior to February 1; and, expired if not renewed prior to March 1. The renewal forms shall not be altered from the original text by the registrant and shall contain all of the items and information requested in the appropriate space in order to be acceptable. Permits shall expire on the last day of each calendar year, or such date following December 31 if another date is determined by the board for good cause.

2. Delinquent fees for firm permit renewals shall be \$15 per owner, partner, member or shareholder if not renewed prior to February 1; \$30 if not renewed prior to March 1.

3. For good cause, the board may waive or suspend in whole or in part any of the fees, due dates, and procedures provided for in this Section.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 3:308 (July 1997), amended LR 6:9 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1980 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007), LR 34:

Family Impact Statement

Implementation of the proposed Rule will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, upon parental rights and authority, as set forth in R.S. 49:972.

Interested persons may submit written comments. Written comments must be received by 4 p.m., September 19, 2008 at the following address: Michael A. Henderson, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. Copies of the current rules and a draft of the Rule intended for adoption are available upon request.

Michael A. Henderson
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Annual Renewals of CPA Certificate, Inactive Status, and Firm Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost is \$35,000 for the acquisition of software to provide online access to CPAs to renew their licenses, registrations, and permits. There will be recurring

costs from credit card processing charges that will be offset by estimated savings in postage which will result in additional costs of \$11,600 the first year, and \$6,500 in subsequent years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of governmental units is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons directly affected are CPAs who currently are required to complete and submit paper renewal forms by mail or delivery to the Board's office and to pay renewal fees by check. These CPAs will have the convenience of completing the annual renewal by computer input and paying fees by credit card via the Internet. There will not be any significant effect on costs, or workload adjustments, or additional paperwork to the affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment that will directly result from the implementation of the revised rules.

Michael Henderson, CPA
Executive Director
0808#082

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Louisiana Recovery Authority**

Board Members (LAC 4:VII.2501)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Office of the Governor, Division of Administration, Louisiana Recovery Authority, pursuant to authority vested in the Louisiana Recovery Authority by R.S. 49:220.1 et seq., proposes to amend rules governing the Louisiana Recovery Authority Board, LAC 4:VII (Chapter 25), to provide for a reduction in the membership of the Louisiana Recovery Authority Board and to define the term of office of board members.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 25. Louisiana Recovery Authority

§2501. Board Members, Terms of Office, Expense Reimbursement

A. The Louisiana Recovery Authority Board shall provide leadership and oversight for the activities of the Louisiana Recovery Authority. The board shall consist of seventeen members. Thirteen members shall be appointed by and serve at the pleasure of the governor subject to Senate confirmation with no less than one member appointed from each congressional district. In addition to the appointed members, the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate, or their designees who shall be members of the Louisiana Legislature, shall be members of the board.

B. Appointed board members shall serve terms that expire when statutory authority for the Louisiana Recovery Authority ceases on July 1, 2010.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2053 (November 2006), amended LR 34:

Family Impact Statement

Pursuant to R.S. 49:953 and 972, the Louisiana Recovery Authority has prepared a Family Impact Statement for the proposed Rules/Notice of Intent regarding the Louisiana Recovery Authority Board.

1. The Effect on the Stability of the Family. The proposed Rule on the Louisiana Recovery Authority Board will have 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. The proposed Rule on the Louisiana Recovery Authority Board will have 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. The proposed Rule on the Louisiana Recovery Authority Board will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule on the Louisiana Recovery Authority Board will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule on the Louisiana Recovery Authority Board will have no effect on 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. The proposed Rule on the Louisiana Recovery Authority Board will have no effect on the ability of the family or a local government to perform any functions.

Inquiries concerning the proposed Rule may be directed to Alesia Wilkins-Braxton, General Counsel, Louisiana Recovery Authority, 150 Third Street, Suite 200, Baton Rouge, LA 70801. Copies of the proposed regulations can be purchased at the above referenced address. Contact the Louisiana Recovery Authority for pricing information at 225-342-1715.

Interested persons may submit data, views, arguments, information, or comments on the proposed Rule in writing to the Louisiana Recovery Authority, 150 Third Street, Suite 200, Baton Rouge, LA 70801, Attention: Alesia Wilkins-Braxton, General Counsel, Louisiana Recovery Authority, or by telephoning at 225-342-1715 and facsimile 225-342-1882. Written comments must be submitted to and received by the authority within 10 days from the date 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 authority within 20 days of the date of this notice.

Paul Rainwater
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Board Members

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in any fiscal or economic impact since the Louisiana Recovery Authority Board is currently operating under the provisions provided for in the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no direct effect on revenue collections of state or local governmental units as a result of the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not effect competition and employment.

Paul Rainwater
Executive Director
0808#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Licensure, Signs, Injunctions, and Hearing Continuance
(LAC 46:XXXVII.701, 901, 903, 1113, 2301, and 2305)

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII, Chapters 7, 9, 11, and 23 pursuant to the authority granted by R.S. 37:840 and in accordance with the provisions of the Administrative Procedure Act, R.S. 40:950 et seq. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§701. Renewal and Reinstatement

A. - B. ...

C. When the holder of a combination or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees

delinquent from date of lapse to date of reinstatement. Applicant may also be required to take a written Louisiana laws and regulations test.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:2820 (December 2004), LR 34:

Chapter 9. Internship

§901. Requirements for Combination License

A. - A.7. ...

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service).

9. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:2823 (December 2004), LR 34:

§903. Requirements for Funeral Director License

A. - A.9. ...

10. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 19:744 (June 1993), LR 30:2823 (December 2004), LR 34:

Chapter 11. Funeral Establishments

§1113. Sign(s) on Vacant Lots

A. Within one year of the erection of a sign stating "Opening Soon", "Soon to Open", etc., there shall be ongoing construction or completion shall be anticipated within one year or the sign shall be removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 34:

Chapter 23. Injunction Proceedings; Penalty; Continuance of Hearings; Release of Witness from Subpoena

§2301. Injunction Proceedings

A. ...

B. The board may also bring legal proceedings to enjoin a person or crematory violating the rules and regulations of this board from operating a crematory retort or a crematory, as may be the case, until such person and/or crematory complies with the requirements of these rules and

regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or crematory enjoined shall be cast for attorney's fees and court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), LR 34:

§2305. Continuance of Hearings; Release of Witness from Subpoena

A. Based on circumstances presented, the president of the board shall be authorized to grant a continuance of formal hearings or informal meetings scheduled by the board and to release an individual from the obligation to appear as ordered by the subpoena authority of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 34:

Family Impact Statement

The proposed additions to the rules of the board, Professional and Occupational Standards for Embalmers and Funeral Directors, 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. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, P.O. Box 8757, Metairie, LA 70011-8757. Written comments must be submitted to and received by the board within 30 days 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 date of this notice.

Dawn Scardino
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure, Signs, Injunctions, and Hearing Continuance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board will spend approximately \$9,000 in FY 09 in printing costs to implement these rule changes, additions. This will cover cost of publication in the *Louisiana Register* and the printing and mailing of revised books to all funeral establishments, crematories, and licensees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes/additions will have no effect on revenue collections of state or on governmental groups.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A restriction requiring embalmer/funeral director interns to complete their internship within six months of completing mortuary science classes has been removed and interns who have not obtained a license within ten years of completing their internship will be required to re-serve an internship due to changes in the profession which take place over this period of time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed changes/additions are not expected to have a significant effect on competition and/or employment. One or two interns may be affected in a five to ten year span if these individuals have not obtained a license within ten years of completing their internship. This would cause them to re-serve an internship during which they would have to submit twelve months of report forms to the board's office advising of the cases on which they have worked.

Dawn Scardino
Executive Director
0808#018

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

**Mandatory Disclosure, Charge and Closure of
Establishment, Prepaid Services
(LAC 46:XXXVII.111, 1105, 1111, and 1703)**

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII, Chapters 1, 11, and 17 pursuant to the authority granted by R.S. 37:840 and in accordance with the provisions of the Administrative Procedure Act, R.S. 40:950 et seq. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 1. General Provisions

§111. Mandatory Disclosure

A. - F. ...

G. When money is made available to the funeral home over and above the amount owed for merchandise and services under no circumstances should the excess funds be utilized for any funeral home operating expenses and arrangements shall be made within a 30 day period for refund of same.

1. Should there be a pre-need contract, then the terms and conditions of that contract shall determine the amount owed for merchandise and services at the time of need in calculating and determining the amount of money, if any, to be refunded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 17:1101 (November 1991), LR 30:2818 (December 2004), LR 34:

Chapter 11. Funeral Establishments

§1105. Charge of Establishment

A. All funeral establishments shall have a licensed funeral director designated as the manager of the facility and in charge of the day to day operations of the funeral home. The manager shall be available to perform all of the routine functions of the licensed establishment as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq., within normal business hours. The manager shall personally carry out his responsibilities as defined within Paragraph 35 of Section 831 and/or as provided within the statute; and, to adequately serve the public, the manager shall reside within a 70 mile radius from the funeral establishment which the licensee is to manage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2825 (December 2004), LR 34:

§1111. Closure of a Funeral Establishment

A. Upon the closure of a funeral establishment the license shall be returned to the board within a period of 15 days; the phone shall be disconnected within 15 days; and, any and all signs designating the building as a funeral establishment shall be removed or fully covered within 15 days; however, should the facility be a branch establishment, once the phone has been disconnected, the phone number may be reconnected with the main establishment and answered under the main establishment firm name.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 34:

**Chapter 17. Prepaid Funeral Services or Merchandise
§1703. Instructions Need to Change Cash Deposited in
a Pre-Need Account**

A. In the event a funeral establishment desires to transfer cash deposited in a pre need account through their firm the following steps shall be adhered to:

1. written notification shall be sent via certified mail to each consumer advising of the proposed change in funding for their pre need arrangement and requesting authorization for said transfer;
2. upon receipt of written authorization for transfer from consumer transfer can take place;
3. if requested, pre need cash deposited in a pre need account shall be refunded to those who request same; or
4. if authorization for transfer is not given/received for any reason, the funeral establishment shall maintain funds on deposit in the bank or savings and loan where originally deposited; or, alternatively to obtain a final judgment of the

district court of the parish in which the funeral establishment is situated to transfer the pre need funds if the required consent of the consumer cannot be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 34:

Family Impact Statement

The proposed additions to the rules of the board, Professional and Occupational Standards for Embalmers and Funeral Directors 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. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, P.O. Box 8757, Metairie, LA 70011-8757. Written comments must be submitted to and received by the board within 30 days 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 date of this notice.

Dawn Scardino
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mandatory Disclosure, Charge and Closure of Establishment, Prepaid Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$350.00 in FY 08/09.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes/additions will have no effect on revenue collections of state or on governmental groups.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Additional safeguards to pre-need funds/insurance policies deposited with funeral establishments to cover the cost of merchandise and services to be supplied upon the death of the consumers will be implemented and will keep consumers aware of where their funds are deposited. Funeral homes will be required to send certified mail, return receipt requested notification to consumers who have pre-need arrangements that will increase the cost of doing business and create an increase in paperwork. Total costs incurred will depend on the number of pre-need arrangements held by an establishment. Management requirements for funeral establishments are being

clarified in order to insure that each funeral home is properly operated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed changes/additions are not expected to have a significant effect on competition and/or employment.

Dawn Scardino
Executive Director
0808#019

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Application; Rules of Procedure
(LAC 46:XLV.365 and 9931)

Notice is hereby given 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 in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its administrative rules governing: licensure and certification, LAC 46:XLV, Subpart 2, (Licensure and Certification), Chapter 3, Subchapter F (Application), by adding Subsection 365D; and procedure, LAC 46:XLV, Subpart 5 (Rules of Procedure), Chapter 99 (Adjudication) by adding Section 9931. The Rule will allow the board to issue needed directives and orders and undertake required emergency action more expeditiously by acting through its president or another designated board member. A preamble has not been prepared.

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 XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter F. Application

§365. Effect of Application

A. - C. ...

D. The board, acting through its president or a member designated by the president, may approve the issuance of a directive or order to carry out the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270 and 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001), LR 34:

Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9931. Emergency Action

A. If the board, acting through its president or another member designated by the president, finds that the public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license, permit, certificate or registration may be ordered pursuant to R.S. 49:961(C), pending

proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined pursuant to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed rules to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130). She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 9, 2008. 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 date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 25, 2008, at 2:30 p. m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Application; Rules of Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total of \$206.25, which costs will be absorbed within the Board's budget during FY 2008, it is not anticipated that the proposed rule 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)

There will be no effect on the Board's revenue collections 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 rules provide that the Board, acting through its President or another designated Board member may: authorize issuance of an order or directive to an applicant or licensee to submit for an indicated physical or mental evaluation; and authorize issuance or summary suspension in the event that the public health, safety and welfare requires emergency action, thereby allowing the Board to act more expeditiously when such actions are necessary or required. The Board does not anticipate that implementation of the proposed rules will have any adverse costs and/or economic impact on applicants, licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0808#022

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Licensure and Certification (LAC 46:XLV.421)

Notice is hereby given that the Louisiana State Board of Medical Examiners (the "board"), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its rules governing licensure and certification, LAC 46:XLV, Subpart 2 (Licensure and Certification), Chapter 3, Subchapter I (License Issuance, Termination, Renewal and Reinstatement), by adding Section 421. The proposed Rule will eliminate delays and facilitate the approval of routine applications submitted by physicians and allied health care practitioners. A preamble has not been prepared.

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 XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter I. License Issuance, Termination, Renewal and Reinstatement

§421. Authority to Issue and Renew Licenses, Certificates, Registrations or Permits

A. The board, acting through its president or designee, may approve the issuance and renewal of any license, certificate, registration, permit or other necessary authority that the board is authorized to issue with respect to a physician or an allied health care practitioner who satisfies and meets all requirements prescribed by law or applicable board regulation for issuance or renewal of such license, permit, certificate, registration or authority. In the event that a question exists with respect to an applicant's qualifications, the application or renewal shall be referred to the entire board.

B. For purposes of this Section, an *allied health care practitioner* is an individual who holds any form of health care practitioner license, certificate, registration or permit that the board is authorized to issue, other than as a physician, including but not limited to: an acupuncturist, acupuncture assistant, or acupuncture detoxification specialist pursuant to R.S. 37:1356-1360; an athletic trainer pursuant to R.S. 37:3301 through 3312; a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; a midwife pursuant to R.S. 37:3240 through 3257; an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; a perfusionist pursuant to R.S. 37:1331 through 37:1343; a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; a podiatrist pursuant to R.S. 37:611 through 628; a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; a private radiological technologist pursuant to R.S. 37:1292; or a

licensed respiratory therapist pursuant to R.S. 37:3351 through 3361.

C. In the event of a conflict between the provisions of this Section and those of any other Section in this Part, the provisions of this Section shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130). She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 9, 2008. 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 date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 25, 2008, at 2 p. m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA.

Robert L. Marier, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Licensure and Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total of \$206.25, which costs will be absorbed within the Board's budget during FY 2008, it is not anticipated that the proposed rule will result in any additional costs or savings to the Board of any other stat or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the Board's revenue collections 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 will eliminate administrative delays and facilitate the Board's processing and approval of routine applications. The Board does not anticipate that implementation of the proposed rule will have any adverse costs and/or economic impact on applicants, licenses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0808#021

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**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:V.2701 and §2703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Disproportionate Share Hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department promulgated an Emergency Rule to amend the April 20, 2008 Rule to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category (*Louisiana Register*, Volume 34, Number 5). The department subsequently promulgated an Emergency Rule to amend the May 1, 2008 Emergency Rule to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 7). This proposed Rule is being promulgated to continue the provisions of the May 1, 2008 and June 25, 2008 Emergency Rules.

TITLE 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

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

B. - I. ...

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

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

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

§2703. Federally Mandated Statutory Hospitals

A. Definition

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

B. - D.2. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:656 (April 2008), amended LR 34:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 25, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disproportionate Share Hospital Payments—Non-Rural Community Hospitals and Federally Mandated Statutory Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 08-09. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be expended in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the May 1, 2008 and June 25, 2008 Emergency Rules, proposes to revise the provisions of the Disproportionate Share Hospital (DSH) payment methodology governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category. It is anticipated that implementation of this proposed rule will not result in an increase or decrease in the total amount of DSH payments in FY 08-09, FY 09-10 and FY 10-11, however it could result in greater payments to qualifying non-rural community hospitals and lower payments to federally mandated statutory hospitals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule could increase competition for available DSH funds.

Jerry Phillips
Medicaid Director
0808#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inpatient Hospital Services—Small Rural Hospitals Reimbursement Methodology (LAC 50:V.1125 and 1127)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:V.1125 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient hospital services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6), free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 19, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient acute services and psychiatric services rendered

by small rural hospitals (*Louisiana Register*, Volume 34, Number 5). This proposed Rule is being promulgated to continue the provisions of the July 1, 2008 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 11. Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§1125. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the prospective per diem rate paid to small rural hospitals for inpatient acute care services shall be the median cost amount plus 10 percent.

1. The per diem rate calculation shall be based on each hospital's year-end cost report period ending in calendar year 2006. If the cost reporting period is not a full period (12 months), the latest filed full period cost report shall be used.

B. The Medicaid cost per inpatient day for each small rural hospital shall be inflated from their applicable cost reporting period to the midpoint of the implementation year (December 31, 2008) by the Medicare market basket inflation factor for PPS hospitals, then arrayed from high to low to determine the median inpatient acute cost per day for all small rural hospitals.

C. The median cost and rates shall be rebased at least every other year using the latest filed full period cost reports as filed in accordance with Medicare timely filing guidelines.

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

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

§1127. Inpatient Psychiatric Hospital Services

A. Effective for dates of service on or after July 1, 2008, the prospective per diem rate paid to small rural hospitals for psychiatric services rendered in distinct part psychiatric units shall be the median cost amount per inpatient day plus 10 percent.

1. The per diem rate calculation shall be based on each hospital's year-end cost report period ending in calendar year 2006. If the cost reporting period is not a full period (12 months), the latest filed full period cost report shall be used.

B. The Medicaid cost per inpatient psychiatric day for each small rural hospital shall be inflated from their applicable cost reporting period to the midpoint of the implementation year (December 31, 2008) by the Medicare market basket inflation factor for PPS hospitals, then arrayed from high to low to determine the median inpatient acute cost per day for all small rural hospitals.

C. The median cost and rates shall be rebased at least every other year using the latest filed full period cost reports as filed in accordance with Medicare timely filing guidelines.

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact upon family functioning, stability and autonomy as described in R.S. 49:972.

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 is scheduled for Thursday, September 25, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services—Small Rural Hospitals—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$9,317,638 for FY 08-09, \$9,596,956 for FY 09-10, and \$9,884,865 for FY 10-11. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$23,490,634 for FY 08-09, \$24,195,142 for FY 09-10 and \$24,920,996 for FY 10-11. It is anticipated that \$205 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the July 1, 2008 emergency rule, amends the provisions governing the reimbursement methodology for SFY 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (approximately 48 hospitals). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program for inpatient hospital services by approximately \$32,807,862 for FY 08-09, \$33,792,098 for FY 09-10 and \$34,805,861 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0808#074

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

Nursing Facilities—Minimum Licensing Standards
(LAC 48:I.9731 and 9732)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9731 and adopt §9732 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to repeal and replace the licensing standards for nursing facilities (*Louisiana Register*, Volume 24, Number 1). The bureau now proposes to amend the January 20, 1998 Rule to: 1) amend the provisions governing complaint procedures; 2) clarify the provisions governing incident reporting; and 3) require nursing facilities to use the department's Online Tracking Incident System (OTIS).

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9731. Complaints

A. Any person who has knowledge of any of the following circumstances that could affect the health and well-being of a nursing home resident may submit a complaint regarding the matter in writing or by telephone to the Department of Health and Hospitals, Health Standards Section:

1. the alleged abuse or neglect of a nursing home resident;
2. violation of any state law, licensing rule or regulation, or federal certification rule pertaining to a nursing home; or
3. that a nursing home resident is not receiving the care and treatment to which he is entitled under state or federal laws.

B. Prohibition against Retaliation. No discriminatory or retaliatory action shall be taken by a nursing home against any person or resident who provides information to the department or any other governmental agency, provided the communication was made for the purpose of aiding the department in carrying out its duties and responsibilities.

1 - 5. Repealed.

C. Notice of Complaint Procedure. Notices of how to lodge a complaint with the department, the Office of Civil Rights, the Americans with Disabilities Act, and/or the Medicaid Fraud Control Unit shall be posted conspicuously in the nursing home in an area accessible to residents. The notices shall include the addresses and toll-free complaint telephone numbers for the Health Standards Section (HSS) and other governmental agencies.

C.1. - I.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 34:

§9732. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds and suspicious death. Major injuries of unknown origin (fractures, burns, suspicious contusions, head injuries, etc.) for which the facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. immediate verbal reporting is made and a preliminary written report within 24 hours of the incident is submitted to the administrator or his/her designee;

2. written notification is submitted to the Health Standards Section within 24 hours of occurrence or discovery of the incident. The facility shall utilize the DHH Online Tracking Incident System (OTIS) to provide notification:

- a. the facility is required to maintain internet access and to keep the department informed of an active e-mail address at all times;

3. appropriate authorities are to be notified according to state law;

4. immediate, documented attempts are made to notify the resident's legal representative;

5. immediate attempts are made to notify other involved agencies and parties as appropriate; and

6. immediate notification is made to the appropriate law enforcement authority whenever warranted.

B. The facility must have evidence that the alleged violations are thoroughly investigated and must prevent further potential abuse, neglect, misappropriation of property/funds, suspicious death, or major injuries of unknown origin while the investigation is in progress.

C. The results of all investigations must be reported to the Health Standards Section within five working days of the incident through the use of OTIS.

D. If an alleged violation is verified, the facility shall take appropriate corrective action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by enhancing access to services and protecting patients by establishing incident reporting requirements.

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 Thursday, September 25, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an

opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Nursing Facilities—Minimum Licensing
Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 08-09. It is anticipated that \$410 (SGF) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule clarifies existing practices by amending the nursing facility licensing standards to: 1) adopt provisions governing admissions criteria which will prohibit nursing facilities from denying admissions without showing good cause; 2) amend the provisions governing complaint procedures; and 3) clarify provisions governing abuse/neglect reporting and require nursing facilities to use the Department's Online Tracking Incident System (OTIS). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0808#077

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**

Outpatient Hospital Services

Small Rural Hospitals and State-Owned Hospitals
Reimbursement Methodology (LAC 50:V.Chapters 51-61)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapters 51-61 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

For outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7). In compliance with Act 17 of the 2006 Regular Session of the Louisiana Legislature, the department amended the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals (*Louisiana Register*, Volume 33, Number 2).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services rendered by small rural hospitals (*Louisiana Register*, Volume 34, Number 5). The department subsequently promulgated an Emergency Rule to amend the provisions governing the reimbursement of outpatient clinical laboratory services and other covered outpatient services rendered by state-owned hospitals (*Louisiana Register*, Volume 34, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2008 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions (Reserved)

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5311. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital surgery services shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge

ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5511. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital clinic services shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5711. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient clinical diagnostic laboratory services shall be a fee schedule amount equal to the Medicare Fee Schedule amount on file as of July 1, 2008.

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

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

§5715. State-Owned Hospitals

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

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5911. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for rehabilitation services shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6113. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be 110 percent of each hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 110 percent of allowable cost as calculated through the cost report settlement process.

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

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

§6127. State-Owned Hospitals

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

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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. A public hearing on this proposed Rule is scheduled for Thursday, September 25, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Outpatient Hospital Services—Small Rural Hospitals and State-Owned Hospitals—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated savings to the state of \$615,137 for FY 08-09, \$633,971 for FY 09-10, and \$652,990 for FY 10-11. It is anticipated that \$738 (\$369 SGF and \$369 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$1,551,399 for FY 08-09, \$1,598,321 for FY 09-10, and \$1,646,271 for FY 10-11. It is anticipated that \$369 will be collected in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of two July 1, 2008 Emergency Rules, proposes to amend the provisions governing the reimbursement of outpatient hospital services rendered by small rural hospitals (approximately 48 hospitals) and outpatient clinical laboratory services and other covered outpatient services rendered by state-owned hospitals (approximately 10 hospitals). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$2,167,274 for FY 08-09, \$2,232,292 for FY 09-10 and \$2,299,261 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0808#075

Robert E. Hosse
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

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

Rural Health Clinics—Reimbursement Methodology
(LAC 50:XI.16705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.16705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 12). The bureau amended the provisions of the December 20, 2006 Rule governing the reimbursement methodology for rural health clinics to allow for the reimbursement of an additional payment to rural health clinics for professional services provided during evening, weekend or holiday hours (*Louisiana Register*, Volume 34, Number 6).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for rural health clinics licensed as part of a small rural hospital (*Louisiana Register*, Volume 34, Number 5). This proposed Rule is being promulgated to continue the provisions of the July 1, 2008 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology §16705. Hospital-Based Rural Health Clinics

A. Effective for dates of service on or after July 1, 2008, the reimbursement methodology for services rendered by a rural health clinic that was licensed as part of a small rural hospital as of July 1, 2007 shall be as follows.

1. Hospital-based rural health clinics shall be reimbursed in the aggregate at 110 percent of reasonable costs.

2. The interim payment for claims shall be the Medicaid Benefits Improvement and Protection Act of 2000 (BIPA) Prospective Payment System (PPS) per visit rate currently in effect for each provider. Final reimbursement shall be the greater of BIPA PPS payments or the alternative payment methodology of 110 percent of allowable costs as calculated through the cost settlement process.

3. The payment received under this methodology will be compared each year to the BIPA PPS rate to assure the clinic that their payment under this alternative payment methodology is at least equal to the BIPA PPS rate. If the payment calculation at 110 percent of allowable cost is less than the BIPA PPS payments, the clinic will be paid the difference.

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 Thursday, September 25, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rural Health Clinics—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$717,271 for FY 08-09, \$743,332 for FY 09-10, and \$765,632 for FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,824,188 for FY 08-09, \$1,874,033 for FY 09-10, and

\$1,930,254 for FY 10-11. It is anticipated that \$164 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the July 1, 2008 emergency rule, proposes to amend the reimbursement methodology governing SFY 2009 Medicaid payments to rural health clinics licensed as part of a small rural hospital (approximately 55 clinics). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$2,541,131 for FY 08-09, \$2,617,365 for FY 09-10 and \$2,695,886 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0808#076

Robert E. Hosse
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.701, 703, 705, and 707)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-08/09 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation Fee Schedule for the collection of Application, Production, and Regulatory Fees, and will replace the existing Statewide Order No. 29-R-07/08.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

Application Fee—an amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer—an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XVII.2304 et seq.), or successor regulations.

Application for Commercial Class I Injection Well—an application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells)—an application to construct and/or

operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well—an application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells)—an application to construct and/or operate additional Class II injection wells within the same filing, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Application for Multiple Completion—an application to multiple complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:XIX.1301 et seq.), or successor regulations.

Application for Non commercial Injection Well—an application to construct and/or operate a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), 29-N-2 (LAC 43:XVII.201 et seq.), 29-M-2 (LAC 43:XVII.3101 et seq.), successor regulations.

Application for Permit to Drill (Minerals)—an application to drill in search of minerals, as authorized by R.S. 30:28.

Application for Public Hearing—an application for a public hearing as authorized by R.S.30:1 et seq.

Application for Site Clearance—an application to approve a procedural plan for site clearance verification of platform, well or structure abandonment developed by an operator/lessee and submitted to the Commissioner of Conservation, as authorized by LAC 43:XI.311 et seq., or successor regulations

Application for Substitute Unit Well—an application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit—an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit—an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized by Statewide Order No. 29-O-1 (LAC 43::XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit—an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination—an application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other)—an application to alter, amend, or change a permit to

drill, construct and/or operate an injection, or other well after its initial issuance, as authorized by R.S. 30:28.

Application to Amend Permit to Drill (Minerals)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by R.S. 30:28.*

*Application to Amend Operator (transfer of ownership, including any other amendment action requested at that time) for any orphaned well, any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the commissioner, as well as any stripper crude oil well or incapable gas well so Certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle—an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4—application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 9.0.

Capable Gas—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue, as of December 31, 2007.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31, 2007.

Class I Well—a Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection; with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Section of the Department of Revenue and located in the same field as such Class II well.

Class III Well—a Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance—emergency authorization to transport oil from lease.

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including

nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,450,000 for Fiscal Year 2002/2003 and thereafter.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Section of the Department of Revenue, as of December 31, 2007.

Regulatory Fee—an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47.633 by the Severance Tax Section of the Department of Revenue as of December 31, 2007, and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility—commercial E&P waste disposal facilities within the state that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:CIC.501 et seq.), Statewide Order No. 29-M-2 (LAC 43:XVII.3101 et seq.), or successor regulations.

Type A Facility—commercial E&P waste disposal facilities within the state that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:

§703. Fee Schedule for Fiscal Year 2008-2009

A. Fee Schedule

Application Fees	Amount
Application for Unit Termination	\$ 252
Application for Substitute Unit Well	\$ 252
Application for Public Hearings	\$ 755
Application for Multiple Completion	\$ 126
Application for Commingle	\$ 252
Application for Automatic Custody Transfer	\$ 252
Application for Noncommercial Injection Well	\$ 252
Application for Commercial Class I Injection Well	\$ 1,264
Application for Commercial Class I Injection Well (Additional Wells)	\$ 631
Application for Commercial Class II Injection Well	\$ 631
Application for Commercial Class II Injection Well (Additional Wells)	\$ 314
Application for Permit to Drill—Minerals: 0'-3,000'	\$ 126
Application for Permit to Drill—Minerals: 3,001'-10,000'	\$ 631
Application for Permit to Drill—Minerals: 10,001'+	\$ 1,264
Drill Minerals Deeper (> 3,000')	\$ 504
Drill Minerals Deeper (> 10,000')	\$ 632
Application for Amend Permit to Drill—Minerals	\$ 126
Application for Permit to Drill—Injection or Other	\$ 126
Application for Surface Mining Exploration Permit	\$ 65
Application for Surface Mining Development Operations Permit	\$ 94
Application for Surface Mining Permit	\$ 2,212
Application to Process Form R-4	\$ 36
Application to Reinstate Suspended Form R-4	\$ 65
Application for Emergency Clearance Form R-4	\$ 65
Application for Site Clearance	\$ 600

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$6,850 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$3,425 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$696 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$696 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay \$10,526 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	15
Tier 2	1 - 5,000	82
Tier 3	5,001 - 15,000	238
Tier 4	15,001 - 30,000	393
Tier 5	30,001 - 60,000	626
Tier 6	60,001 - 110,000	867
Tier 7	110,001 - 9,999,999	1,070

E. Exceptions

1. Operators of record of each Class I injection/disposal well and each Type A and B commercial facility that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive Type A and B facility which have voluntarily ceased the receipt and disposal of E&P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable Type A or B facility.

3. Operators of record of each inactive Type A or B facility which have voluntarily ceased the receipt and disposal of E&P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual Regulatory Fee of 25 percent of the annual fee for each applicable Type A or B facility

F. Pipeline Safety Inspection Fees

1. Owners/Operators of jurisdictional gas pipeline facilities are required to pay an annual Gas Pipeline Safety Inspection Fee of \$22.40 per mile, or a minimum of \$400, whichever is greater.

2. Owners/Operators of jurisdictional hazardous liquids pipeline facilities are required to pay an annual Hazardous Liquids Pipeline Safety Inspection Fee of \$22.40 per mile, or a minimum of \$400, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply by the due date of any required fee payment will subject the operator to civil penalties provided in Title 30 of the Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2501 (November 2003), LR 34:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-07/08 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law,

then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-08/09) supersedes Statewide Order No. 29-R-07/08 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rule will have no effect on the stability of the family.

2. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule will have no effect on the functioning of the family.

4. The proposed Rule will have no effect on family earnings and family budget.

5. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The proposed Rule will have no effect on the ability of the family or local government to perform any function as contained in the proposed Rule.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Wednesday, October 8, 2008. Comments should be directed, in writing, to Todd Keating, Director, Engineering Division, Office of Conservation, P.O. Box 94275, Capitol Station, Ninth Floor, Baton Rouge, LA 70804-9275 (Re: Docket No. 08-1093 Proposed Statewide Order No. 29-R-08/09).

A public hearing will be held at 9 a.m., Tuesday, September 30, 2008, in the LaBelle Hearing Room, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

**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 implementation costs (savings) to state or local governmental units resulting from this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed Statewide Order No. 29-R-08/09 establishes the Louisiana Office of Conservation Fee Schedule for the collection of application, production, and regulatory fees by the Office of Conservation and will replace the existing Statewide Order No. 29-R-07/08 and will retain the maximum revenue caps authorized in R.S. 30:1 et seq. The Proposed Rule will retain the existing fee schedule for all Application Fees. R.S. 30:21 et seq., R.S. 30:560, and R.S. 30:706 provide that the Commissioner of Conservation shall periodically and/or annually review the fees collected, and the Office of Conservation has established a practice of annually evaluating all applicable fees. The Production Tier Fee in the FY 08/09 Fee Schedule has been decreased an average 5% overall due to the increased number of participating wells. The Regulatory Fees for Class I Injection Wells have been increased an average 1.32% due to the decrease in the number of wells; and, the Regulatory Fees for Class II and III Injection Wells, and Type A and B Commercial Facilities have decreased by approximately 1.66% due to the increased number of wells and facilities. The Office of Conservation will collect approximately \$7,622,481 in revenue for these fees in FY 08/09.

Additionally, the passage of Act Nos. 222 and 223 of the 2004 Regular Legislative Session, authorizes the Office of Conservation to determine by rule annually, in accordance with the Administrative Procedure Act, the pipeline safety inspection fees charged for the approximately 45,665 miles of state regulated jurisdictional gas distribution and gas transmission pipelines (R.S. 30:560) and approximately 4,862 miles of state jurisdictional hazardous liquids pipelines (R.S. 30:706). The Office of Conservation is authorized to collect a "fee not to exceed \$22.40 per mile, or a minimum of \$400, whichever is greater" for these state jurisdictional gas and hazardous liquids pipelines. The proposed FY08/09 fee increase to the maximum fee authorized by statute is an increase of \$2.20 per mile, or \$40 for the minimum fee, from those fees charged in FY 07/08. This increase in fees will help to offset the decrease in the Pipeline Program's Federal Grant funding. The Office of Conservation is projected to collect approximately \$1,131,805 for the pipeline safety inspection fees in FY 08/09, or \$102,974 more than collected in FY 07/08.

No local governmental units will be impacted by this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will replace the existing Office of Conservation Fee Schedule. The proposed Statewide Order No. 29-R-08/09 will retain the existing revenue caps for fees assessed to industries under the jurisdiction of the Office of Conservation, as authorized by R.S. 30:21 et seq., R.S. 30:560, and R.S. 30:706, and is expected to reach approximately \$8,754,286 for FY 08/09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The passage of Statewide Order No. 29-R-08/09 will have no effect on competition and employment.

Gary P. Ross
Assistant Commissioner
0808#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Corrections Services

Offender Marriage Requests (LAC 22:I.329)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 329 Offender Marriage Requests.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§329. Offender Marriage Requests.

A. Purpose. To establish the secretary's policy concerning offender marriage requests.

B. Applicability. Deputy Secretary, Chief of Operations, Assistant Secretary, Regional Wardens, and Wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that offender marriage requests be handled pursuant to the procedures of this regulation.

D. Procedures

1. An offender's request to be married should be submitted to the warden for review.

2. The warden, chaplain, or other person designated by the warden, shall conduct a minimum of one counseling session with the offender and the fiancé regarding marriage requirements. Documentation of the session(s) shall be maintained by the person who conducted the session(s).

3. The offender must appropriately certify that both parties meet all legal qualifications for marriage. The burden of proof rests with the offender to gather this information.

4. Should the chaplain choose not to perform the marriage, he should so inform both parties. Only approved and licensed authorities (clergy, judges and justices of the peace) will be permitted to perform the ceremony.

5. If both parties are incarcerated in correctional institutions, the marriage may be postponed until one of them has been released.

6. The offender making the request must pay for all costs associated with the marriage.

7. Absent unusual circumstances related to legitimate penological objectives, the warden or designee should approve the marriage request and set an appropriate time and place for the ceremony. Furloughs will not be granted for a marriage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1093 (November 1985),

amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on September 9, 2008.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Offender Marriage Requests

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This is a technical adjustment to an existing regulation. There will be no fiscal impact with repealing and implementing the new regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units since this is a technical adjustment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment with this rule.

Thomas C. Bickham, III
Undersecretary
0808#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Gaming Control Board

Gaming

(LAC 42:VII.1701, 2108, 2116, 2159, 2524, 2701, 2707, 2709, 2711, 2715, 2723, 2730, 2731, 2735, 2901, 2953, 2954, 3301, 3302, 3311, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4220;

IX.1907, 2159, 2165, 2166, 2167, 2169, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2907, 2922, 2923, 3301, 3302, 3311, 4204, 4205, 4206, 4209, 4211, 4214, 4220, 4301, 4303, 4305, 4313, 4321, 4325;

XIII.1701, 2108, 2116, 2159, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2937, 2953, 2954, 3301, 3302, 3311, 4003, 4009, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4301, 4303, 4305, 4313, 4315, 4321, and 4325)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.1701, 2108, 2116, 2159, 2524, 2701, 2707, 2709, 2711, 2715, 2723, 2730, 2731, 2735, 2901, 2953, 2954, 3301, 3302, 3311, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4220, IX.1303, 1907, 2159, 2165, 2166, 2167, 2169, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2907, 2922, 2923, 3301, 3302, 3311, 4204, 4205, 4206, 4209, 4211, 4214, 4220, 4301, 4303, 4305, 4313, 4321, 4325, XIII.1701, 2108, 2116, 2159, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2937, 2953, 2954, 3301, 3302, 3311, 4003, 4009, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4301, 4303, 4305, 4313, 4315, 4321, and 4325.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meanings described below.

* * *

Drop—the total amount of money and cash equivalents removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000), amended LR 29:362 (March 2003), LR 34:

Chapter 21. Licenses and Permits

§2108. Nongaming Suppliers

A. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

B. Unless otherwise notified by the division in writing, a Type A licensee shall conduct business with a non-gaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section.

3. Repealed.

C. It shall be the responsibility of each Type A licensee to ensure that it has not paid more than the amount provided in R.S. 27:29.3 to any non-gaming supplier during any calendar year period as payment for providing non-gaming services or goods, unless such non-gaming supplier holds a valid non-gaming suppliers permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections D or E of this Section.

D. The following nongaming suppliers shall be deemed to have been waived by the board and division from the necessity of obtaining a nongaming suppliers permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. nonprofit charitable organization shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; and
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, television stations and radio stations which contract with licensees to provide advertising services; and

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities;

11. hotels and restaurants;

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

E. Any nongaming supplier required to obtain a nongaming suppliers permit, other than those listed in Subsection E in this Section may request a waiver of the necessity of obtaining a nongaming suppliers permit. The division may grant such a request upon showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

F. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

G. Each Type A licensee shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the Type A licensee during the previous quarter, or an amount equal to or greater than the amount provided in R.S 27:29:3 during the preceding calendar year as payment for providing non-gaming services or goods to the Type A licensee. This report shall include the name and address of the supplier, a description of the type of goods or services provided, the supplier's non-gaming supplier permit number, if applicable, federal tax identification number, and the total amount of all payments made by the Type A licensee, or any person acting on behalf of the licensee, to each supplier. For each suppliers listed in this quarterly report which is a provider of professional services as defined in Paragraph E.10-13 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the division not later than the last day of the month following the quarter being reported.

H. The division shall determine whether nongaming suppliers providing goods and/or services to licensees are legitimate ongoing businesses and are not utilized for the primary purpose of compliance with voluntary procurement goals. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;

2. total customer base;

3. dollar volume of all sales compared to sales to licensees;

4. existence and nature of warehouse and storage facilities;

5. existence and number of commercial vehicles owned or leased; and/or

6. existence and nature of business offices, equipment and facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:733 (April 2000), amended LR 34:

§2116. Cash Transaction Reporting

A. Each Type A licensee shall report any administrative or criminal proceedings against it alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the division within 10 days of knowledge by the Type A licensee of the violation.

B. Any violation of a cash transaction reporting requirement by a Type A licensee or its affiliates in any other jurisdiction shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

§2159. Gaming Employee Permits Required

A. - E. ...

F. Any person, whose access level allows authorization to change or distribute complimentary balances of patron

accounts in the Type A licensee's gaming database, shall be required to obtain a gaming employee permit. The position and title of persons whose access level allows authorization to change or distribute complimentary balances of patron accounts in the Type A licensee's gaming database shall be specified in the Type A licensee's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000), amended LR 34:

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2524. Publicly Registered Debt and Securities

A. ...

1. file with the division within 15 days after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and will give notice to the division within 15 days of the effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000), amended LR 34:

Chapter 27. Accounting Regulations

§2701. Procedure for Reporting and Paying Taxes and Fees

A. All Gaming Revenue Summary reports, together with all necessary subsidiary schedules, shall be submitted to the division no later than 48 hours from the end of the licensed eligible facility's specified gaming day in a manner specified by the division.

1. For reporting purposes, licensed eligible facility's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. For licensed eligible facilities which offer 24 hour gaming, gaming day is the 24 hour period by which the entity keeps its books and records for business, accounting, and tax purposes.

3. Each licensed eligible facility shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change.

B. All taxes related thereto must be electronically transferred to the state's or district's designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensed eligible facilities who are late in electronically transferring these taxes may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of taxes at the daily rate of 0.00041 multiplied by the amount of unpaid taxes for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:745 (April 2000), amended LR 34:

§2707. Record Retention

A. ...

B. Each Type A licensee shall conduct a complete system backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the Type A licensee's internal controls. A complete system backup includes, but is not limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. A Type A licensee must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:

§2709. Standard Financial Statements

A. - B. ...

C. Each licensed eligible facility shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensed eligible facility with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:

§2711. Audited Financial Statements

A. - C. ...

D. Each licensed eligible facility shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensed eligible facility may select the independent CPA with the division's approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA previously engaged as the principal accountant to audit the licensed eligible facility's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensed eligible facility shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D. - F. ...

G. If a licensed eligible facility changes its fiscal year, the licensed eligible facility shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. The division may request additional information and documents from either the licensed eligible facility or the licensed eligible facility's independent CPA, through the licensed eligible facility, regarding the financial statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the licensed eligible facility or its affiliates and the independent CPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:

§2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Type A licensee's internal controls;

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the Type A licensee's internal controls.

9. - 11. ...

12. the Type A licensee shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the Premises;

13. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensed eligible facility's internal controls as approved by the division;

14. only transparent trash bags are utilized in restricted areas.

B. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensed eligible facility, the parent company of the licensed eligible facility, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. Each Type A Licensee shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved.

The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. - L.3. ...

M. A licensed eligible facility shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

N. The licensed eligible facility shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

O. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000), amended LR 26:2305 (October 2000), LR 34:

§2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins and tokens shall not apply to coinless or tokenless devices.

B. - C.3. ...

4. the number of credits played;

C.5. - D.1.c. ...

d. the number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the payout if the jackpot is less than \$1200; signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the licensee's internal controls.

2. A request for jackpot payout form may be used for "quick-pay" or "pouch-pay" if the following conditions are met:

- a. the slot attendant and verifier sign the request;
- b. the cage cashier verifies the required signatures on the request;
- c. the cage cashier verifies the information and the information matches the request on the jackpot payout form;
- d. the cage cashier and slot attendant sign the jackpot payout form; and
- e. the cage cashier attaches the request to the jackpot payout form.

3. - 5. ...

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

7. Jackpot payout slips shall be used in sequential order.

E. - G. ...

H. If the jackpot is \$100,000 or more, the licensed eligible facility shall notify the division immediately. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician shall inspect and test in a manner prescribed by the division. Surveillance shall

monitor the entire process of inspecting and testing. The payout form shall be signed by a casino shift manager or other designated employee as specified in the licensee's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count, at least two employees shall verify the accuracy of the weigh scale with varying weights or, with varying amounts of previously counted coin for each denomination to, ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Each Type A licensee shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month and shall be videotaped by surveillance. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. If at any time surveillance observes the visibility of count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the

count team does not consist of only the same three employees more than four days per week.

Q.13. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:

§2730. Exchange of Tokens

A. ...

B. The change shall occur at any casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:

§2731. Currency Transaction Reporting

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the patron shall be taken and attached to the licensed eligible facility's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron if available may be used to supplement the required photograph taken. The licensed eligible facility shall maintain and make available for inspection all copies of Currency Transaction Report or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Report for casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed with the Internal Revenue Service by a Type A Licensee shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

H. The licensed eligible facility shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction logs as follows.

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the cage shall ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the cage shall ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:

§2735. Net Slot Machine Proceeds Computation

A. For each slot machine, net slot machine proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total licensed eligible facility token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensed eligible facility shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue.

B. ...

C. All gaming tournaments conducted by or on behalf of the licensed eligible facility require prior written approval by the division, and are subject to the following requirements.

1. All entry fees, buy-ins, re-buys, and similar payments, paid by or on behalf of tournament participants, shall be included in net slot machine proceeds. No cost incurred by the Type A licensee associated with holding the tournament shall be deducted from the entry fees before calculating net slot machine proceeds. For purposes of calculating net slot machine proceeds, cash prizes awarded in the tournament may be deducted as payouts up to the amount received from or on behalf of tournament participants. No other deductions shall be made for purposes of calculating net slot machine proceeds. If cash prizes awarded exceed revenues received from or on behalf of

tournament participants, the licensee may not deduct the excess and declare a loss against net slot machine proceeds.

2. All amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on a gaming revenue summary in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:762 (April 2000), amended LR 34:

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - B.5. ...

C. Additional Causes for Disciplinary Action

1. - 1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino configuration. For the purpose of this section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000), amended LR 27:58 (January 2001), LR 29:2505 (November 2003), amended LR 34:

§2953. Promotions

A. - B....

C. Promotional programs, including contests or tournaments, which impair the integrity of the games, the security, surveillance and well being of persons on the Type A licensee's property or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the Type A licensee. Type A licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000), amended LR 27:1555 (September 2001), LR 30:90 (January 2004), amended LR 34:

§2954. Tournaments

A. - A.3. ...

4. Licensed eligible facilities must maintain tournament documentation for five years.

5. Licensed eligible facilities shall report tournaments on the gaming revenue summary in accordance with §2735.

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1556 (September 2001), amended LR 34:

Chapter 33. Surveillance and Security

§3301. Required Surveillance Equipment

A. - A.1.e. ...

f. such other areas as designated by the division;

A.2. - A.11. ...

12. at all times during the conduct of gaming, the Type A licensee shall have as a reserve, at a minimum, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:770 (April 2000), amended LR 34:

§3302. Digital Video Recording Standards

In addition to the requirement of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

A. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

B. All DVR equipment and systems used by a Type A licensee in its surveillance system shall:

1. record and play activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the Type A license's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain all images obtained from the video cameras for a period of not less than seven days, or additional period as specified by the division;

5. have a failure notification system that provides an audible and a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

C. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

D. Any part of the Type A licensee's surveillance system that uses a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are

authorized, no more than four cameras may be recorded on one device.

E. If the Type A licensee uses a network for the digital recording equipment, it must be a closed network with limited access. The Type A licensee must seek authorization from the division prior to implementation. The Type A licensee must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

F. If the Type A licensee requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

G. All digital video disks or other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images and a video verification encryption code (also know as a watermark).

H. The Type A licensee must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR system. A watermark will be required to authenticate dates/times and validity of live and archived data.

I. The Type A licensee is responsible for training permitted surveillance employees in the use of the digital system and downloading recordings for evidentiary purposes.

J. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

K. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

L. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

M. All DVR equipment must be located in the surveillance room of the Type A licensee, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

N. A Type A licensee shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and

how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

§3311. Storage and Retrieval

A. - C.3. ...

4. all cage areas.

D. All videotape recordings relating to the following shall be retained in a secure area approved by the division for at least 30 days and shall be listed on a log maintained by surveillance personnel:

1. all designated check cashing activity; and
2. all credit card advance activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000), amended LR 34:

Chapter 42. Racetracks: Electronic Gaming Devices

§4201. Division's Central Computer System (DCCS)

A. - C.1. ...

2. any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate may require immediate disablement of the electronic gaming device from patron play by the division. The Type A licensee shall report the malfunction to the division within 4 hours after the occurrence;

C.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000), amended LR 34:

§4204. Progressive Electronic Gaming Devices

A. - C.5. ...

D. Transferring of Progressive Jackpot Which Is in Play

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the licensed eligible facility in the event of:

- a. EGD malfunction;
- b. EGD replacement;
- c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishments and:

- i. the licensee documents the distribution;
- ii. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

- iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

- iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve, or

- v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

- vi. licensees shall preserve the records required by this section for at least five years; or

- d. other good reason deemed appropriate by the division or board to ensure compliance with this Chapter.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of 5 years.

L.2. - N.3. ...

4. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

- a. obtains prior written authorization from the division;

- b. the licensee documents the distribution;

- c. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

- d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

- e. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

- f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

- g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000), amended LR 31:1604 (July 2005), LR 34:

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. - B. ...

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purposes of activating play;

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry with exclusion of the drop team. These machine entry authorization logs shall be retained for a minimum of 5 years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:777 (April 2000), amended LR 34:

§4206. Employment of Individual to Respond to Inquires from the Division

A. Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquires concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000), amended LR 34:

§4209. Approval of New Electronic Gaming Devices

A. - A.2.dd.i(f). ...

ii. The bill validators may be for single denomination or combination of denominations.

iii. Bill validators may accept other items as approved by the division.

ee. - kk. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000), amended LR 29:2506 (November 2003), LR 31:1602 (July 2005), LR 31:1604 (July 2005), amended LR 34:

§4211. Duplication of Program Storage Media

A. - A.4. ...

B. Required Documentation

1. Each Licensee shall maintain a program storage media duplication log which shall contain:

1.a. - 3. ...

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:784 (April 2000), amended LR 34:

§4214. Maintenance of Electronic Gaming Devices

A. A licensee shall not alter the operation of an approved EGD except as provided in these rules and shall maintain the EGDs as required by this Chapter. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000), amended LR 31:1604 (July 2005), amended LR 34:

§4220. Record Retention

A. Machine Entry Authorization Logs, Progressive Controller Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 19. General Provisions

§1907. Definitions, Words and Terms, Captions, Gender References

A. ...

* * *

Chip—a non-metal or partly metal representation of value, redeemable for cash, and issued or sold by the Casino Operator for use at the Casino.

* * *

Drop—

a. for table Games, the total amount of money, and cash equivalents contained in the Drop boxes;

b. for Slot Machines, the total amount of money and cash equivalents removed from the *Drop* box, bill validator acceptor, or for cashless Slot Machines, the amounts deducted from a player's slot account as a result of Slot Machine play.

* * *

Sensitive Keys—all keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die, and cards. Sensitive keys also include, but are not limited to, drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), amended LR 34:

Chapter 21. Applications; Suitability, Permitting and Licensing

§2159. Gaming Employee Permits Required

A. - D. ...

E. Any person whose access level allows authorization to change or distribute complimentary balances of patron accounts in the Casino Operator or Casino Manger's gaming database shall be required to obtain a gaming employee permit. The position and title of persons whose access level allows authorization to change or distribute complimentary balances of patron accounts in the Casino Operator or Casino Manger's gaming database shall be specified in the Casino Operator or Casino Manger's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), amended LR 34:

§2165. Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager

A. All Manufacturers of Slot Machines, Gaming Devices or other Gaming Equipment, the companies or Persons supplying or repairing Slot Machines, Gaming Devices or other Gaming Equipment, companies providing or repairing Casino Security services must be permitted, in accordance with these Regulations, prior to conducting any business with the Casino Operator, Casino Manager or their employees or Agents.

B. The method of applying for a Permit is as set forth in this Chapter of the rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), amended LR 34:

§2166. Exemptions/Waivers from Non-Gaming Vendor Permit Requirements

A. The following Persons are exempt from the permitting requirements of §2165 and these Regulations:

1. - 12. ...

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

B. - D. ...

E. It shall be the responsibility of the Casino Operator or Casino Manger to ensure that it has not paid more than the amount provided by in R.S. 27:29.3 to any nongaming supplier during any calendar year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming supplier permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to §2166.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999), amended LR 34:

§2167. Junket Representative Permit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999), repealed LR 34:

§2169. Conditional Junket Representative Permit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1916 (October 1999), repealed LR 34:

Chapter 25. Transfers of Interest in the Casino Operator and Permittees; Loans and Restrictions

§2524. Publicly Registered Debt and Securities

A. ...

1. file with the division within 15 days after filing with the Securities and Exchange Commission, copies of all registration statements and final prospectus with respect to such debt securities and will give notice to the division within 15 days of the effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999), amended LR 34:

Chapter 27. Accounting Regulations

§2701. Procedure for Reporting and Paying Gaming Revenues and Fees

A. All Gaming Revenue Summary reports, together with all necessary Subsidiary schedules, required under the Act shall be submitted to the division no later than 48 hours from the end of the Casino Operator or Casino Manager's specified gaming day in a manner specified by the division.

1. For reporting purposes, Casino Operator or Casino Manager's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. The gaming day is the 24-hour period by which the Casino keeps its Books and Records for business, accounting, and tax purposes.

3. The Casino Operator or Casino Manager shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted and approved by the division 10 Days prior to implementation of the change.

B. Consistent with Section 6.5 of the Casino Operating Contract, all Louisiana Gross Gaming Revenue share payments must be electronically transferred to the state's designated bank account by 5 p.m. of the next business day following the close of that Casino Gaming Day. Interest shall be imposed on the late payment of fees at the Default Interest Rate as defined by the Casino Operating Contract. In addition to any other administrative action, civil penalties, or criminal penalties allowed by law, Casino Operators or Casino Managers who are late in electronically transferring these payments may retroactively be assessed late penalties

after Notice and opportunity for a hearing held in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1924 (October 1999), amended LR 34:

§2707. Record Retention

A. ...

B. The Casino Operator or Casino Manger shall conduct complete system backups to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the Casino Operator or Casino Manger's internal controls. A complete system backup includes, but is not limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. The Casino Operator or Casino Manger must have written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:

§2709. Standard Financial Statements

A. ...

B. The Casino Operator or Casino Manager shall furnish to the division on a form, as prescribed by the division, a quarterly financial report. The quarterly financial report shall present all data on a monthly basis as well. Monthly financial reports shall include reconciliation of general ledger amounts with amounts reported to the division. The quarterly financial report shall be submitted to the division within 45 calendar days from the end of each quarter.

C. The Casino Operator or its Holding Company or Intermediary Company shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the Casino Operator or its Holding Company or Intermediary Company with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:

§2711. Audited Financial Statements

A. - C. ...

D. Casino Operator or Casino Manager shall engage an independent Certified Public Accountant (CPA) either one of the six largest accounting firms having a national practice in the United States of America or another accounting firm that is selected by the Casino Operator and approved by the

Board. The independent CPA shall be Licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The Casino Operator or Casino Manager may select the independent CPA with the division's Approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA, previously engaged as the principal accountant to audit the Casino Operator or Casino Manager's Financial Statements, resign or be dismissed as the principal accountant or if another CPA is engaged as principal accountant, the Casino Operator or Casino Manager shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D.1. - E. ...

F. The Casino Operator or Casino Manager shall submit to the division two originally signed copies of its audited Financial Statements and the applicable CPA's letter of engagement within 90 calendar days of the end of the calendar year. In the event of a License termination, change in Business entity, or a change in the percentage of ownership of more than 20 percent, the Casino Operator or Casino Manager or former Casino Operator or Casino Manager shall, not later than 120 days after the event, submit to the division two originally signed copies of audited statements covering the period between the filing of the last Financial Statement and the date of the event. If a License termination, change in Business entity, or a change in the percentage of ownership of more than 20 percent occurs within 120 days after the end of the business year for which a statement has not been submitted, the Casino Operator or Casino Manager may submit statements covering both the business year and the final period of business.

G. If a Casino Operator or Casino Manager changes its Fiscal Year, the Casino Operator or Casino Manager shall prepare and submit to the division audited Financial Statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. - I. ...

J. The division may request additional information and documents from either the Casino Operator or Casino Manager or the Casino Operator or Casino Manager's independent CPA, through the Casino Operator or Casino Manager, regarding the Financial Statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the Casino Operator or Casino Manager and the independent CPA.

K. - L.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1926 (October 1999), amended LR 34:

§2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall removed from the premises unless prior approval has been granted by the division. For

purposes of this rule, premises is specified in the Casino Operator or Casino Manger's internal controls.

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the Casino Operator or Casino Manger's internal controls.

9. - 9.o. ...

10. all other sensitive keys not listed in §2715.A.9 are listed in the Casino Operator or Casino Managers' internal controls and are controlled as prescribed therein;

11. all damaged sensitive keys are disposed of timely and adequately. The Casino Operator or Casino Manager shall notify the division of the destruction. Notification shall include type of key(s), number of key(s), and the place and manner of disposal;

12. the Casino Operator or Casino Manger shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the premises;

A.13. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the Casino Operator or Casino Manager, the parent company of the Casino Operator or Casino Manager, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. The Casino Operator or Casino Manger shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. The Casino Operator or Casino Manager shall require the independent CPA engaged by the Casino Operator or Casino Manager for purposes of examining the Financial Statements to submit to the Casino Operator or Casino Manager two originally signed copies of a written report of the continuing effectiveness and adequacy of the Casino Operator or Casino Manager's written system of internal control 120 days following the close of each calendar. Using the guidelines and standard internal control questionnaires and procedures established by the division, the independent CPA shall report each event and procedure discovered by or brought to the CPA's attention which the CPA believes does not satisfy the internal control System approved by the division. Within 30 days of delivery of the CPA's compliance report, the Casino Operator or Casino Manager shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the Casino Operator or Casino Manager's system of internal control to the division accompanied by the Casino Operator or Casino Manager's statement addressing each item of noncompliance as noted by the CPA and describing the corrective measures taken.

F. - L.3. ...

M. The Casino Operator or Casino Manager shall be responsible for pursuing all collection activities on the debt of a Patron whether such activities occur in the name of the owner or a third party.

N. The Casino Operator or Casino Manager shall have a continuing duty to review its internal controls to ensure the

internal controls remain in compliance with the Act and these rules.

O. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:

§2717. Internal Controls; Table Games

A. - A.3. ...

4. Access to slips and slip processing areas shall be restricted to authorized personnel.

a. All unissued fill/credit slips shall be securely stored under the control of the accounting or Security department.

b. All unissued pre-numbered fill/credit slips shall be controlled by a log that the accounting department shall use, on a monthly basis, to reconcile to purchasing invoices for these slips.

A.5. - F.4. ...

G. Credit Procedures in the Pit

1. - 21. ...

22. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of Patron, date marker issued, date paid, method of payment (if combination, i.e., Chips/cash, amount paid by each method), and amount of credit remaining.

H. - I. ...

J. Table Games Drop Procedures. The Drop process shall be conducted at least once each gaming day according to a schedule submitted to the division setting forth the specific times for such Drops. Each Casino Operator or Casino Manager shall notify the division of any changes to such schedules at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency Drops which require removal of the table Drop box require written notification to the division within 24 hours following the emergency. The Drop process shall be conducted as follows:

1. - 4. ...

K. Table Games Count Procedures. The counting of table Game Drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance or internal audit employee shall monitor the table count process at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team does not consist of only the same three individuals more than four days per week;

K.1.b. - P.1.a. ...

b. MIS shall maintain either hard or disk copies of system-generated edit reports, exception reports, and transaction logs.

2. - 3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1930 (October 1999), amended LR 34:

§2721. Internal Controls; Tips or Gratuities

A. - C. ...

1. immediately deposited in a transparent locked box reserved for that purpose. If non-value Chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer, in the presence of a Supervisor, has converted them into value Chips which are immediately deposited in a transparent locked box reserved for that purpose. Procedures for accepting non-valued chips received as tips shall be defined in Casino Operator or Casino Manger's internal controls.

2. - 2.a. ...

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the Casino Operator or Casino Manager's payroll account. Distributions to dealers from this pool shall be made following the Casino Operator or Casino Manager's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained and used as specified in the Casino Operator or Casino Manger's internal controls;

b. when a poker dealer arrives at their assigned poker table, the dealer shall obtain his/her marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and returned to the storage cabinet;

c. at the end of the dealer's shift, the dealer along with a verifier, shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the verifier. The amount shall be recorded on a three part voucher, and signed by the cage employee, the dealer, and the verifier. The three parts of the voucher shall be distributed as follows:

C.4.c.i. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1935 (October 1999), amended LR 34:

§2723. Internal Controls; Slots

A. Any reference to Slot Machines or slots in this Section includes all Electronic Gaming Devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - C.3. ...

4. number of credits played;

C.5. - D.1.c. ...

d. number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the Payout if the jackpot is less than \$1200; signature of one slot attendant and Security officer verifying and witnessing the Payout if the jackpot is \$1200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the Casino Operator's internal controls.

2. A request for jackpot payout form may be used for "quick pay" or "pouch pay" if the following conditions are met:

a. the slot attendant and verifier sign the request;

b. the cage cashier verifies the required signatures on the request;

c. the cage cashier verifies the required information and the information matches the request on the jackpot payout form;

d. the cage cashier and slot attendant sign the jackpot payout form; and

e. the cage cashier attaches the request to the jackpot payout form.

3. Jackpot slips that are voided shall be clearly marked "Void" across the face of all copies. On manual slips, only the first and second copies shall have "Void" written across the face. The cashier and slot or cage Supervisor shall print their employee numbers and sign their names on the voided slip. The Supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

4. Computerized Jackpot/Payout systems shall be restricted so as to prevent unauthorized access and fraudulent Payouts by an individual.

5. Jackpot Payout forms shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent Payout by forging signatures, or by altering the amount paid subsequent to the Payout, and misappropriating the Funds. One copy of the jackpot Payout slip shall be retained in a locked box located outside the change booth/cage where jackpot Payout slips are executed or as otherwise approved by the division.

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

7. Jackpot Payout slips shall be used in sequential order.

E. - G. ...

H. If the jackpot is \$100,000 or more, the Casino Operator or Casino Manager shall notify the division immediately. Surveillance shall constantly monitor the Electronic Gaming Device until payment of the jackpot has been completed or until otherwise directed by a division Agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician shall inspect and test in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The Payout form shall be signed by a Casino shift manager or other designated employee as specified in the Casino Operator or Casino Manager's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - I.1.c. ...

d. signatures of at least two employees verifying and witnessing the slot fill; and

I.1.e. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. Surveillance shall notify the count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor Drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such Drops. The Casino Operator or Casino Manager shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency Drops, including those for maintenance and repairs which require removal of the currency acceptor Drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor Drop box, the Drop team shall notify Security and surveillance that the Drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be videotaped by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

Q.13. - S.2.a. ...

b. MIS shall print and review the computer Security access report at the end of each month. Discrepancies shall be investigated, documented and maintained for five years.

S.2.c. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), amended LR 34:

§2730. Exchange of Tokens and Chips

A. ...

B. The exchange shall occur at any Casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34:

§2731. Currency Transaction Reporting

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the Patron shall be taken and attached to the Casino Operator or Casino Manager's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph, if available, of the Patron may be used to supplement the required photograph taken. The Casino Operator or Casino Manager shall maintain and make available for Inspection all copies of Currency Transaction Reports or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Reports for Casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed with the Internal Revenue Service by the Casino Operator or Casino Manager shall be forwarded to the division, in a manner determined by the division, in accordance with Federal deadlines.

H. The Casino Operator or Casino Manager shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction log as follows:

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the Patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34:

§2735. Gross Gaming Revenue Computations

A. For each table Game, Gross Gaming Revenue shall equal the soft count Drop, plus or minus the change in table inventory, plus or minus the Chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus Chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the Chip float adjustment shall be the daily Chip float calculation which shall be the total Chips received to date (i.e., the initial Chips received from vendors plus all subsequent shipments of Chips received) less the total Day's Chip count (i.e., the sum of Chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory Chip count shall at no time exceed the total amount of Chips in the total Casino Chip accountability. If at any time the calculated daily Chip float is less than zero, the Casino Operator or Casino Manager shall adjust to reflect a zero current Day Chip float. Afterwards, the Chip float

adjustment shall be calculated daily by subtracting the previous Day's Chip from the current Day's Chip float.

B. For each Slot Machine, Gross Gaming Revenue shall equal Drops less fills to the machine and jackpot Payouts, plus or minus the Token float adjustment. The first step in the calculation of the Token float adjustment shall be the daily Token float calculation which shall be the total Tokens received to date (i.e., the initial Tokens received from vendors plus all subsequent shipments of Tokens received) less the total Day's Token count (i.e., Tokens in the hard count room plus Tokens in the vault, cage drawers, change lockers, Tokens in other locations and initial Tokens in hoppers). The daily ending inventory Token count shall at no time exceed the total amount of Tokens in the total Casino Token accountability. Foreign Tokens and slugs do not constitute a part of Token inventory. If at any time the calculated daily Token float is less than zero, the Casino Operator or Casino Manager shall adjust to reflect a zero current Day Token float. The initial hopper load is not a fill and does not affect gross revenue.

C. For each card Game and any other Game in which the Casino Operator is not a party to a Wager, Gross Gaming Revenue shall equal all money received by the Casino Operator or Casino Manager as compensation for conducting the Game, including time buy-ins. A time buy-in is a fixed amount of money charged for the right to participate in certain Games for a period of time.

D. - E. ...

F. All gaming tournaments conducted by or on behalf of the Casino Operator or Casino Manager require prior written approval by the division, and are subject to the following requirements:

1. All entry fees, buy-ins, re-buys and similar payments, paid by or on behalf of tournament participants, shall be included in gross gaming revenue. For purposes of calculating gross gaming revenue, all cash prizes awarded in the tournament may be deducted as payouts up to the amount received from and on behalf of tournament participants. No other deductions shall be made for purposes of calculating gross gaming revenues. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee may not deduct the excess and declare a loss against gross gaming revenues.

2. All amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on gaming revenue summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1948 (October 1999), amended LR 34:

Chapter 29. Operating Standards Generally

§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - B.5. ...

C. Additional Causes for Disciplinary Action

1. - 1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino. For the purpose of this Section, altering the casino configuration does not include the routing movement of EGDs for cleaning and/or maintenance purposes.

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003), amended LR 34:

§2907. Reporting

A. The Casino Operator and Casino Manager shall submit to the division on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$5,000 or more from the Casino Operator or Casino Manager during the previous quarter, or an amount equal to or greater than the amount provided in R.S. 27:29:3 during the preceding calendar year as payment for providing non-gaming services or goods to the Casino Operator or Casino Manager. This report shall include the name and address of the non-gaming supplier, a description of the type of goods or services provided, the non-gaming suppliers permit number, if applicable, federal tax identification number, and total amount of all payments made by the Casino Operator or Casino Manager, or any person acting on behalf of the Casino Operator or Casino Manager, to each non-gaming supplier. For each non-gaming supplier listed in this quarterly report which is a provider of professional services as defined in §2166(A)(9), the Casino Operator or Casino Manager shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the Casino Operator or the Casino Manager or any person acting on behalf of the Casino Operator or the Casino Manager during the previous quarter. This report shall be received by the division no later than the last day of the month following the quarter being reported.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 34:

§2922. Promotions

A. - B. ...

C. Promotional programs, including contests or tournaments, which impair the integrity of the Games, the Security, surveillance and well-being of persons in the Official Gaming Establishment or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the Casino Operator or Casino Manager. If the Casino Operator or the Casino Manager intends to offer coupons, scrip, and cash

equivalents as part of a promotion it shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:1557 (September 2001), LR 30:90 (January 2004), amended LR 34:

§2923. Tournaments

A. - A.3. ...

4. The Casino Operator or Casino Manager must maintain tournament documentation for five years.

5. The Casino Operator or Casino Manager shall report tournaments on the gaming revenue summary in accordance with §2735.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:1557 (September 2001), amended LR 34:

Chapter 33. Surveillance

§3301. Required Surveillance Equipment

A. - A.1.f.iii.

g. such other areas as designated by the division.

2. - 12. ...

13. at all times during the conduct of gaming, the Casino Operator shall have as a reserve, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999), amended LR 34:

§3302. Digital Video Recording Standards

A. In addition to the requirements of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

B. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

C. All DVR equipment and systems used by the Casino Operator or Casino Manager in its surveillance system shall:

1. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the Type A license's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain for a period of not less than seven days, or additional period as specified by the division, all images obtained from the video cameras;

5. have a failure notification system that provides an audible, as well as a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

D. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

E. Any part of the Casino Operator or Casino Manger's surveillance system that uses a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are authorized, no more than 4 cameras may be recorded on one device.

F. If the Casino Operator or Casino Manager uses a network for the digital recording equipment, it must be a closed network with limited access. The Casino Operator or Casino Manager must seek authorization from the division prior to implementation. The Casino Operator or Casino Manager must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

G. If the Casino Operator or Casino Manager requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

H. All digital video disks and other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images, as well as a video verification encryption code (also known as a watermark).

I. The Casino Operator or Casino Manager must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR system. A watermark will be required to authenticate dates/times and the validity of live and archived data.

J. The Casino Operator or Casino Manager is responsible for training permitted surveillance employees in

the use of the digital system and downloading recordings for evidentiary purposes.

K. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

L. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

M. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

N. All DVR equipment must be located in the surveillance room of the Casino Operator or Casino Manager, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

O. A Casino Operator or Casino Manager shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

§3311. Storage and Retrieval

A. - B. ...

C. All videotape recordings relating to the following shall be retained in a secure area approved by the division for at least 30 days and shall be listed on a log maintained by surveillance personnel:

1. - 3. ...
4. all cage areas;
5. all designated check cashing activity; and
6. all credit card advance activity.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), amended LR 34:

Chapter 42. Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. - C.5. ...

D. Transferring of Progressive Jackpot Which Is in Play

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD in the casino in the event of:

- a. EGD malfunction;
- b. EGD replacement;
- c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

i. the casino operator or casino manager documents the distribution;

ii. any machine offering the jackpot to which the casino operator or casino manager distributes the incremental amount does not require that more money be

played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

vi. licensees shall preserve the records required by this Section for at least five years; or

d. other good reason deemed appropriate by the division to ensure compliance with this LAC 42:IX. Chapter 42.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of five years.

L.2. - M.1. ...

N. The casino operator or casino manager shall not reduce the amount displayed on a progressive jackpot meter or otherwise eliminate a progressive jackpot unless:

1. - 3. ...

4. the casino operator or casino manager distributes the incremental amount to another progressive jackpot at the casino operator or casino manager's establishment and:

a. obtains prior written authorization from the division;

b. the Casino Operator or Casino Manager documents the distribution;

c. any machine offering the jackpot to which the Casino Operator or Casino Manager distributes the Incremental Amount does not require that more money be played on a single play to win the jackpot, than the machine from which the Incremental Amount is distributed;

d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

e. the distribution is completed within 30 days after the Progressive Jackpot is removed from play or within such longer period as the division may for good cause approve; or

f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2311 (October 2000), amended LR 31:1605 (July 2005), LR 34:

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. - B. ...

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of cash equivalents deposited in the Drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any person opening the EGD or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the Drop team. These machine entry authorization logs shall be retained for a minimum of five years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2313 (October 2000), amended LR 34:

§4206. Employment of Individual to Respond to Inquiries from the Division

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquiries concerning the EGD or any modifications to the device. Each Manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 34:

§4209. Approval of New Electronic Gaming Devices

A. - A.2.dd.i.(f.) ...

ii. The bill validators may be for single denomination or combination of denominations.

iii. Bill validators may accept other items as approved by the division.

ee. - jj.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 29:2507 (November 2003), LR 31:1602 (July 2005), LR 31:1606 (July 2005), amended LR 34:

§4211. Duplication of Program Storage Media

A. - B.3. ...

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2319 (October 2000), amended LR 34:

§4214. Maintenance of Electronic Gaming Devices

A. The Casino Operator or Casino Manager shall not alter the operation of an approved EGD except as provided in these rules and regulations and shall maintain the EGD's as required in this Chapter. The casino operator or casino manager shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), amended LR 31:1606 (July 2005), amended LR

§4220. Record Retention

A. Machine Entry Authorization Logs, Progressive Contoller Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

Chapter 43. Specifications for Gaming Equipment and Electronic Devices

§4301. Approval of Chips and Tokens; Applications and Procedures

A. - B. ...

1. an exact drawing or electronic file, in color or in black and white, of each side and the edge of the proposed Chip or Token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed Chip or Token in each dimension;

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), amended LR 34:

§4303. Specifications for Chips and Tokens

A. ...

B. In addition to such other Specifications as the division may approve:

1. solid chips and tokens:

a. the name of the Casino must be inscribed on each side of each Chip and Token, and the city or other locality and the state where the establishment is located must be inscribed on at least one side of each Chip and Token;

b. the value of the Chip or Token must be inscribed on each side of each Chip and Token, other than Chips used exclusively at roulette;

c. the Manufacturer's name or a distinctive logo or other mark identifying the Manufacturer must be inscribed on at least one side of each Chip and Token; and

d. each Chip must be designed so that when stacked with Chips and Tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations of the Chip can be distinguished from that of the other Chips and Tokens in the stack;

2. electronic chips.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:

§4305. Specifications for Chips

A. Unless the division approves otherwise, solid chips must be disk-shaped, must be 0.130 inch thick, and must have a diameter of:

A.1. - B.1. ...

2. \$2.50 pink;

3. - 7. ...

8. \$5,000 gray;

9. \$10,000 yellow;

10. \$25,000 bright blue; and

11. \$100,000 gold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:

§4313. Inventory of Chips

A. ...

B. The Casino Operator shall, on a daily basis, compute and record the unredeemed liability for each denomination of Chips in circulation and cause the result of such inventory to be recorded in the Chip inventory ledger. On a monthly basis, the Casino Operator shall cause an inventory of Chips in reserve to be made and cause the result of such inventory to be recorded in the Chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory Chips in circulation and reserve shall be included in the internal controls submitted to the division for Approval. A physical inventory of Chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), amended LR

§4321. Dice; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The Casino Operator shall include in its internal control submissions, procedures for:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999), amended LR 34:

§4325. Cards; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The Casino Operator shall include in its internal control submissions, procedures for:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999), amended LR 34:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 17. General Provisions

§1701. Definitions

A. ...

* * *

Drop—

a. for table games, the total amount of money and cash equivalents contained in the drop boxes;

b. for slot machine, the total amount of money and cash equivalents removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player’s slot account as a result of slot machine play.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1314 (June 2000), LR 29:363 (March 2003), amended LR

Chapter 21. Licenses and Permits

§2108. Nongaming Suppliers

A. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

B. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section; or

3. during the immediate preceding fiscal year period, such supplier has received \$50,000 or less from the licensee as payment for providing nongaming services or goods to the licensee.

C. It shall be the responsibility of each licensee to ensure that it has not paid more than the amount provided in R.S. 27:29.3 to any nongaming supplier during any calendar year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid

nongaming permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections D or E of this Section.

D. The following nongaming suppliers shall be deemed to have been waived by the division from the necessity of obtaining a nongaming permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. *nonprofit charitable organization* shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; or
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, televisions stations and radio stations which contract with licensees to provide advertising services;

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities;

11. hotels and restaurants;

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

E. Any nongaming supplier required to obtain a nongaming permit, other than those listed in Subsection E in this Section may request a waiver of the necessity of obtaining a nongaming permit. The division may grant such a request upon a showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

F. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

G. Each licensee shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the licensee during the previous quarter, or an amount equal to or greater than the amount required by R.S. 27:29:3 during the preceding calendar year as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the non-gaming supplier, a description of the type of goods or services provided, the non-gaming suppliers permit number, if applicable, federal tax identification number, and the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each non-gaming supplier. For each non-gaming supplier listed in this quarterly report which is a provider of professional services as defined in Paragraph E.10-13 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the division not later than the last day of the month following the quarter being reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1317 (June 2000), amended LR 34:

§2116. Cash Transaction Reporting

A. Each licensee shall report any administrative or criminal proceedings against it alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the division within 10 days of knowledge by the licensee of the violation.

B. Any violation of a cash transaction reporting requirement by a licensee or its affiliates in any other jurisdiction shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§2159. Gaming Employee Permits Required

A. - F. ...

G. Any person, whose access level allows authorization to change or distribute complimentary balances of patron accounts in the licensee's gaming database, shall be required to obtain a gaming employee permit. The position and title of persons whose access level allows authorization to change or distribute complimentary balances of patron accounts in the licensee's gaming database shall be specified in the licensee's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993),

repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended LR 34:

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2524. Publicly Registered Debt and Securities

A. ...

1. file with the division within 15 days after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and will give notice to the division within 15 days of effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:746 (June 1997), amended LR 34:

Chapter 27. Accounting Regulations

§2701. Procedure for Reporting and Paying Gaming Revenues and Fees

A. All Gaming Revenue Summary reports, together with all necessary subsidiary schedules, required under the Act shall be submitted to the division no later than 48 hours from the end of the licensee's specified gaming day in a manner specified by the division.

1. For reporting purposes, licensee's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. For licensees which offer 24-hour gaming, gaming day is the 24-hour period by which the casino keeps its books and records for business, accounting, and tax purposes.

3. Each licensee shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change.

B. All license and franchise fees related thereto must be electronically transferred to the state's designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensees who are late in electronically transferring these fees may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of fees at the daily rate of 0.00041 multiplied by the amount of unpaid fees for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1876 (October 1999), repromulgated LR 25:2232 (November 1999), amended LR 34:

§2707. Record Retention

A. ...

B. Each licensee shall conduct a complete system backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the licensee's internal controls. A complete system backups includes, but is limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. Licensees must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2233 (November 1999), amended LR 34:

§2709. Standard Financial Statements

A. - B. ...

C. Each licensee shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensee with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:

§2711. Audited Financial Statements

A. - C. ...

D. Each licensee shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensee may select the independent CPA with the division's approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D.1. - F. ...

G. If a licensee changes its fiscal year, the licensee shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. - I. ...

J. The division may request additional information and documents from either the licensee or the licensee's independent CPA, through the licensee, regarding the

financial statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the licensee or its affiliates and the independent CPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:

§2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Licensee's internal controls.

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the licensee's internal controls.

9. - 11. ...

12. the licensee shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the Premises;

13. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensee's internal controls as approved by the division;

14. only transparent trash bags are utilized in restricted areas.

B. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensee, the parent company of the licensee, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. Each licensees shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. - L.3. ...

M. A licensee shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

N. The licensee shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

O. - Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR 25:2235 (November 1999), amended LR 26:2306 (October 2000), LR 34:

§2717. Internal Controls; Table Games

A. - A.4.a. ...

b. All unissued pre-numbered fill/credit slips shall be controlled by a log that the accounting department shall use, on a monthly basis, to reconcile to purchasing invoices for these slips.

A.5. - G.21. ...

22. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment (if combination, i.e., chips/cash, amount paid by each method), and amount of credit remaining.

H. - I. ...

J. Table Games Drop Procedures. The drop process shall be conducted at least once each gaming day according to a schedule submitted to the division setting forth the specific times for such drops. Each licensee shall notify the division of any changes to such schedules at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops which require removal of the table drop box require written notification to the division within 24 hours. The drop process shall be conducted as follows:

1. - 4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance or internal audit employee shall monitor the count process at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team does not consist of only the same three individuals more than four days per week;

K.1.b. - P.1.a. ...

b. MIS shall maintain either hard or disk copies of system-generated edit reports, exception reports, and transaction logs.

2. - 3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1882 (October 1999), repromulgated LR 25:2237 (November 1999), amended LR 34:

§2721. Internal Controls; Tips or Gratuities

A. - C. ...

1. immediately deposited in a transparent locked box reserved for that purpose. If nonvalue chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer in the presence of a supervisor has converted them into value chips which are immediately deposited in a transparent locked box reserved for that purpose. Procedures for accepting non-valued chips received as tips shall be defined in licensees' internal controls.

2. ...

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the licensee's payroll account. Distributions to dealers from this pool shall be made following the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained and used as specified in the licensee's internal controls.

b. when a poker dealer arrives at his assigned poker table, the dealer shall obtain his/her marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and returned to the storage cabinet;

c. at the end of the dealer's shift, the dealer along with a verifier, shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the verifier. The amount shall be recorded on a three-part voucher, and signed by the cage employee, the dealer, and the verifier. The three parts of the voucher shall be distributed as follows:

C.4.c.i. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended

by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:1503 (August 1998), LR 25:1887 (October 1999), repromulgated LR 25:2242 (November 1999), amended LR 34:

§2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins and tokens shall not apply to coinless or tokenless devices.

B. - C.3. ...

4. number of credits played;

C.5. - D.1.c. ...

d. number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the payout if the jackpot is less than \$1200; Signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the licensee's internal controls.

2. A request for jackpot payout form may be used for quick-pay or pouch-pay if the following conditions are met:

a. the slot attendant and verifier sign the request;

b. the cage cashier verifies the required signatures on the request;

c. the cage cashier verifies the information on the request matches the information on the jackpot payout form;

d. the cage cashier and slot attendant sign the jackpot payout form; and

e. the cage cashier attaches the request to the jackpot payout form.

3. - 5. ...

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

E. - G. ...

H. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician, shall inspect and test the EPROM's in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a casino shift manager or other designated employee as specified in the licensee's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any

exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Each licensee shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be videotaped by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

Q.13. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), amended LR 34:

§2730. Exchange of Tokens and Chips

A. ...

B. The exchange shall occur at any casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:

§2731. Currency Transaction Reporting

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the patron shall be taken and attached to the licensee's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron, if available, may be used to supplement the required photograph taken. The licensee shall maintain and make available for inspection all copies of Currency Transaction Reports or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Reports for casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed by the License with the Internal Revenue Service shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

H. The licensee shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction logs as follows.

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the pit and cage shall coordinate their efforts to ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the pit and cage shall coordinate their efforts to ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:

§2735. Net Gaming Proceeds Computations

A. For each table game, net gaming proceeds shall equal the soft count drop, plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation which shall be the total chips received to date (i.e., the initial chips received from vendors plus all subsequent shipments of chips received) less the total day's chip count (i.e., the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the licensee shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip float from the current day's chip float.

B. For each slot machine, net gaming proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total casino token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensee shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue.

C. - D. ...

E. Slot machine meter readings from the drop process shall not be utilized to calculate net gaming proceeds, unless otherwise approved by the division.

F. All gaming tournaments conducted by or on behalf of the licensee require prior written approval by the division, and subject to the following requirements:

1. all entry fees, buy-ins, re-buys, and similar payments, paid by or on behalf of tournament participants, shall be included in net gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the tournament revenues before calculating the net gaming proceeds. For the purposes of calculating net gaming proceeds, all cash prizes awarded in the tournament may be deducted as payouts up to the amount received from or on behalf of tournament participants. Not other deductions shall be made for purposes of calculating net gaming proceeds. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee may not deduct the excess and declare a loss against net gaming proceeds; and

2. all amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on gaming revenue summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1899 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - C.1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino configuration. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:60 (January 2001), LR 29:2507 (November 2003), amended LR 34:

§2937. Distributions

A. The division shall receive written notice within five days of the completion for the following transactions:

1. withdrawal of capital in excess of 5 percent of the licensee's net gaming proceeds for the preceding 12-month period;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§2953. Promotions

A. - B. ...

C. Promotional programs, including contests or tournaments, which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1558 (September 2001), LR 30:90 (January 2004), amended LR 34:

§2954. Tournaments

A. - A.3. ...

4. Licensees must maintain tournament documentation for five years.

5. Licensees shall report tournaments on the gaming revenue summary in accordance with §2735.

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1559 (September 2001), amended LR 34:

Chapter 33. Surveillance and Security

§3301. Required Surveillance Equipment

A. - A.1.f.iii. ...

g. such other areas as designated by the division;

2. - 12. ...

13. at all times during the conduct of gaming, the licensee shall have as a reserve, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998), amended LR

§3302. Digital Video Recording Standards

A. In addition to the requirements of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

B. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

C. All DVR equipment and systems used by a licensee in its surveillance system shall:

1. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the license's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain for a period of not less than seven days, or additional period as specified by the division, all images obtained from the video camera;

5. have a failure notification system that provides an audible, as well as a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

D. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

E. Any part of the licensee's surveillance system that used a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are authorized, no more than 4 cameras may be recorded on one device.

F. If the licensee uses a network for the digital recording equipment, it must be a closed network with limited access. The licensee must seek authorization from the division prior to implementation. The licensee must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

G. If the licensee requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

H. All digital video disks or other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images and a video verification encryption code (also known as a watermark).

I. The licensee must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR system. A watermark will be required to authenticate dates/times and validity of live and archived data.

J. The licensee is responsible for training permitted surveillance employees in the use of the digital system and downloading recordings for evidentiary purposes.

K. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

L. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

M. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

N. All DVR equipment must be located in the surveillance room of the licensee, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

O. A licensee shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

§3311. Storage and Retrieval

A. - C.3. ...

4. all cage areas.

D. All videotape recordings relating to the following shall be retained in a secure area approved by the division for at least 30 days and shall be listed on a log maintained by surveillance personnel:

1. all designated check cashing activity; and

2. all credit card advance activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

Chapter 40. Designated Check Cashing Representatives

§4003. Cash Transaction Reporting

A. ...

B. Violation of cash transaction reporting requirements in any other jurisdiction by a designated check cashing representative shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000), amended LR 34:

§4009. Internal Controls; Cage and Credit

A. Each check cashing cage shall comply with the following minimum requirements.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:338 (February 2000), amended LR 34:

Chapter 42. Electronic Gaming Devices

§4201. Division's Central Computer System (DCCS)

A. Pursuant to R.S. 27:30.6, the Legislature of Louisiana has mandated that all electronic gaming devices on all riverboats shall be linked by telecommunications to a central computer system for purposes of monitoring and reading device activities.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:716 (April 2000), amended LR 34:

§4204. Progressive Electronic Gaming Devices

A. - D. ...

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the riverboat in the event of:

- a. EGD malfunction;
- b. EGD replacement;
- c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment; and:

- i. the licensee documents the distribution;
- ii. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing;

vi. licensees shall preserve the records required by this Section for at least five years; or

d. other good reason deemed appropriate by the division to ensure compliance with this LAC 42:XIII.Chapter 42.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of 5 years.

L.2. - N.4. ...

a. obtains prior written authorization from the division;

b. the licensee documents the distribution;

c. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

e. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000), amended LR 31:1607 (July 2005), amended LR 34:

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. - B. ...

1 record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. ...

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD; and

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the drop team. These machine entry authorization logs shall be retained for a minimum of 5 years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000), amended LR 34:

§4206. Employment of Individual to Respond to Inquiries from the Division

A. Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquiries concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000), amended LR 34:

§4209. Approval of New Electronic Gaming Devices

A. - A.18. ...

19. No Licensee or other person shall modify an EGD without prior written approval from the division. A request shall be made by completing form(s) prescribed by the division/board and filing it with the respective field office. The licensee shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for enforcement action.

20. ...

21. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

- a. the EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered;
- b. the theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage;
- c. an EGD shall have a probability of obtaining the maximum payout greater than one in 50,000,000; and
- d. an EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

22. Modifications to an EGD's program shall be considered only if the new program has been approved by an approved designated gaming laboratory.

23. A licensee shall be allowed to test, on a limited basis, newly approved programs. The licensee shall file an EGD 96-01 Form and indicate in Field 21 that the request is for a 90-day trial period.

24. - 32.a. ...

b. The bill validators may be for single denomination or combination of denominations.

c. Bill validators may accept other items as approved by the division.

33. - 37.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000), amended LR 29:2508 (November 2003), LR 31:1603 (July 2005), LR 31:1607 (July 2005), amended LR 34:

§4211. Duplication of Program Storage Media

A. - A.4. ...

B. Required Documentation

1. Each licensee shall maintain a program storage media duplication log which shall contain:

I.a. - 3. ...

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:726 (April 2000), amended LR 34:

§4214. Maintenance of Electronic Gaming Devices

A. A licensee shall not alter the operation of an approved EGD except as provided in these rules and shall maintain the EGDs as required by this Chapter. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000), amended LR 31:1608 (July 2005), LR 34:

§4220. Record Retention

A. Machine Entry Authorization Logs, Progressive Controller Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:

Chapter 43. Specifications for Gaming Devices and Equipment

§4301. Approval of Chips and Tokens; Applications and Procedures

A. - B. ...

1. an exact drawing or electronic file, in color or in black and white, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip or token in each dimension;

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4303. Specifications for Chips and Tokens

A. ...

B. In addition to such other specifications as the division may approve:

1. solid chips:

a. the name of the issuing gaming establishment must be inscribed on each side of each chip and token, and the city or other locality and the state where the

establishment is located must be inscribed on at least one side of each chip and token;

b. the value of the chip or token must be inscribed on each side of each chip and token, other than chips used exclusively at roulette;

c. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each chip and token; and

d. each chip must be designed so that when stacked with chips and tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations of the chip can be distinguished from that of the other chips and tokens in the stack;

2. electronic chips.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4305. Specifications for Chips

A. Unless the division approves otherwise, solid chips must be disk-shaped, must be 0.130 inch thick, and must have a diameter of:

A.1. - C.1. ...

2. \$2.50 pink;

3. - 7. ...

8. \$5,000 gray;

9. \$10,000 yellow;

10. \$25,000 bright blue; or

11. \$100,000 gold

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4313. Inventory of Chips

A. ...

B. Each licensee shall, on a daily basis, compute and record the unredeemed liability for each denomination of chips in circulation and cause the result of such inventory to be recorded in the chip inventory ledger. On a monthly basis, each licensee shall cause an inventory of chips in reserve to be made and cause the result of such inventory to be recorded in the chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory chips in circulation and reserve shall be included in the internal controls submitted to the division for approval. A physical inventory of chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4315. Redemption and Disposal of Discontinued Chips and Tokens

A. - B.5. ...

6. such destruction must be to the satisfaction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4321. Dice; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The licensee shall include in its internal control submissions, procedures for:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

§4325. Cards; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The licensee shall include in its internal control submissions, procedures for:

1. a card inventory system which shall include, at a minimum, the recordation of the following:

a. the balance of cards on hand;

b. the cards removed from storage;

c. the cards returned to storage or received from the manufacturer;

d. the date of the transaction; and

e. the signatures of the individuals involved;

2. a physical inventory of the cards at least once every three months:

a. this inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of cards on hand required in Subparagraph B.1.a above;

b. any discrepancies shall immediately be reported to the division;

c. the licensee shall retain the work papers developed and utilized for a physical inventory of the cards for a period of three years;

3. cancellation and marking techniques for cards removed from play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42.

NOTICE OF INTENT

Department of Public Safety and Corrections
State Uniform Construction Code Council

Private Outdoor Recreational Structure and Industrial
Facilities (LAC 55:VI.503 and 504)

In accordance with the provisions of Act 12 of the 2005
First Extraordinary Session, R.S. 40:1730:22(C) and (D) and
R.S. 40:1730.34(B) relative to the authority of the Louisiana
State Uniform Construction Code Council to promulgate and
enforce rules, the Louisiana State Uniform Construction
Code Council hereby proposes to amend Chapter 5 to re-
define a "private outdoor recreational structure" and to
include a section regarding the exemption for industrial
facilities that explains what exactly is exempted.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 5. Enforcement of the Louisiana State
Uniform Construction Code

§503. Farm or Recreational Structures

A. Definitions

1. For the purposes of these regulations the words
defined in this Section have the following meaning.

Private Outdoor Recreational Structure—a hunting or
fishing camp or other structure that is:

- i. not used as a residence;
ii. not attached to a residence;
iii. not utilizing the same physical address of a
residence;
iv. not located on the same property as a
residence;
v. not capable of qualifying for a homestead
exemption;
vi. not used for commercial purposes;
vii. not located within the corporate limits of a
municipality; and
viii. not located in an approved subdivision within a
jurisdiction:

(a). for purposes of this Section, residence shall
have the following meaning: a dwelling unit used or
occupied or intended to be used or occupied for permanent
living purposes as opposed to one's place of temporary
sojourn.

B. - B.1. ...

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), amended LR 34:

§504. Exemption for Industrial Facilities

A. For purposes of R.S. 1730.29, the exemption
(excluding the applicable requirements of the Louisiana
State Plumbing Code) for industrial facilities shall apply to
any structure or building constructed inside the restricted
access area of the facility. However, any structure or
building that is constructed outside the restricted access area

It is accordingly concluded that amending LAC 42 would
appear to have no estimable impact on the following:

- 1. the effect on stability of the family;
2. the 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;
4. the effect on family earnings and family budget;
5. the effect on 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 contact Brian McCullough,
Attorney General's Gaming Division, telephone (225) 326-
6500, and may submit comments relative to these proposed
rules, through September 10, 2008 to 1885 North Third
Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Gaming

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule changes will have no
implementation costs to state or local governmental units.
These rule changes are merely technical updates to practices
currently taking place in the industry and/or language changes
for consistency among the three areas being monitored (Land-
based Casino, racetrack slots and Riverboats).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)

Although the majority of the proposed rule changes are
merely technical in nature, the only significant change that is
not technical is the requirement in Section 2159 that any
gaming employee authorized to change patron account balances
in a licensee's gaming database be permitted. To the extent that
two individuals from each of the 18 properties currently
monitored by the Department of Public Safety seek permits at a
per permit cost of \$200, the state gaming enforcement funds
could increase by approximately \$7,200.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)

The proposed administrative rule changes will have no
significant costs and/or economic benefit to industry. These
rule changes are merely technical updates to practices currently
taking place in the industry. The only additional costs incurred
by industry as a result of these proposed rule changes is the
requirement in Section 2159 that any gaming employee
authorized to change patron account balances in a licensee's
gaming database be permitted. The aggregate impact of such a
measure could be \$7,200.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed administrative rule changes will have no
effect on competition and employment.

H. Charles Gaudin
Chairman
0808#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

of the facility or any structure or building located inside the restricted access area of the facility that is accessible by the public are subject to the requirements of the Louisiana State Uniform Construction 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 34:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed rule change to Paul Schexnayder, Attorney, Louisiana State Uniform Construction Code Council, 7979 Independence Boulevard, Suite 307, Baton Rouge, LA 70806. Comments will be accepted through close of business September 10, 2008.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Private Outdoor Recreational Structure and Industrial Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to have no additional state or local government costs or savings realized. These rule changes merely better define Private Outdoor Recreational Structures and provide for building code criteria of Industrial Facilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group as a result of these rules. The proposed Section

503 simply better defines the term Private Outdoor Recreational Structure. The proposed Section 504 simply better defines the restricted area inside an Industrial Facility that is exempt from the Louisiana State Uniform Construction Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules should not affect competition or employment.

Jill P. Boudreaux
Undersecretary
0808#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Regulation IX—Prohibition of Certain Unfair Business Practices (LAC 55:VII.317)

Under the authority of R.S. 26:793, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.317 relative to unfair business practices.

This proposed amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 to promulgate rules relative to unfair business practices.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§317. Regulation IX—Prohibition of Certain Unfair Business Practices

A. - B.5. ...

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. ...

2. Exceptions

a. - j.iii. ...

k. Coupons and Rebates. Alcoholic beverages of high alcoholic content, excluding malt beverages, except as otherwise provided by law, coupon and rebate offers, promotions or marketing campaign of alcoholic beverages of high alcoholic content, excluding malt beverages, are allowed in accordance with the following restrictions:

i. any coupon or rebate offer, promotion, or marketing campaign must be redeemable directly by the manufacturer or a third-party, including but not limited to, a clearinghouse retained by the manufacturer at its sole expense;

ii. no retailer can be required to participate in any offer, promotion, or marketing campaign;

iii. no retailer can be required to bear any of the costs associated with any offer, promotion, or marketing campaign;

iv. no one under the legal drinking age during the time of the offer, promotion or marketing campaign may participate in any offer, promotion, or marketing campaign;

v. all coupon or rebate offers, promotions, and marketing campaigns must be for a specified time not to

exceed 90 days from the first date on which such offers may be redeemable;

vi. no coupon or rebate offer, promotion, or marketing campaign may result in any sale of alcoholic beverages for a price of less than six percent above the invoice cost.

1. Coupons and Rebates. Malt beverages of not more than or more than 6 percent alcohol by volume. Except as otherwise provided by law, coupon and rebate offers, promotions or marketing campaigns of malt beverages of not more than or more than 6 percent alcohol by volume are allowed with the following restrictions:

i. Instantly redeemable coupons (IRCs) shall be prohibited. Coupons and rebates shall only be redeemable by mail.

ii. When marketing more than one product, "cross-merchandising" or "cross-promotion," mail-in rebates (MIRs) shall only be redeemable upon the providing of proof of purchase of all products involved in the coupon or rebate marketing, "cross-merchandising" or "cross-promotion" offer.

iii. Coupon and rebate values shall be equal to or less than the following:

(a). packages containing no less than 6 and no more than 11 single units, \$1;

(b). packages containing no less than 12 and no more than 17 single units, \$2;

(c). packages containing no less than 18 and no more than 23 single units, \$3;

(d). packages containing no less than 24 or more single units, \$4.

iv. Wholesale or retail dealers of malt beverages shall not incur any cost in connection with any coupon or rebate offers, promotions or marketing campaigns.

m. Enhancers, as defined in this Chapter, may be used as part of a contest, offer, promotion, sweepstakes, or advertising or marketing campaign.

i. Items may include ice chests, grills, rafts, and other items not to exceed \$155 in value.

ii. Industry members utilizing enhancers must provide either entry forms and a drop box in which all entries must be placed, a mailing address to which entries may be sent, or an Internet or other electronic address where entries may be accepted, and post the date of the official prize drawing.

n. Sweepstakes. Sweepstakes, as defined in this Chapter, may be used as part of a contest, promotion, or advertising or marketing campaign with the following restrictions.

i. Enhancers that exceed \$155 in value, such as four-wheel all-terrain vehicles, trips, etc., may be utilized as part of a sweepstakes.

ii. Industry members and wholesalers must offer the opportunity to participate in any sweepstakes conducted to the entire retail base which the participating wholesalers serve.

iii. Participation by retailers must be voluntary.

iv. Enhancers cannot be displayed within any retail outlet.

v. Photographs or models of enhancers may only be displayed, provided the photographs or models do not exceed \$155 in value.

vi. Industry members conducting sweepstakes must provide entry forms and a drop box in which all entries must be placed, a mailing address to which entries may be sent, or an Internet or other electronic address where electronic entries may be accepted, and post a date on which the official prize drawing will occur.

vii. Industry members are prohibited from purchasing enhancers from any retail outlet participating in the display or sweepstakes.

viii. Retail owners, industry members, and their employees and family members are not eligible to participate in any display or sweepstakes drawing allowed under provisions of this Section.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287, R.S. 26:150(A), R.S. 26:75(C)(2), and R.S. 26:275(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), LR 26:2631 (November 2000), LR 28:1484 (June 2002), LR 31:1344 (June 2005), LR 34:

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, September 10, 2008. A public hearing will be held on Thursday, September 25, 2008 at 10 a.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8585 Archives Avenue, Second Floor in Baton Rouge, LA.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation IX—Prohibition of Certain
Unfair Business Practices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Promulgation of this amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units. Rather, this proposed rule seeks to permanently promulgate a previously adopted emergency rule relative to unfair trade practices in the malt beverage industry.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule will not effect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Technically, there would be a minimum cost and/or economic benefits affected by this rule if there were no other statutorily mandated enforcement under other already existing laws. The main purpose of this rule is to clarify already existing laws and enforcement efforts that are being adjudicated and have always been adjudicated. The economic results asked for

in this question based on the enforcement past and present and future would be zero.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment will have the effect of clarifying the maximum monetary amounts malt beverage suppliers and/or distributors may offer Louisiana consumers through coupon and/or rebate offers relative to the purchase of malt beverages either separately or in conjunction with non-alcoholic items. As a result, these proposed monetary limits would serve to stabilize and/or maintain a "level playing field" for all members of the malt beverage industry conducting business with and/or in Louisiana.

Murphy J. Painter
Commissioner
0808#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

CCAP—Quality Start and Louisiana Pathways
(LAC 67:III.5115, 5117, 5119, 5121, 5123, and 5127)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Chapter 51, Subchapter C, Quality Start Child Care Rating System, and Subchapter D, Louisiana Pathways Child Care Career Development System (LA Pathways).

This amendment proposes to: provide the newly adopted name of Louisiana's child care quality rating system which is the Quality Start Child Care Rating System, clarify that the Quality Start Child Care Rating System is designed to support programs serving children birth through age five, to change reference to LAC 48 to LAC 67 because Child Care Licensing moved from Title 48 to Title 67, provide for a waiver of a requirement when compliance is determined to be impractical, clarify sequencing of certain required Environment Rating Scale training, extend the effective period of a star award from one year to two years and ratings will be earned biennially, and provide various other clarifications.

This amendment is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

**Title 67
SOCIAL SERVICES**

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter C. Quality Start Child Care Rating System

§5115. Authority

A. The Quality Start Child Care Rating System is established and administered under the authority of state and federal laws.

AUTHORITY NOTE: 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated in accordance with the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007), amended LR 34:

§5117. Definitions

Assistant Teachers—any staff who cares for children in a classroom setting that can be assessed using the ITERS-R/ECERS-R and works at least 16 hours per week in the center.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University of North Carolina that measure environmental indicators of quality. They include the Infant Toddler Environment Rating Scale-Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R), as well as the School Age Care Environment Rating Scale (SACERS) for school age programs, and the Family Child Care Environment Rating Scale-Revised (FCCERS-R) for family child care homes. Only the ITERS-R/ECERS-R apply for purposes of the Quality Start Child Care Rating System at this time.

Lead Teacher—a teacher who has primary responsibility for a designated classroom that can be assessed using the ITERS-R/ECERS-R, including planning and supervision, and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

Quality Start Child Care Rating System Points—points given in the Program, Staff Qualifications, Administration Practices, and Family and Community Involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating three, four, and five.

AUTHORITY NOTE: 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007), amended LR 34:

**§5119. Quality Start Child Care Rating System
Requirements**

A. The Quality Start Child Care Rating System is designed to assess the level of quality of early care and education for programs serving birth through age five, communicate the level of quality, and support improvements of child care centers. The Quality Start Child Care Rating System consists of five star ratings that can be earned by a licensed child care center, uses licensing as the foundation, and has four star ratings above Louisiana's licensing standards. The system components (Administration Practices, Family and Community Involvement, Program, and Staff Qualifications) have indicators that must be achieved to earn the star rating.

B. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the Secretary.

1. One Star—to participate at the one-star level, a child care center shall have a license to operate and comply with standards as defined in LAC 67, Chapter 73, Sections 7301-7354.

2. Two Star—to earn a two-star award, a child care center must meet all the standards for a One Star, have been in operation for six months, and meet the following:

- a. Administration Practices
 - i. Written personnel policies including:
 - (a). operational hours;
 - (b). dress code;
 - (c). use of telephone; and
 - (d). schedule.
 - ii. Job descriptions that include a list of qualifications on file and provided to all staff.
 - iii. Provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:
 - (a). employee health insurance or comparable health benefits;
 - (b). paid annual leave;
 - (c). paid sick leave;
 - (d). paid holidays;
 - (e). child care benefit/discount;
 - (f). bonus based on merit/achievement or education;
 - (g). retirement compensation;
 - (h). annual increments based on merit;
 - (i). tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;
 - (j). differential shift pay;
 - (k). flextime;
 - (l). pay professional association membership fee.
- b. Family and Community Involvement
 - i. Parent provided pre-enrollment visit and center tour.
 - ii. Give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home.
- c. Program
 - i. Make four of the following activity areas available daily:
 - (a). art and creative play;

- (b). children's books;
- (c). blocks and block building;
- (d). manipulatives; and
- (e). family living and dramatic play.
- ii. Complete a self assessment of the center's program and develop a Center Improvement Plan.
- d. Staff Qualifications
 - i. Directors and teachers must join and maintain a current record with the Louisiana Pathways Child Care Career Development System. Directors must complete three hours of Introduction to Environment Rating Scale (ERS) training.
 - ii. Director (on site)
 - (a). Three semester hour credits in care of young children or child development¹; and
 - (b). three semester hour credits in administration²; and
 - (c). one year of experience in teaching young children in an early childhood program.
 - iii. Assistant Director
 - (a). Three semester hour credits in the care of young children or child development.¹
 - iv. Teacher—Seventy-five percent of lead teachers must meet one of the following.
 - (a). Complete three semester hour credits course in the care of young children or child development¹ from a list of approved courses or enroll in the course and complete the course within one year of employment.

3. Point Standards for child care centers seeking three star rating, four star rating, and five star ratings. To achieve a higher rating, a child care center must meet all requirements of the two star rating and earn points in Program and Staff Qualifications by meeting the requirements listed below. At least one point must be earned in both Program and Staff Qualifications. The Quality Point referenced in Subparagraph 3.c. may also be earned. The total number of points will determine the star rating awarded to the center.

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. Program

Points	Criteria															
1	An average of 3.75 on the designated social-emotional subscale of the Environment Rating Scale (ERS) ³ , with no one classroom score lower than 3.0 on the subscale.															
2	An average of 4.0 on the designated social-emotional subscale of the ERS ³ with no one classroom score lower than 3.0 on the subscale.															
3	<ol style="list-style-type: none"> An average of 4.25 on the designated social-emotional subscale of the ERS³ with no one classroom score lower than 3.25 on the subscale. Staff: Child Ratio and Group Size <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">0-12 months 1:4,8</td> <td style="width: 33%;">25-36 months 1:8, 16</td> <td style="width: 33%;">4 yrs 1:12, 24</td> </tr> <tr> <td>13-24 months 1:6,12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> </tr> </table> Written transition procedures for children moving within a program or to other programs or beginning school. 	0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30									
0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24														
13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30														
4	<ol style="list-style-type: none"> An average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. Staff: Child Ratio and Group Size <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">0-12 months 1:4, 8</td> <td style="width: 33%;">25-36 months 1:8, 16</td> <td style="width: 33%;">4 yrs 1:12, 24</td> </tr> <tr> <td>13-24 months 1:6, 12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> </tr> </table> Written transition procedures for children moving within a program or to other programs or beginning school. 	0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30									
0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24														
13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30														
5	<ol style="list-style-type: none"> An average of 5.0 on the overall ERS, with no one classroom score lower than 4.0. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. Provide a plan for continuity of care for all children 0-36 months of age. Implementation of Louisiana's Early Learning Guidelines and Program Standards: Birth through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Staff: Child Ratio and Group Size: <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">0-24 months 1:4, 8</td> <td style="width: 33%;"></td> <td style="width: 33%;"></td> </tr> <tr> <td>2 yrs 1:6, 12</td> <td></td> <td></td> </tr> <tr> <td>3 yrs 1:8, 16</td> <td></td> <td></td> </tr> <tr> <td>4 yrs 1:10, 20</td> <td></td> <td></td> </tr> <tr> <td>5 yrs 1:10, 20</td> <td></td> <td></td> </tr> </table> 	0-24 months 1:4, 8			2 yrs 1:6, 12			3 yrs 1:8, 16			4 yrs 1:10, 20			5 yrs 1:10, 20		
0-24 months 1:4, 8																
2 yrs 1:6, 12																
3 yrs 1:8, 16																
4 yrs 1:10, 20																
5 yrs 1:10, 20																

b. Staff Qualifications

Points	Criteria
1	<p>All teachers and directors complete three hours of Introduction to ERS training.</p> <p>Director (on site)</p> <ol style="list-style-type: none"> Six semester hour credits in the care of young children or child development¹, and Three semester hour credits in administrative coursework², and One year experience teaching young children in an early childhood program. <p>Assistant Director</p> <p>Three semester hour credits in the care of young children or child development.¹</p> <p>Lead Teacher</p> <p>All of lead teachers must complete three semester hour credits in the care of young children or child development from a list of approved courses¹ or enroll in the course and complete the course within one year of employment.</p> <p>Assistant Teacher</p> <p>Fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>
2	<p>All teachers and directors complete three hours of Introduction to ERS training.</p> <p>Director</p> <ol style="list-style-type: none"> Nine semester hour credits in the care of young children or child development¹, and Three semester hour credits in administrative coursework², and One year of teaching experience and one year teaching or administrative experience in an early childhood program. <p>Assistant Director</p> <ol style="list-style-type: none"> Three semester hour credits in the care of young children or child development¹, and Three semester hour credits in administrative coursework², and One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> Seventy-five percent of lead teachers must have completed six semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete the course within one year of employment, and One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>Fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>

Points	Criteria
3	<p>Directors and all teachers complete three hours of Introduction to ERS and three hours of Understanding ERS training. Directors and lead teachers complete training in social-emotional screening of children. Director completes training in Louisiana’s Early Learning Guidelines and Standards which encompasses information from Louisiana’s Early Learning Guidelines and Program Standards: Birth Through Three (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Twelve semester hour credits in the care of young children or child development¹, and 2. Six semester hour credits of administrative coursework², and 3. Three years experience in an early childhood setting as follows: At least one year of teaching experience and at least one 1 year of administrative experience and one year of either teaching or administrative experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in the care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. Seventy-five percent of lead teachers must have completed nine semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete the course within one year of employment, and 2. One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>Fifty percent of assistant teachers must have completed three semester hour credits in the care of young children or child development¹.</p>
4	<p>Directors and all teachers complete three hours of Introduction to ERS and three hours of Understanding ERS training. Directors and all teachers complete training in social-emotional screening of children. Directors and lead teachers complete training in Louisiana’s Early Learning Guidelines and Standards which encompasses information from Louisiana’s Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Fifteen semester hour credits in the care of young children or child development¹, and 2. Six semester hour credits of administrative coursework², and 3. Four years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience and two years of either teaching or administrative experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in the care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. Seventy-five percent of lead teachers must have completed 12 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete the course within one year of employment, and 2. Two years full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>All assistant teachers must have completed three semester hour credits in the care of young children or child development¹.</p>
5	<p>Directors and all teachers complete three hours of Introduction to ERS and three hours of Understanding ERS training. Directors and all teachers complete training in social-emotional screening of children. Directors and all teachers complete training in Louisiana’s Early Learning Guidelines and Standards which encompasses information from Louisiana’s Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Associate’s degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, and the care of exceptional children or equivalent such as Director III LA Pathways and, 2. Six semester hour credits of administrative coursework² and 3. Five years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience, and three years of either teaching or administrative experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Six semester hour credits in the care of young children or child development¹, and 2. Three semester hour credits in administration², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. All lead teachers must have six semester hour credits in the care of young children or child development¹ from a list of approved courses, and 2. Seventy-five percent of lead teachers must have completed 15 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete the course within one year of employment, and 3. Two years full-time experience in an early childhood setting for all teachers. <p>Assistant Teacher</p> <p>All assistant teachers must have completed six semester hour credits in the care of young children or child development¹ or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete the course within one year of employment.</p>

c. An additional quality point can be earned by meeting additional requirements in both the Administration Practices and the Family and Community Involvement areas.

Quality Point	
Points	Criteria
1	<p>Administration Practices - meet three requirements below</p> <ol style="list-style-type: none"> 1. Provide four of the benefits from the list⁴ of options below for all full-time staff. 2. Include grievance procedure and a professional conduct code for staff in written personnel policies. 3. Pay scale based on education, experience, responsibilities and merit. 4. Provide training to staff on cultural sensitivity. 5. Written parent and staff confidentiality policy and provide training to staff and <p>Family and Community Involvement - meet four requirements below</p> <ol style="list-style-type: none"> 1. Participate in meetings for directors provided by the resource and referral agency at least quarterly, with the director or assistant director attending 50% of the meetings. 2. Provide a complaint process for parents. 3. Offer opportunity for a formal parent/teacher conference meeting annually. 4. Provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, Child Care Assistance, housing assistance, food stamps and information on a child's medical home. 5. Parent Advisory Council meets annually to review policies, procedures and parent handbook. 6. One group meeting per year offered to all families. 7. One parent education workshop offered per year by center or other agency.

The following footnotes reference Program criteria and Staff Qualifications in Section 5119:

¹The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development: a CDA or have approved high school child development courses or have five years full-time experience in an early childhood program or have completed a Child Care Assistant Teacher 1 LA Pathways Classroom Certificate. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development: CDA or have completed a Child Care Assistant Teacher 2 LA Pathways Classroom Certificate. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

²The following may be substituted to meet the requirement for three semester hour credits in administration: LA Pathways Administrator Certificate or National Administrator Credential (NAC) or three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next rating review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

³For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales: ITERS-R—Listening and Talking, Interaction and Program Structure; ECERS-R—Language-Reasoning, Interaction and Program Structure.

⁴Staff benefits options: employee health insurance or comparable health benefits; paid annual leave; paid sick leave; paid holiday; child care benefit/discount; bonus based on merit/achievement or education; retirement compensation; annual increments based on merit; tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated in accordance with the Department of Social Services, Office of Family Support, LR 33:2784 (December 2007), amended LR 34:

§5121. Participation

A. A child care center will complete the application for participation in the Quality Start Child Care Rating System. A quality rating verification visit will be conducted by the Department and one or more stars may be awarded.

B. Quality ratings will be valid for two years from the date of the star rating award. A midpoint review will be conducted on the current star rating. Ratings will have to be

earned biennially through the quality rating verification process.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:

§5123. Quality Start Child Care Rating System Tiered Bonus Payments

A. - A.5. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter D. Louisiana Pathways Child Care Career Development System (LA Pathways)

§5127. Participation in LA Pathways

A. Any individual working or planning to work in the child care industry is eligible to enroll in LA Pathways by completing an application and forwarding the required documents. An application for enrollment and information about enrollment is available at <http://pathways.louisiana.gov/> or by phoning the Division of Child Care and Early Childhood Education at 225-342-0694.

1. LA Pathways will register child care directors and staff according to requirements based on training and education, experience and professional activities, as approved by the Department of Social Services. Participation is voluntary.

2. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the Secretary.

B. Requirement for the Administrator Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Assistant Director I	Annual training as required by Licensing Class A Minimum Standards	none	Encouraged to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations	minimum 6 months	Encouraged to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved Administrative Training Categories	minimum 1 year	Encouraged to participate in an early childhood professional organization
Director	As required by Licensing Class A Minimum Standards	as required by Licensing	Encouraged to participate in an early childhood professional organization
Director I	CDA Credential or approved early childhood diploma and 30 clock hrs. in approved Administrative Training Categories OR related associate degree or 30 hours toward associate degree with 4 college courses in early childhood or child development	minimum 1 year	Membership in an early childhood professional organization
Director II	CDA Credential or approved early childhood diploma and 45 clock hrs. in approved Administrative Training Categories or National Administrative Credential OR associate degree in early childhood or child development OR related associate degree with 4 college courses in early childhood or child development OR related bachelor degree with 3 college courses in early childhood or child development	minimum 18 months	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event
Director III Administrator Certificate To receive an Administrator Certificate you must have 75 clock hours of instruction in approved Administrative Training Categories 2 college courses in approved administration can be substituted for the Administrator Certificate	CDA Credential or approved early childhood diploma and Administrator Certificate OR associate degree in child development or early childhood and Administrator Certificate OR bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers and Administrator Certificate OR related bachelor degree with 6 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event
Director IV	Masters degree in early childhood, child development or early childhood administration of which 3 courses focus on infants and toddlers and Administrator Certificate OR related masters degree with 8 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

C. Requirements for the Classroom Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff I	As required by Class A Licensing regulations	none	Encouraged to participate in an early childhood professional organization
Child Care Staff II	12 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 6 months	Encouraged to participate in an early childhood professional organization
Child Care Staff III	30 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Staff IV	60 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher I	90 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher II	120 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher I	CDA credential in preschool or infant/toddler specialization OR approved early childhood diploma	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher II	CDA credential or approved early childhood diploma and 9 CEU's or 2 early childhood college courses OR 30 hours toward associate degree with 4 college courses in early childhood or child development OR related associate degree	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher III	Associate degree in early childhood or child development OR related associate degree with 4 college courses in early childhood or child development OR bachelor degree in early childhood or child development OR related bachelor degree with 3 college courses in early childhood or child development	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher IV	Bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers OR related bachelor degree with 6 early childhood or child development college courses of which 3 focus on infants and toddlers	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Master Teacher	Graduate degree in early childhood or child development OR unrelated graduate degree with 4 early childhood or child development college courses	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

D. Qualification for the School Readiness Tax Credit for child care directors and staff.

1. - 2.a. ...

b. Directors who are classified as Director II by LA Pathways are classified as meeting Level II qualifications for purposes of this credit.

2.c. - 3.d. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:95 (January 2008), amended LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect of the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Tule? No, this program is strictly an agency function.

All interested persons may submit written comments through, September 25, 2008, to Alison K. Neustrom, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on September 25, 2008, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-125, Baton Rouge, LA, beginning at 9:15 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: CCAP—Quality Start and Louisiana Pathways

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Chapter 51, Subchapters C and D to provide the newly adopted name of Louisiana's child care quality rating system which is the Quality Start Child Care

Rating System, to clarify that the Quality Start Child Care Rating System is designed to support programs serving children birth through age five, to change reference to LAC 48 to LAC 67 because Child Care Licensing moved from Title 48 to Title 67, to provide for a waiver of a requirement when compliance is determined to be impractical, to clarify sequencing of certain required Environment Rating Scale training, to extend the effective period of a star award from one year to two years, to change the period for earning ratings from annually to biennially, and to provide for other technical language changes.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$2,200 (\$1,100 State/\$1,100 Federal) for FY 08/09. This is a one-time cost that is routinely included in the agency's annual budget.

There are no savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will continue to provide an economic benefit to those Class A child care centers that receive a two to five star rating by providing quarterly bonus payments, which are based on a percentage of all child care subsidy payments that a child care provider receives from the Department of Social Services for services provided to children in the Child Care Assistance Program and Foster Care Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Alison K. Neustrom
Assistant Secretary
0808#079

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

FITAP/Food Stamps—Resource Exclusions
(LAC 67:III.1229, 1235, 1947 and 1949)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code at Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), and Subpart 3, Food Stamp Program.

Pursuant to the goal of Temporary Assistance for Needy Families (TANF) to end the dependence of needy parents on government benefits, the agency will no longer count the value of any liquid or non-liquid resources when determining eligibility for FITAP. Current policy discourages needy families from acquiring assets and thus limits or hinders their opportunity to move out of poverty toward self-sufficiency. The elimination of resource limits and countable resources in FITAP will allow needy families to embark upon savings programs and to acquire assets which will enable them to move toward self-sufficiency. Language is being removed from §1229.F and §1235 that will eliminate the counting of any resources, assets, or

possessions that a household can convert to cash to meet its needs.

The Farm Security and Rural Investment Act of 2002 (P.L. 107-171) allows states to exclude from Food Stamp Program eligibility requirements certain types of resources that the state does not count for TANF. Whereas the agency is removing language to allow the exclusion of all resources for FITAP in order to assist needy families to move out of poverty, language is also being changed for the Food Stamp Program in §§1947 and 1949 to exclude from countable resources all resources that can be excluded in accordance with federal law and regulations.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A.-E. ...

F. Income of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception: if an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child: if an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1 shall not apply during a 12-month period. After a 12-month period, the batterer's income shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the department's opinion, a substantial connection to the need for benefits.

F.2.-G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:

§1235. Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:45 (January 2003), LR 32:645 (April 2006), repealed LR 34:

Subpart 3. Food Stamp Program

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1947. Resources

A. The following resources shall be countable resources:

1. cash on hand;
2. money in checking or savings accounts;
3. certificates of deposit;
4. stocks; and
5. bonds.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.8, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), 27:867 (June 2001), LR 34:

§1949. Exclusions from Resources

A. All resources other than those listed in §1947 of this Title shall be excluded from countable resources.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.8, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:646 (April 2006), LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule should allow for more family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule should help to allow for better functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule should encourage earnings and stabilize the family budget by removing restrictions on the money they earn and allowing them to save and invest.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not directly affect behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? Yes.

All interested persons may submit written comments through, September 25, 2008, to Alison K. Neustrom, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on September 25, 2008, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room

1-125, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: FITAP/Food Stamps—Resource
Exclusions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, to repeal Section 1235 of Chapter 12, and to revise Sections 1947 and 1949 to eliminate the counting of any resources, assets, or possessions that a household can convert to cash to meet its needs.

As a result of this rule change, more households will be eligible for cash assistance through the Family Independence Temporary Assistance Program (FITAP). For FY 08/09, FITAP benefits are expected to increase by \$3,906 based on one additional household being added per month for a cumulative total of six households at a cost of \$186 per household per month. For FY 09/10, the cost is expected to increase by \$27,900 for a cumulative total of 18 households at \$186 per household per month. For FY10/11, the cost is expected to remain constant because it is anticipated that same amount of households receiving cash assistance will be closed because the average time period for receiving FITAP benefits is 18 months. This increase in expenditures will be funded with existing TANF block grant funds.

In addition, there may also be some households that will be eligible to receive food stamp benefits as a result of this change. It is estimated that the same number of households will be impacted at a cost of \$251 per household per month. This cost will be paid directly from the Federal U.S. Department of Agriculture Food and Nutrition Service to the recipients via an electronic benefits transfer card; and therefore, will not have any cost to the state.

The other cost associated with this rule change is for publishing the rule and printing form revisions. This cost is estimated to be \$1,000 (\$500 State/\$500 Federal) and is routinely included in the agency's budget. The total cost for FY 08/09 is \$4,906.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The elimination of resource limits and countable resources in FITAP will allow needy families to embark upon savings programs and to acquire assets, which will enable them to move toward self-sufficiency. In addition, this rule will make more needy families eligible for food stamp benefits, which will also increase revenues to grocery stores and other businesses.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule should have no impact on competition and employment.

Alison K. Neustrom
Assistant Secretary
0808#080

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

TANF—Domestic Violence Services and
Teen Pregnancy Prevention Program
(LAC 67:III.5509 and 5575)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, Section 5509 Domestic Violence Services and Section 5575 Teen Pregnancy Prevention Program.

This amendment proposes to expand Temporary Assistance for Needy Families (TANF) services by adding programs that address educating and providing training to males age 18 years and older, law enforcement officials, educators, and relevant counseling services concerning statutory rape, a requirement that must be met to remain in compliance with the regulations set forth in Title IV of the Social Security Act, Section 402.

This amendment is Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature. This Rule was effected June 4, 2008, by a Declaration of Emergency published in the June 2008 issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance For Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, and relevant counseling services.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, The Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling individuals 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy. These programs will consist of curriculums which include, but are not limited to, topics designed to educate males 18 years and older on the problem of statutory rape.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008), LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule is intended to improve family stability by supporting expanding services to specifically educate and encourage male responsibility regarding the issue of statutory rape for youth enrolled in TANF funded Teen pregnancy Prevention programs and individuals trained through the TANF funded Domestic Violence Community Stakeholder trainings.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule is intended to decrease risky behaviors of children as they gain further knowledge of age appropriate intimate relationships between minors and adults.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through, September 25, 2008, to Alison K. Neustrom, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on September 25, 2008, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-125, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working

days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TANF—Domestic Violence Services and
Teen Pregnancy Prevention Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Code Title 57, Part 3, Subpart 15 Chapter 55, Sections 5509 Domestic Violence Services and Section 5575 Teen Pregnancy Prevention Program to expand Temporary Assistance for Needy Families (TANF) services by broadening the scope of existing services to include programs that address education and training on statutory rape to males age 18 years and older, law enforcement officials, educators, and relevant counseling services. This is a requirement that must be met to remain in compliance with the regulations set forth in Title IV of the Social Security Act, Section 402.

This rule will require training for statutory rape for law enforcement officials, educators, and counseling services at \$6,000 per day per nine regions within OFS, which equals \$54,000 for fiscal year 08/09, 09/10 and 10/11. These figures were based on contract services for similar training. TANF Initiative funds have been provided for these services in this current fiscal year and it is anticipated that TANF funds will be provided for these services for FY 09/10 and FY 10/11 with no additional costs to the State. In addition, there will be a one-time cost of \$600 (\$300 State/\$300 Federal) in FY 08/09 for publishing rulemaking. This cost is routinely included in the agency's annual budget.

There are no savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will have no impact on the estimated costs of any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Alison Neustrom
Assistant Secretary
0808#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Use of Seals (LAC 46:LXI.2701)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana

Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendment is primarily a technical housekeeping revision of existing board rules.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXI. Professional Engineers and Land Surveyors
Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 3.b.iii.c. ...

4. Seal Use

a. Completed Work

i. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all engineering documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

(a). ...

ii. The licensee shall affix his/her seal, sign his/her name, and place the effective date on all land surveying documents that have been issued by the licensee to a client or any public or governmental agency as completed work. For purposes of this §2701.A.4.a.ii, effective date is defined as the date the licensee certifies that the land surveying document represents his/her work.

iii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall seal, sign and date the title page or first sheet.

iv. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

(b). In the case of a firm, the licensee in responsible charge shall seal, sign and date the title page or first sheet.

4.b. - 5.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April

1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the Louisiana Register.

The proposed Rule has no known impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed Rule through September 10, 2008 at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Use of Seals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units resulting from this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Donna D. Sentell
Executive Secretary
0808#023

H. Gordon Monk
Legislative Fical Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Domesticated Aquatic Organisms (LAC 76:VII.905)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission hereby proclaim their intent to establish a list of approved "domesticated aquatic organisms" for aquaculture.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture

§905. Domesticated Aquatic Organisms

A. The following is a list of "domesticated aquatic organisms" approved for use in aquaculture:

1. shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of 3 inches;
2. white bass (*Morone chrysops*) not exceeding a maximum total length of 3 inches;
3. yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of 3 inches;
4. crappie (*Pomoxis spp.*) not exceeding a maximum total length of 3 inches;
5. bream (*Lepomis spp.*) not exceeding a maximum total length of 3 inches;
6. spotted bass (*Micropterus punctulatus*) not exceeding a maximum total length of 10 inches;
7. striped bass (*Morone saxatilis*) not exceeding a maximum total length of 10 inches;
8. largemouth bass (*Micropterus salmoides*) of any size;
9. hybrid striped bass (*Morone saxatilis x Morone chrysops*) or (*Morone saxatilis x Morone mississippiensis*) of any size;
10. copperside bluegill (*Lepomis macrochirus purpurescens*) of any size;
11. hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross of any size;
12. carp (*Cyprinus carpio*) of any size;
13. freshwater drum (*Aplodinotus grunniens*) of any size;
14. buffaloes (*Ictiobus spp.*) of any size;
15. golden shiner (*Notemigonus crysoleucas*) of any size;
16. fathead minnow (*Pimephales promelas*) of any size;
17. mosquito fish (*Gambusia affinis*) of any size;
18. Red drum (*Sciaenops ocellatus*)
19. triploid grass carp (*Ctenopharyngodon idella*); See LAC 76:VII.901;
20. tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); See LAC 76:VII.903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A(2) and R.S. 56.411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR. 34:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the

preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, October 2, 2008.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Domesticated Aquatic Organisms**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No additional implementation costs (savings) to state or local governmental units are anticipated to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule provides a list of approved domesticated aquatic organisms for aquaculture use and is anticipated to have no affect on persons or non-governmental groups. If the proposed action is not taken, species currently allowed in aquaculture, except for catfish and crawfish, will become illegal to possess and produce after January 1, 2009.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment in the public and private sectors.

Wynette Kees
Fiscal Officer
0808#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Cargo Vessels (LAC 76:VII.523)

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish regulations for an Oyster Cargo Vessel Permit. (LAC 76:VII.523)

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§523. Oyster Cargo Vessels

A. Policy. The Oyster Cargo Vessel (OCV) permit is intended to assist oyster harvesters with meeting refrigeration requirements as set forth in the Louisiana Department of Health and Hospitals Shellfish Sanitation Code (Title 51) and to facilitate harvest and transport of shell-stock harvested from Louisiana water bottoms. It is also intended to provide an effective method of regulating

the transfer of oysters from harvest vessels to cargo vessels which will land or off-load oysters. Violation of any provision of the rules, regulations or statutes concerning the oyster cargo vessel permit by the permittee, oyster harvester or vessel owner while operating under the OCV permit shall result in suspension and/or revocation of the permit in addition to any citations resulting from activities.

B. Permit Procedures

1. Permits shall be available from the Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. The OCV permit may be purchased at any time of the year for the current license year and from November 15 for the immediately following year, and shall be valid for up to one calendar year beginning January 1 and expiring on December 31 of the same calendar year. The annual fee per permit shall be \$250 for residents and \$1105 for nonresidents.

2. Permits shall be issued in the name of the vessel owner and shall have the vessel identified on the license.

3. Any designee obtaining the permit on the vessel owners behalf must present to LDWF licensing a signed, notarized document from the vessel owner, which includes the vessel owner's name, address, Social Security number, date of birth and driver's license number, and registration number or USCG document number of the vessel to be permitted, giving permission for the designee to obtain the permit. If the owner of such vessel is a corporation, the Louisiana Secretary of State's charter/organization identification number shall be required and the permission document shall be signed by a registered agent or director of the corporation as identified by the Louisiana Secretary of State's office. Permits shall only be issued to validly licensed vessels.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including times of fishing and transportation. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "OCV Permit" and the permit number shall be placed on these signs in letters at least 12 inches in height.

1. All vessels operating as oyster cargo vessels under this permit shall be required to meet Louisiana Department of Health and Hospitals Shellfish Sanitation Code requirements.

D. Records, Reporting. The applicant, vessel owner or a designee on board a legally permitted oyster cargo vessel shall only transport oysters taken by the other legally licensed commercial oyster harvesters on behalf of a certified dealer legally licensed in Louisiana and shall be required (on behalf of a certified dealer only) to complete all required records pertaining to oysters at the point oysters are transferred to the receiving vessel. No person shall transfer oysters to any commercial vessel for purposes of refrigeration, sale or transport unless the receiving vessel has an oyster cargo vessel permit as described in R.S. 56:422(E).

E. Landing. All oysters taken from the reefs of this state and transported by a legally permitted oyster cargo vessel

must be landed in Louisiana in accordance with R.S. 56:424G(1). No person operating under an oyster cargo vessel permit shall land any oysters taken by another harvester outside the jurisdiction of Louisiana.

F. Tagging. All oysters transferred to an oyster cargo vessel must be properly sacked or containerized and tagged in accordance with the provisions of R.S. 56:449 and must meet all Louisiana Department of Health and Hospital Shellfish Sanitation Administrative Code requirements that relate to the tagging of shellfish prior to being placed on board any oyster cargo vessel.

G. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, and as provided in LAC 76:VII.371. The owner or operator of any vessel issued an oyster cargo vessel permit, must have an operable vessel monitoring system (VMS) installed on-board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the department notified of the installation, before the vessel may begin receiving and transporting oysters.

H. Violation. Failure to abide by any regulation set forth regarding permitted oyster cargo vessels shall be deemed a violation of this Section. All oysters placed on-board from another vessel, possessed, or transported by an oyster vessel in violation shall be considered illegally taken, possessed, or transported. All persons aboard vessels with oysters placed on-board from another vessel without complying with the requirements herein shall be in violation of the oyster cargo vessel regulations. The provisions of this Section do not exempt any person from any other laws, rules, regulations and license requirements for this or other states as they pertain to the transfer or shipment of shellfish. Violations of this Section shall constitute a class 4 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:422(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Lt. Col. Keith LaCaze, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, October 2, 2008.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Oyster Cargo Vessels

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No increase or decrease in costs or savings to state or local governmental units associated with implementing of the proposed rule is anticipated. Implementation of the proposed rule will be carried out using existing staff and funding level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule requires that resident and non-resident oyster cargo vessel owners purchase an annual oyster cargo vessel permit for \$250 and \$1,105, respectively. The department is unable to determine how many oyster cargo vessel permits will be sold; therefore, the amount of state revenue generated from the proposed rule can not be estimated at this time. Revenue collections of local governmental units will not be effected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Owners of oyster cargo vessels, oyster harvesters who harvest oysters for raw consumption and consumers of raw oysters will be directly affected by the proposed rule. Owners of oyster cargo vessels will be required to have a vessel monitoring system on board and to purchase an annual oyster cargo vessel permit from the department. In addition, the person in-charge of the oyster cargo vessel will be required to complete and maintain all required records pertaining to oysters at the point of transfer to receiving vessel.

Oyster harvesters who harvest oysters for raw consumption may benefit from the proposed rule by being able to offload their oysters onto permitted oyster cargo vessels rather than having to return to the port to unload. This may enable them to continue to harvest oysters, which could result in increased harvesting efficiency and a more likely chance of remaining within time-temperature regulations.

The rule may also benefit the consumers of raw oysters because the new refrigeration requirements will help to keep bacteria from rising in oysters, reducing illnesses associated with raw oysters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no effect on competition and employment in the public sector. The private sector may experience a slight increase in employment from the new available oyster cargo vessel transport service. Competition in the private sector is not anticipated to be impacted.

Wynette Kees
Fiscal Officer
0808#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Seed Ground Vessel Permit (LAC 76:VII.525)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations relative to the Oyster Seed Ground Vessel Permit. Authority to establish such rules and regulations is vested in the

Wildlife and Fisheries Commission by R.S. 36:610(L), R.S. 56:6, R.S. 56:433.1.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§525. Oyster Seed Ground Vessel Permit

A. Policy. For license year beginning 2009 any oysters taken from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year. The cost per permit shall be \$15 for residents and \$60 for non-residents.

B. Eligibility. Only vessel owners meeting the eligibility requirements outlined in R.S. 56:433.1 shall be issued a permit. Permit applicants must provide to the Licensing Section of the department proof of vessel ownership by submitting the current certificate of registration or certificate of documentation with the United States Coast Guard to the Licensing Section of the department.

C. Proof of Participation: In addition to the requirement in Subsection B herein, applicants must meet either Paragraph 1, 2 or 3 below to be issued a permit:

1. applicant owned a vessel that was properly licensed and registered in applicant's name during a time in which department trip ticket records demonstrate that the vessel had oyster landings in the state of Louisiana between January 1, 2004 and May 31, 2007;

2. for applicants who purchased or constructed a vessel and licensed that vessel for commercial fishing in the state of Louisiana between January 1, 2004 and April 30, 2008, and department trip ticket records demonstrate that oysters were landed on that vessel in the state of Louisiana between the time of the vessel's purchase or construction and July 1, 2008;

3. for applicants with a newly constructed vessel or a vessel under construction, the vessel has not been previously registered in any state or foreign country or issued a USCG documentation number, and the applicant presents to the Licensing Section of the department:

a. a signed, dated, and notarized verification from a marine surveyor qualified and accredited by NAMS (National Society of Marine Surveyors) or SAMS (Society of Accredited Marine Surveyors) that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008, or

b. a signed, dated, and notarized verification from the corporation that built the vessel that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008.

D. Applications. Applications for the initial permit shall only be accepted by the department from such persons who

meet eligibility requirements as outlined in R.S. 56:433.1 and this rule. Applications shall only be made on forms supplied by the department. No new applications for vessel permits shall be accepted after December 31, 2009. Only permit holders who held a valid permit during the prior year shall be eligible to purchase a permit for the following license year.

E. Operations

1. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The original valid permit must be onboard at all times while operating under the permit.

2. Permits cannot be assigned or transferred or used by any other vessel than the one to which permit was issued.

3. Vessels engaged in an activity for which this permit is required must have onboard the vessel the valid original permit and shall show the permit upon demand to a duly authorized agent of the department.

F. Appeals. An applicant may appeal a decision of the department denying a permit to the Oyster Seed Ground Vessel Permit Appeals Board. An appeal must be received by the department no later than 30 days after the date of denial by the department on a form prescribed by the department. The appeal must include a statement as to why the applicant believes the department incorrectly determined the applicant ineligible for the permit or why the applicant is entitled to a permit based on a determination of hardship. The appeal shall include any documentation in support thereof.

1. The board's decision shall be limited to a determination of whether the department incorrectly determined that the applicant was ineligible for a permit or a determination that the applicant should be issued a permit based on determination of hardship.

2. The board shall review all information provided and after deliberation determine whether an applicant should be issued a permit. A decision to issue a permit shall be upon favorable vote of the majority of the appointed members of the board. The board shall issue a written decision which clearly states the rationale for the decision.

3. The board shall make a decision within 60 days of the date of appeal.

G. Enforcement. The taking of oysters from public natural reefs or oyster seed grounds or reservations without an oyster seed ground permit is a class 2 violation and upon conviction will require use of a vessel monitoring system for that vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6 and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the

preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Karen Foote, Administrator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., October 2, 2008.

Patrick C. Morrow
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Oyster Seed Ground Vessel Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No additional increase or decrease in costs or savings to state or local governmental units associated with implementing the proposed rule is anticipated. Implementation of the proposed rule will be carried out using existing staff and funding level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Annual state revenue collections from the issuance of oyster seed ground vessel permits established by Act 922 of the 2008 Regular Session are estimated to be \$22,695. Revenue collections of local governmental units will not be effected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Vessel owners who want to harvest oysters from public natural reefs, oyster seed grounds or reservations will be directly affected by the proposed rule. Beginning in license year 2009 any oysters taken from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued by the department. The cost of the annual oyster seed ground vessel permit will be \$15 for resident and \$60 for non-resident vessel owners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In the short run, a slight increase in competition and employment may occur in the private sector due to the anticipated increase in harvesting activities on oyster public grounds from vessel permit holder. However, in the long run, competition in the private sector may decrease, since no new oyster vessel permits will be issued. No effects in competition and employment in the public sector are anticipated.

Janice A. Lansing
Undersecretary
0808#044

Robert E. Hosse
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish—Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying size limits for gray triggerfish and recreational size limits for greater amberjack, and implementing gear use restrictions in waters of the Federal EEZ while fishing for

reef fish, which are part of the existing Rule for daily take, possession, and size limits for reef fishes set by the commission. Authority of adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:320.2, R.S. 56:326.1 and R.S. 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. - B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

D. Red Snapper

1. - 7. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (recreational) 13 inches total length (commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (recreational) 24 inches total length (commercial)
8. Scamp	16 inches total length
9. Greater amberjack	30 inches fork length (recreational) 36 inches fork length (commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	14 inches fork length

F. - I. ...

J.1. Devices

a. Circle hook means a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. Dehooking device means a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. Venting device means a device intended to deflate the swim bladder of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-Stainless Steel Circle Hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking Device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting Tool. At least one venting tool is required and must be used to deflate the swim bladders of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

K. 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), R.S. 56:320.2(C), R.S. 56:326.1, and R.S. 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, 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 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), LR 34:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries / Wildlife and Fisheries Commission issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on any of the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of

Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge LA 70898-9000 or by e-mail to hblanchet@wlf.louisiana.gov, with "Proposed Amberjack/Triggerfish Rule" in the subject line, no later than 4:30 p.m. October 7, 2008.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reef Fish—Harvest Regulations**

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 of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Making state regulations consistent with federal regulations for harvest of reef fish species is anticipated to have a slight negative impact during the recovery phase to directly affected persons and non-governmental groups, since these regulations have already been enacted in federal waters where these species are often found and harvested. Charter and commercial fishing operations may experience a slight decrease due to reduced availability of gray triggerfish, red snapper and greater amberjack resulting from the harvest restrictions being imposed by the proposed rule change. The proposed rule change is also intended to allow the 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 to assist with enforcement efforts. Long run benefits would be derived by ensuring healthy fish stocks and a continuing supply of reef fish species to harvest in the future.

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 or employment in the public sector are anticipated.

Wynette Kees
Fiscal Officer
0808#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Sharks and Sawfishes—Harvest Regulations
(LAC 76:VII.357)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.357) modifying rules for the commercial harvest of shark, which are part of the existing rule for daily take, possession, and size limits for shark set by the Commission. Authority of adoption of this Rule is included in R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 56:325.2(A). 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
§357. Sharks and Sawfishes—Harvest Regulations**

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a commercial state shark permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks—bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks—great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks—porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species—basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original commercial state shark permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E.1. All persons who do not possess a commercial state shark permit issued by the Department of Wildlife and Fisheries, and, if applicable, a federal commercial directed or incidental limited shark permit or federal shark research permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana commercial state shark permit and, if applicable, a federal commercial directed or incidental limited shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a commercial state shark permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the

length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a Federal Atlantic Highly Migratory Species Angling permit.

G. Those persons possessing a federal commercial directed or incidental limited access shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a federal shark permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a federal commercial directed or incidental limited access shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the *Federal Register*, regardless of where taken. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a commercial state shark permit or federal commercial directed or incidental limited access permit or federal shark research permit, if applicable.

2. Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of 33 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid federal shark research permit under 50CFR635.32(1).

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid federal dealer permit.

I. A person aboard a vessel for which a federal commercial directed or incidental limited access shark permit or federal shark research permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Dealers purchasing sharks from state or federal waters must report the landings by species, and must specify the total shark fin numbers, values and weights separately from the weights, values and numbers of the shark carcasses. If a harvester retains the fins after offloading from the

fishing vessel, the harvester must also be licensed as a wholesale/retail dealer, and must complete and file a trip ticket that includes the numbers and weights of fins retained immediately after being offloaded from the fishing vessel. Later transactions of fins must have documentation referring to the original trip ticket number for those fins. Such numbers and weights must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6.

4. Shark fins shall not be possessed aboard a fishing vessel unless naturally attached to the original shark carcass by at least some portion of uncut skin.

5. All sharks possessed aboard a commercial fishing vessel shall have fins including the tail intact and naturally attached to the shark carcass by at least some portion of uncut skin.

6. It is illegal to replace sharks that are onboard a fishing vessel for retention with sharks of higher quality or size that are caught later in a particular trip.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark—*Cetorhinus maximus*;
- b. white shark—*Carcharodon carcharias*;
- c. bigeye sand tiger—*Odontaspis noronhai*;
- d. sand tiger—*Odontaspis taurus*;
- e. whale shark—*Rhincodon typus*;
- f. smalltooth sawfish—*Pristis pectinata*;
- g. largetooth sawfish—*Pristis pristis*;
- h. Atlantic angel shark—*Squatina dumerili*;
- i. Caribbean sharpnose shark—*Rhizoprionodon porosus*;
- j. smalltail shark—*Carcharhinus porosus*;
- k. bignose shark—*Carcharhinus altimus*;
- l. Caribbean reef shark—*Carcharhinus perezi*;
- m. dusky shark—*Carcharhinus obscurus*;
- n. Galapagos shark—*Carcharhinus galapagensis*;
- o. narrowtooth shark—*Carcharhinus brachyurus*;
- p. night shark—*Carcharhinus signatus*;
- q. bigeye sixgill shark—*Hexanchus vitulus*;
- r. bigeye thresher shark—*Alopias superciliosus*;
- s. longfin mako shark—*Isurus paucus*;
- t. sevengill shark—*Heptranchias perlo*;
- u. sixgill shark—*Hexanchus griseus*.

2. Notwithstanding other provisions of this Part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this Part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana territorial sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a federal commercial directed or incidental limited access shark permit or federal shark research permit may legally harvest sharks from federal waters beyond the Louisiana territorial sea and bring those sharks into Louisiana waters for sale within the provisions of that federal shark permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. 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 sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes 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(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 56:325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 34:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on five of the six criteria set out at R.S. 49:972(B). For persons involved in the commercial harvest of shark from Louisiana state waters, there may be a reduction in family earnings and family budget of unmeasurable dimensions. Those reductions are not measurable since the trip limit for commercial harvesters is changed from a "pounds per trip" limit to a "numbers per trip" limit, and there are no reliable methods to convert from one limit to the other. There is also no way to estimate the ability of harvesters to move from the harvest of shark to more profitable occupations within commercial fishing or to other non-fishing occupations, which might mitigate some of those impacts. Long run benefits would be derived by ensuring healthy fish stocks and a continuing supply of large coastal shark to harvest in the future which may supplement family earnings and budgets.

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 the effectuate this Notice of Intent and the 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.

Interested persons may submit written comments on the proposed Rule to Harry Blanchet, Marine Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge LA 70898-9000 or by e-mail to hblanchet@wlf.louisiana.gov, with "Proposed Shark Rule" in the subject line, no later than 4:30 p.m. October 7, 2008.

Patrick C. Morrow
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Sharks and Sawfishes—Harvest Regulations**

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 little or no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Making state regulations consistent with federal regulations for large coastal shark harvest is anticipated to have negative impacts during the recovery phase to directly affected persons and non-governmental groups, even though these regulations have been already enacted in federal waters where these species are often found and harvested. The proposed rule will affect additional harvesters who do not fish in Federal waters, reducing their ability to access the shark resources in Louisiana state waters. The proposed rule change is intended to allow the 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 to assist with enforcement efforts. Long run benefits would be derived by ensuring healthy fish stocks and a continuing supply of large

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is expected to have little or no effect on competition in the private sector. Employment in the commercial shark fishery may be reduced, due to lower revenues derived from reduced trip limits and the availability of sandbar shark for harvest by state-permitted commercial harvesters. No effects on competition or employment in the public sector are anticipated.

Wynette Kees
Fiscal Officer
0808#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 8-9, 2008, 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:	September 5, 2008
Re-Take Candidates:	September 26, 2008
Reciprocity Candidates:	November 7, 2008

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 September 5, 2008. Questions may be directed to (225) 952-8100.

Mike Strain, DVM
Commissioner

0808#029

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 27-31, 2008 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 September 12, 2008. No applications will be accepted after September 12, 2008.

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 September 12, 2008. Questions may be directed to (225) 952-8100.

Mike Strain, DVM
Commissioner

0808#027

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Plant Protection and Quarantine (LAC 7:XV.Chapter 1)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 3:1652 and LAC 7:XV:107, 109 and 127(E) the annual quarantine listing for 2008 is being supplemented to include the following quarantines and locations.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Supplement to Annual Quarantine Listing—2008

1.0 -12.0 ...

13.0 Asian Citrus Psyllid

LOUISIANA

Parishes of Jefferson, Lafourche, Orleans, Plaquemines, St. Charles, St. James, St. Tammany and Terrebonne.

Citrus Greening Disease (Huanglongbing disease of citrus)

LOUISIANA

Parishes of Orleans.

Mike Strain, DVM
Commissioner

0808#028

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Advanced Notice of Rulemaking and Solicitation of Comments on Control Technology Guidelines (CTG)
Log #AQ296 (LAC 33:III.111, 2123, and 2143)

The Louisiana Department of Environmental Quality is requesting comments on the draft regulations regarding new and revised Control Technology Guidelines (CTG), LAC 33:III.111, 2123, and 2143 (AQ296). This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advanced notice. The revisions include changes made to the lithographic printing materials and letterpress printing materials CTG and the flexible package printing materials CTG that were published in the *Federal*

Register, Volume 71, on October 5, 2006, pages 58745-58753. The revisions also include changes to the paper, film, and foil coatings CTG, the metal furniture coatings CTG, and the large appliance coatings CTG that were published in the *Federal Register*, Volume 72, on October 9, 2007, pages 57215-57222. The final CTG for paper, film, and foil coatings have been revised to provide separate applicability recommendations for coating operations and cleaning operations, and the final CTG for metal furniture coatings and large appliance coatings have been revised to reflect a lower volatile organic compound (VOC) content coatings recommendations.

The Clean Air Act (CAA) Section 172(c)(1) provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control measures (RACT), including reasonably available control technology (RACT) for sources of emissions. CAA Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. EPA provides states with guidance concerning what types of controls could constitute a RACT for a given source category through issuance of a CTG. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. The states must submit their RACT rules to EPA for review and approval as part of the SIP process. This rule amends the state air regulations to follow the CTG recommendations provided by EPA, which will then be included in the SIP to meet the requirements of the CAA.

The department is seeking information regarding relevant information concerning the regulatory impact of these CTG, including, but not limited to, the fiscal and economic impact and cost compliance associated with adopting these CTG.

All interested persons are encouraged to submit written comments on the draft proposal. Comments are due no later than 4:30 p.m., September 22, 2008, and should be submitted to Michelle Morgan, Office of Environmental Assessment, Plan Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3240 or by email to michelle.morgan@la.gov. Persons commenting should reference this document as AQ296. If you have any questions regarding this document please contact Michelle Morgan at (225) 219-3581. Copies of this draft proposed rule can be purchased by contacting DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ296. This draft rule is available on the internet at:

www.deq.louisiana.gov/portal/tabid/1669/Default.aspx.

The draft rule is also 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 1. General Provisions

§111. Definitions

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

* * *

Miscellaneous Metal Parts and Products Coating—the coating of miscellaneous metal parts and products in the following categories:

a. - f. ...

g. any other category of coated metal products except those on the specified list in LAC 33:III.2123.C.1-3, 5-7, and 10 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 34:

Chapter 21. Control of Emission of Organic Compounds

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. Except as provided in Subsections B and C of this Section, any emission source using organic solvents having an emission of organic solvents of more than 3 pounds (1.3 kilograms) per hour or 15 pounds (6.8 kilograms) per day shall reduce the emission, where feasible, by incorporating one or more of the following control methods:

1. incineration, provided 90 percent of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide (except as provided in Subsection D of this Section);

2. carbon adsorption, with a control efficiency of at least 90 percent, of the organic compounds;

3. any other equivalent means as may be approved by the administrative authority. Once a source exceeds the emission cutoff specified in this Section that source shall be subject and shall remain subject to the requirements of this Subsection regardless of future emission rates.

B. Soldering operations, painting and coating operations not listed in Subsection C of this Section, and dry cleaning

operations using organic solvents that are not considered photochemically reactive shall be considered for exemption from the requirements of this Section.

1. - 2. ...

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by this Subsection to exceed the emission limits as specified in this Section.

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
1. Large Appliance Coating Industry		
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
2. Surface Coating of Cans		
Sheet Basecoat (exterior and interior) and over-varnish: Two-piece can exterior (basecoat and over-varnish)	2.8	0.34
Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
Three-piece can side-seam spray	5.5	0.66
End sealing compound	3.7	0.44
3. Surface Coating of Coils		
Prime and topcoat or single coat operation	2.6	0.31
4. Surface Coating of Fabrics		
Fabric Facility	2.9	0.35
Vinyl Coating Line (except Plastico coatings)	3.8	0.45
5. Surface Coating of Assembly Line Automobiles and Light Duty Trucks		
Prime application, flashoff area and oven (determined on a monthly basis)	1.2	0.14
Primer surface application flashoff area and oven	2.8	0.34
Topcoat application, flashoff area and oven	2.8	0.34
Final repair application, flashoff area and oven	4.8	0.58
As an alternative to the emission limitation of 2.8 pounds of VOC per gallon of coating applied for the primer surfacer and/or topcoat application, compliance with these emission limitations may be demonstrated by meeting a standard of 15.1 pounds of VOC per gallon of solids deposited.		
6. Surface Coating-Magnet Wire Coating		
Coating Line	1.7	0.20
7. Surface Coating of Metal Furniture		

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
8. Surface Coating of Miscellaneous Metal Parts and Products		
Clear Coat	4.3	0.52
Air or force air dried items (not oven dried)	3.5	0.42
Frequent color change and/or large numbers of colors applied, or first coat on untreated ferrous substrate	3.0	0.36
Outdoor or harsh exposure or extreme performance characteristics	3.5	0.42
No or infrequent color change, or small number of colors applied:		
a. Powder Coating	0.4	0.05
b. Other	3.0	0.36
These limits do not apply to operations covered in 1-7 or 10 herein or exterior coating of fully assembled aircraft, auto refinishing, and auto customizing topcoating (processing less than 35 vehicles per day).		
9. Factory Surface Coating of Flat Wood Paneling with VOC Emissions Greater Than 15 Pounds Per Day Before Controls		
All Inks, Coatings, and Adhesives	2.1	0.25
10. Surface Coating for Marine Vessels and Oilfield Tubulars and Ancillary Oilfield Equipment		
a. Except as otherwise provided in this Section, a person shall not apply a marine coating with a VOC content in excess of the following limits:		
Baked Coatings	3.5	0.42
Air-Dried Single-Component Alkyd or Vinyl Flat or Semi Gloss Finish Coatings	3.5	0.42
Two Component Coatings	3.5	0.42
b. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, in which the VOC limitations in Subparagraph C.10.a of this Section may not be exceeded, specialty marine coatings and coatings on oilfield tubulars and ancillary oilfield equipment with a VOC content not in excess of the following limits may be applied:		
Heat Resistant	3.5	0.42
Metallic Heat Resistant	4.42	0.53
High Temperature (Fed. Spec. TT-P-28)	5.41	0.65
Pre-Treatment Wash Primer	6.5	0.78
Underwater Weapon	3.5	0.42
Elastomeric Adhesives With 15 Percent Weight Natural or Synthetic Rubber	6.08	0.73

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
Solvent-Based Inorganic Zinc Primer	5.41	0.65
Pre-Construction and Interior Primer	3.5	0.42
Exterior Epoxy Primer	3.5	0.42
Navigational Aids	3.5	0.42
Sealant for Wire-Sprayed Aluminum	5.4	0.648
Special Marking	4.08	0.49
Tack Coat (Epoxy)	5.08	0.61
Low Activation Interior Coating	4.08	0.49
Repair and Maintenance Thermoplastic	5.41	0.65
Extreme High Gloss Coating	4.08	0.49
Antenna Coating	4.42	0.53
Antifoulant	3.66	0.44
High Gloss Alkyd	3.5	0.42
Anchor Chain Asphalt Varnish (Fed. Spec. TT-V-51)	5.2	0.62
Wood Spar Varnish (Fed. Spec. TT-V-119)	4.1	0.492
Dull Black Finish Coating (DOD-P-15146)	3.7	0.444
Tank Coatings (DOD-P-23236)	3.5	0.42
Potable Water Tank Coating (DOD-P-23236)	3.7	0.444
Flight Deck Markings (DOD-C-24667)	4.2	0.504
Vinyl Acrylic Top Coats	5.4	0.648
Antifoulant Applied to Aluminum Hulls	4.5	0.55
11. Paper, Film, Foil, Pressure Sensitive Tape, and Label Surface Coating	Daily Weighted Average VOC Emission Limitation	
	kg VOC/kg Solids (lb VOC/lb Solids)	kg VOC/kg Coating (lb VOC/lb Coating)
Paper, Film, and Foil	0.40	0.08
Pressure Sensitive Tape and Label	0.20	0.067

D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall (90 percent for factory surface coating of flat wood paneling). All surface coating facilities shall submit to the Office of Environmental Services, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

2. If a person wishes to use low solvent technology to meet any of the emission limits specified in Subsection C of this Section and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a

compliance date extension from the administrative authority*. Compliance date extensions will require progress reports every 90 days, or as directed, to show reasonable progress, as determined by the administrative authority, toward technology to meet the specified emission limitation.

3. ...

4. Compliance with the alternative emission limit established in Paragraph C.5 of this Section of 15.1 pounds of VOC per gallon of solids deposited shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations", EPA 450/3-88-018, December, 1988.

5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section. Any surface coating facility with VOC emissions of less than or equal to 15 pounds (6.8 kilograms) per day is exempt from the provisions of Paragraphs C.1, 8, and 11 of this Section.

7. Soldering and surface coating facilities or portions thereof, may request from the administrative authority* exemption from the requirements of Subsection C of this Section if all of the following conditions are met:

7.a. - 9....

E. Testing. Compliance with Subsections A, C, and D of this Section shall be determined by applying the following test methods, as appropriate.

1. - 7. ...

F. Recordkeeping. The owner/operator of any surface coating facility shall maintain records at the facility to verify compliance with or exemption from this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection E of this Section;

2. records of the installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specifications, including but not limited to:

2.a. - 4....

G. Mandatory Work Practices for Surface Coating of Flat Wood Paneling. The owner/operator of any facility performing factory surface coating of flat wood paneling shall comply with the following mandatory work practices:

1. store all VOC coatings, thinners, and cleaning materials in closed containers;

2. minimize spills and clean up spills immediately;

3. convey any coatings, thinners, and cleaning material in closed containers or pipes; and

4. close mixing vessels containing VOC coatings and other material except when specifically in use.

H. Definitions

Air Dried Coating—any coating that is cured at a temperature below 90°C (194°F).

Baked Coating—any coating that is cured at a temperature at or above 90°C (194°F).

Extreme High Gloss Coating—any coating that achieves at least 95 percent reflectance on a 60° meter when tested by ASTM Method D-523.

Heat Resistant Coating—any coating that during normal use must withstand temperatures of at least 204°C (400°F).

High Gloss Coating—any coating that achieves at least 85 percent reflectance on a 60° meter when tested by ASTM Method D-523.

High Temperature Coating—any coating that must withstand temperatures of at least 426°C (800°F).

Marine Coating—any coating, except unsaturated polyester resin (fiberglass) coatings, containing volatile organic materials and applied by brush, spray, roller, or other means to ships, boats, and their appurtenances, and to buoys and oil drilling rigs intended for the marine environment.

Metallic Heat Resistant Coating—any coating which contains more than five grams of metal particles per liter as applied and which must withstand temperatures over 80°C (175°F).

Repair and Maintenance Thermoplastic Coating—a resin-bearing coating in which the resin becomes pliable with the application of heat, such as vinyl, chlorinated rubber, or bituminous coatings.

I. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure,

Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes

A. Control Requirements

1. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, flexographic, or flexible package printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of

VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.1.a-d of this Section. This requirement applies to affected machines on which both surface coating and printing operations are performed. Line-by-line compliance with these emission limits or control requirements is required. Any cross-line averaging or bubbling must receive approval from the administrative authority*. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

a. The solvent fraction of ink, as it is applied to the substrate, less exempt solvent, shall contain 25 volume percent or less of organic solvent and 75 volume percent or more of water. Also acceptable as an alternative limit is ink containing no more than 0.5 pounds of volatile organic compounds per pound of solids. Exempt solvents are those compounds listed in LAC 33:III.2117.

b. A volatile organic compound adsorption or incineration system shall have at least 95 percent (by weight) control efficiency across the control device, which can be demonstrated to have an overall capture and abatement reduction of at least 85 percent.

c. The ink as it is applied to the substrate, less water and exempt solvent, shall contain 60 percent by volume or more of nonvolatile material.

d. Another control method approved by the administrative authority* may be employed.

2. Control for cleaning materials for those facilities where actual emissions from flexible package printing operations are greater than 15 pounds per day before consideration of controls shall be accomplished by one of the following methods.

a. Cleaning materials shall contain a VOC composite with a vapor pressure of less than 10 mm Hg (0.19psi) at 20°C or contain less than 70 percent VOC by weight.

b. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

c. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

3. No person shall operate or allow the operation of an offset lithographic or letterpress printing facility having a potential to emit 25 TPY or more of VOC in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parish of Calcasieu or Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.3.a-c of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production. Determination of potential to emit, for the purposes of applicability, shall be made without respect to any VOC control device.

a. Control for heatset web offset lithographic processes, letterpress dryers, and the volatilization of inks in a letterpress dryer shall be accomplished by:

i. a control device with at least 90 percent control efficiency for control devices installed prior to [INSERT DATE OF PROMULGATION]. The installation date does not change if the control device is later used to control a new or different press;

ii. a control device with at least 95 percent control efficiency for control devices installed on or after [INSERT DATE OF PROMULGATION]; or

iii. a control device that limits the control device outlet concentration to 20 ppmv or less as hexane on a dry basis.

b. Control for offset lithographic fountain solution processes emitting more than 15 pounds per day shall be accomplished as follows:

i. heatset printing—limit the amount of alcohol by weight to 1.6 percent or less;

ii. sheet-fed printing—limit the amount of alcohol by weight to 5 percent or less. Sheet-fed presses with sheet size of 11 x 17 inches or smaller or any press with a total fountain solution reservoir of less than 1 gallon are exempt;

iii. coldset printing—limit the amount of alcohol by weight to 5 percent or less as applied.

c. Another control method approved by the administrative authority* may be employed.

4. Control for cleaning materials for those facilities where actual emissions from printing operations are greater than 15 pounds per day before consideration of controls shall be accomplished by one of the following methods.

a. For offset lithographic and letterpress facilities, cleaning materials with a VOC composite vapor pressure less than 10 mm Hg (0.19 psi) at 20°C or cleaning materials that contain less than 70 percent VOC by weight shall be used.

b. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

c. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

B. Exemptions

1. For those facilities where actual emissions from packaging rotogravure, publication rotogravure, and flexible package printing operations are greater than 15 pounds per day before consideration of controls and where the potential to emit is less than 25 TPY of VOC on a per press basis before controls, only the cleaning materials control requirements in Subparagraphs A.2.a-c of this Section are applicable.

2. The following equipment or processes are exempt from meeting the requirements of Subparagraphs A.3.a-c of this Section:

a. heatset web offset lithographic printing operations and heatset web letterpress printing operations with the potential to emit from the dryer, prior to controls, an amount equal to or less than 25 tons VOC (petroleum ink oil) per year, provided that an enforceable limit on potential emissions is obtained to keep an individual heatset press below the 25 TPY potential to emit threshold;

b. heatset presses used for book printing and presses with a maximum web width of less than or equal to 22 inches; and

c. operations with emissions from sheet-fed or coldset webinks, sheet-fed or coldset varnishes, waterborne coatings, and radiation cured materials.

C. – E. ...

F. Operating, Monitoring, and Maintenance Procedures. Operating, monitoring, and maintenance procedures for the facilities and equipment subject to the requirements of this Section shall be incorporated into the housekeeping plan required by LAC 33:III.2113.A.4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Herman Robinson, CPM
Executive Counsel

0808#053

POTPOURRI

**Office of the Governor
Division of Administration
Office of Information Technology**

OIT Bulletins Published

Pursuant to LAC 4:XV.501, et seq., the Office of Information Technology (OIT) published the following Bulletins in the period 07/01/2008 to 07/31/2008:

Bulletin Number	Topic	Date
ITB 08-05	IT-STD-009, Revised Standard, Security: Authentication/Passwords	07/23/2008
ITB 08-06	IT-STD-016, Revised Standard, Desktop Configuration; PC and Printer IT Request and Budgeting Guidelines	07/31/2008

OIT Bulletins, Standards, Guidelines and Policies are posted on the OIT web site at: <http://oit.louisiana.gov>

To receive e-mail notifications when an OIT Bulletin is published, register at <http://oit.louisiana.gov>

Ed Driesse
Chief Information Officer

0808#033

POTPOURRI

**Louisiana Workforce Commission
Office of Workers' Compensation Administration**

State Average Weekly Wage Rate

Pursuant to Act 583 of the Regular session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2008 has been determined by the Louisiana Workforce Commission to be \$728.10

Chris Broadwater
Director

0808#009

POTPOURRI

**Louisiana Workforce Commission
Office of Workers' Compensation Administration**

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2008 through August 31, 2009.

State Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$728.10	\$546.00	\$146.00	.52 cents per mile*

*Effective July 1, 2008 the mileage reimbursement is .52 cents per mile pursuant to LA R.S. 23:1203 D.

Chris Broadwater
Director

0808#008

POTPOURRI

**Department of Natural Resources
Atchafalaya Basin Program**

**Notice of Public Review—The Atchafalaya Basin
Program, Water Management Projects**

Notice is hereby given that the Department of Natural Resources, Atchafalaya Basin Program is preparing for meetings to discuss Water Management Projects for inclusion in the Atchafalaya Basin Program's Annual Plan for FY 09/10, and is requesting public comment on Projects to be included in the proposed plan.

Notice is hereby further given that the listing and descriptions of Water Management Projects proposed for inclusion in the ABP Annual Plan can be presented to the public for comments at a public meeting on following dates:

September 9, 2008 6:00 p.m.	September 10, 2008 6:00 p.m.	September 11, 2008 6:00 p.m.
Iberville Parish	Town of Henderson	City of Morgan City
Council Chambers	Recreation Building	Morgan City Auditorium
5850 Meriam Street	1015 Park Ave. (Amy St.)	728 Myrtle Street
Plaquemine, La 70765	Henderson, La 70517	Morgan City, La 70380

At these public meetings, the public will receive a list of projects proposed for inclusion in the Atchafalaya Basin Program's Annual Plan, in addition to making recommendations on additional water quality improvement or sediment reduction projects. Public comment is requested on these proposals, as well as any additional Water Management Projects that the public would like the Atchafalaya Basin Program to consider. Both written and oral comments will be considered.

Robert Benoit
Assistant Director

0808#007

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Auby Rowell Inc	Napoleonville	L	O Meara Savoie et al un	1	53898 (30)
Bering Oil Company, Inc.	Richie	L	Raymond Memanus	2	27312
Buttes Gas & Oil Co.	Wildcat-So La Lafayette Dist	L	B Vigneaux et al	1	127072
Diversa, Inc.	Wildcat-So La Lafayette Dist	L	Humble Oil & Refining Co	1	89333
Houma Production Company, Inc.	Dog Lake	L	Vur;Dgl U18	1	206457 (30)
J. P. Owen et al	Fresh Water Bayou	L	La Furs G	1	88319
Kilroy Co of Texas Inc et al	Wildcat-So La Lafayette Dist	L	Mcilhenny est/c/	1	90820
J. Ray McDermott & Co., Inc.	White Lake, West	L	Felicie Gastinel et al	1	55970
J. Ray McDermott & Co., Inc.	White Lake, West	L	Felicie Gastinal et al	2	57246
Petroleum, Inc.	Wildcat-So La Lafayette Dist	L	McIlhenny	1	76953
Sklar & Phillips Oil Company	Elm Grove	S	Hodges	24	36730
Texas Gulf Producing Co	Napoleonville	L	Gus J Labarre et al	1	57620
Trice Production Company	Lockport	L	State Lease 2394	2	59630
Trice Production Company	Lockport	L	State Lease 2394	3	60125
Trice Production Company	Lockport	L	Olin-Mathieson Co	1	60305

James H. Welsh
Commissioner

0808#031

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

Loran Coordinates—Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 8 claims in the amount of \$35,512.80 were received for payment during the period July 1, 2008 - July 31, 2008.

There were 8 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2905.674	9032.539	Terrebonne
2912.492	9110.020	Terrebonne
2922.602	9036.740	Terrebonne
2925.371	8959.542	Jefferson
2933.242	8932.067	Plaquemines
2940.286	8928.656	St. Bernard
2950.018	8932.500	St. Bernard
2958.734	8936.318	St. Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0808#030

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