

# Notices of Intent

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

Records and Reports  
(LAC 52:I.610, 1012, 1202, 1204, 1304,  
1309, 1310, 1604, 1903 and 1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics pursuant to its authority in Section 1134A of the Code of Governmental Ethics (L.R.S. 42:1134A).

#### Title 52

#### ETHICS

#### Part I. Board of Ethics

#### Chapter 6. Advisory Opinions

##### §610. Finality

An advisory opinion rendered by the board shall be final on the date of mailing of the advisory opinion, if there has been no timely request for reconsideration of the advisory opinion in accordance with §609, or thereafter upon order of the Board.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:

#### Chapter 10. Hearings

##### §1012. Consolidation of Public Hearings

When public hearings of two or more respondents involve similar or related circumstances, the board may, on its own motion, on motion of the trial attorney or on motion of a respondent, order a joint hearing of all respondents or may order separate hearings for specified respondents.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997), amended LR 26:

#### Chapter 12. Penalties

##### §1202. Late Filing; Notice

A. The staff shall mail by certified mail a notice of delinquency within two business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:

##### §1204. Late Filing; Fee Schedule

A. Definitions. For purposes of §1204, the following definitions shall apply.

*Amount of Activity* means the total amount of receipts or expenditures, whichever is greater.

*Person Regularly Responsible* means the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. The staff shall impose automatic late fees according to the following schedule:

1. the late filing fees for election campaign finance reports shall be as provided in R.S. 18:1505.4;

2. the late filing fees for any lobbyist reports shall be as provided in R.S. 24:58(D);

3. the late filing fees for any report required by R.S. 42:1119(B)(2)(a)(ii) shall be as provided in R.S. 42:1119(B)(2)(a)(ii);

4. the late filing fees for any report required by R.S. 42:1119(B)(2)(b)(ii) shall be as provided in R.S. 42:1119(B)(2)(b)(ii);

5. the late filing fees for any violation of R.S. 42:1114, 1114.1 or 1124 shall be as provided in R.S. 42:1124(C);

C. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the seven days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence;

D. If a report is filed more than ten days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or ten times the per day penalty, whichever is greater.

E. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:

## Chapter 13. Records and Reports

### §1304. Statements Filed Pursuant to Section 1114 and Section 1114.1 of the Code

A. Statements filed pursuant to Section 1114 of the Code shall:

1. be in writing on a form approved by the board;
2. be filed annually no later than May 1<sup>st</sup> and shall include the required information for the previous calendar year;
3. contain a statement by the filer that the information contained in the statement is true and correct to the best his knowledge, information and belief, and that no information required to be disclosed by Section 1114 has been deliberately omitted; and
4. be signed by the filer.

B. Statements filed pursuant to Section 1114(A) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the public servant, if applicable; and
4. the name and business address of the legal entity, if applicable.

C. Statements filed pursuant to Section 1114(B) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the legislator, if applicable; and,
4. the name and business address of the legal entity, if applicable.

D. Statements filed pursuant to Section 1114(C) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the elected official, if applicable; and
4. the name and business address of the political subdivision, if applicable.

E. The executive secretary shall maintain these forms suitably indexed.

F. Public servants who fail to accurately disclose information in statements filed pursuant to R.S. 42:1114 and R.S. 42:1141.1 may be assessed, by the board, a late fee of one hundred dollars per day, not to exceed a maximum late fee of two thousand five hundred dollars, until such information is disclosed by amendment to the appropriate report.

G. For purposes of R.S. 42:1114.1B(1)(b), "third parties" shall not include employees of the members of the legislature, his spouse or any business enterprise in which such member and/or his spouse owns at least ten percent.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 26:

### §1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a)(ii) of the Code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than 30 days after the beginning of the school year;
3. be signed by the school board member or superintendent and contain:
  - a. the name, address, and position of the school board member or superintendent;
  - b. the name, relationship, and position of the immediate family member and the date of the family member's employment;
  - c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and
  - d. which of the following exceptions applies to the immediate family member:
    - i. classroom teacher certified to teach;
    - ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or
    - iii. served in public employment on April 1, 1980, the effective date of the Code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b)(ii) of the Code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than January thirtieth of each year;
3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:
  - a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;
  - b. the calendar year for which the disclosure statement is being filed;
  - c. the name, relationship, and position of the immediate family member and the date of the family member's employment;
  - d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and
  - e. which of the following exceptions applies to the immediate family member:
    - i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;
    - ii. served in public employment on April 1, 1980, the effective date of the Code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:

**§1310. Disclosure Forms Filed Pursuant to R.S. 42:1114(D)(2) of the Code**

**Repealed**

**Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act**

**§1604. Registration and Reporting; Forms**

A. - C. ...

D. At the time that an out-of-state political committee, as defined by LSA-R.S. 18:1483(14)(b), files a copy of the of its current annual report, which reflects contributions or expenditures made in support of or in opposition to a candidate or a proposition in a Louisiana election, as required by LSA-R.S. 18:1491.9, the out-of-state political committee shall designate, in writing to the Supervisory Committee, an in-state agent together with the mailing address and phone number of said agent.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 (January 1999), LR 26:

**Chapter 19. Lobbyist Disclosure Act**

**§1903. Registration and Reporting Forms**

A. - B. ...

C. The method of signature shall be as provided in §1803.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999), amended LR 26:

**§1905. Automatic Termination of Registration for Failure to Renew; Retroactivity**

**Repealed**

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400 or (800) 842-6630, until February 9, 2000.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between February 24, 2000 and February 29, 2000.

R. Gray Sexton  
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Records and Reports**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of the amendments to the Rules for the Board of Ethics will increase expenditures by \$280 for publishing the rules in the *Louisiana Register*. The costs will be absorbed in the Board's existing budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The amendments to the Rules for the Board of Ethics are not expected to have any significant fiscal impact on revenue collections of state and local government units. The rules make minor adjustments to the penalty provisions.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs nor economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition or employment.

R. Gray Sexton  
Administrator  
0001#075

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Civil Service Commission**

**Proposed Amendments to Civil Service Rules**

The State Civil Service Commission will hold a public hearing on Wednesday, February 2, 2000, to consider proposed amendments to rules related to details to special duty, job appointments and restricted appointments. Also discussed will be the attached Policy Standards for the use of these appointments. Rules proposed for change include the following: Rules 8.16(d); 1.18; 8.14; 1.38.1; 6.5(d); and 8.10. The hearing will begin at 9:00 a.m. and will be held in the Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

**Amend Rule 8.16(d)**

8.16 (a) ...

(b) ...

(c) ...

(d) Detail to Special Duty

1. When, in the discretion of the appointing authority, the services of an employee are temporarily

needed in a position within the department other than the position to which he is regularly assigned, he may be detailed to perform the duties of such position for a period not to exceed one month without change in title, status or pay.

2. An appointing authority may detail an employee for a period not to exceed one year. With the Director's prior approval, an appointing authority may detail an employee for a period(s) that exceeds one year. Written justification for all details except those referenced in subsection (d)1 of this rule shall be kept by the agency. Justification shall be submitted with all details requiring the Director's approval. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related details.

3. The Director may issue policy standards for use of details to special duty.

4. An appointing authority may terminate a detail at any time.

5. The Director may, at any time, cancel a detail to special duty and/or withdraw an agency's authority to make details to special duty other than those stated in subsection (d)1 of this rule.

#### **Explanation**

The rule proposal authorizes the Director to issue policy standards for the use of details. There will be less front-end review of details by Civil Service. Therefore, as an accountability measure, this amendment proposes that the Director may cancel a detail and/or withdraw an agency's authority to use details since the Director's approval will be required only for details that exceed a total of one year. It is also explicitly stated that an appointing authority may terminate a detail at any time. Rule 17.23.1 is not changed - details shall last a maximum of three months beyond the effective date of layoff when they are effected during the freeze period on appointments for jobs affected by the layoff. Also unchanged is Rule 17.25 relating to details that may be made when there is a department preferred reemployment list as the result of a layoff.

Justification for all details must be maintained by the agency and justification must be submitted to Civil Service for those details that exceed a total of one year, i.e., those that need the Director's approval. Civil Service will do post-audits of details, which will include checking for justification that is to be maintained by the agency.

#### **Amend Rule 1.18**

1.18 'Job Appointment' means a temporary appointment of an employee only for one of the following reasons: a) for work of a temporary nature; b) to substitute for another employee; or, c) for projects not expected to last longer than three years. A job appointment may last up to a maximum of three years.

#### **Explanation**

This proposed amendment states that a job appointment may last up to three years, instead of the current one year. This proposal limits use of these appointments to three reasons only.

#### **Amend Rule 8.14**

8.14 Job Appointment

(a) A job appointment is a temporary appointment made by the appointing authority that may last up to a maximum of three years; however, its duration shall not exceed its actual need. Such appointments may be used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; or, c) for projects not expected to last over three years. An employee shall not serve continuously on a job appointment(s) for over three years. An agency shall maintain written justification stating the reason for the temporary appointment. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related job appointments.

(b) Repeal

(c) ...

(d) ...

(e) The Director may issue policy standards for the use of job appointments.

(f) An appointing authority may terminate a job appointment at any time.

(g) The Director may, at any time, cancel a job appointment and/or withdraw an agency's authority to make such appointments.

#### **Explanation**

To better meet the needs of state agencies, and to prevent a job appointee from being appointed in temporary status for an unnecessarily long time, the following changes are proposed:

1. The rule proposal authorizes the Director to issue policy standards for the use of job appointments.

2. No employee would, under any circumstances, be kept on a job appointment(s) over three consecutive years. If the appointment is needed longer than originally thought, an extension(s) may be made; however, the cumulative total of these shall not exceed three years.

3. The proposal states only three reasons for which this appointment may be made. Job appointments have sometimes been used for reasons other than truly temporary work. This change seeks to make clear that uses other than those stated in the rule would be rule violations.

4. The employee would have to meet the selection requirements (e.g., be within reach on a certificate for a competitive appointment) for the job appointment only at the beginning of the appointment and not for any continuous extension(s), up to a total maximum of three years.

5. The current subsection (b) is proposed for repeal because its use is no longer applicable due to the proposed three-year maximum duration of job appointments.

6. An agency must maintain written justification for the temporary appointment and any extensions and it shall not employ the incumbent for a period longer than the actual need. Such justification will be checked during Civil Service audits.

7. The proposal explicitly states that an appointing authority may terminate a job appointment at any time.

8. The Director may, at any time, cancel a job appointment and/or withdraw authority for an agency to use job appointments.

The following would not change:

1. Job appointees will continue to earn leave and get paid holidays.

2. Job appointees would continue to be appointed subject to the regular Civil Service rules on hiring for their respective job titles.

### **Amend Rule 1.38.1**

1.38.1 'Restricted Appointment' means a temporary appointment or combination of temporary appointments not to exceed a cumulative total of six months in a calendar year for a person.

#### **Explanation**

It is proposed that restricted appointments be allowed to last up to six months in a calendar year for a person. This will do away with the current multiple restricted appointments. Under no circumstances would an employee be able to serve on such an appointment over six months in a calendar year. Under the current rule, the maximum period for such an appointment(s) is calculated for a 12-month period. This change would make this calculation much easier.

### **Amend Rule 6.5(d)**

#### **6.5 Hiring Rate**

(a) - (c)...

(d) Restricted Appointments. When an appointing authority makes a restricted appointment, he may set the pay of the employee at any rate in the range.

(e) - (g) ...

#### **Explanation**

Under the current rule, pay on a restricted appointment that is above the mid-point of the range must be fully justified in writing and approved by the Director. This change would allow more flexibility to agencies to recruit qualified individuals for temporary work by giving them authority to pay up to the maximum of the range.

### **Amend Rule 8.10**

#### **8.10 Restricted Appointment**

(a) A restricted appointment, which is a temporary appointment or combination of appointments not to exceed a cumulative total of six months in a calendar year for any person, may be made by the appointing authority provided:

(1) It is used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; c) pending filling the position in a regular manner, or, d) to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the temporary appointment. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related restricted appointments.

(2) This type of appointment shall be made only when it is not possible or appropriate to use a provisional, job, or probational appointment.

(3) The appointing authority may set the pay of the employee at any rate in the range.

(4) The person appointed must meet the minimum qualifications of the Civil Service job specifications.

(5) - (7) Repeal

(b) Repeal

(c) The Director may issue policy standards for the use of restricted appointments.

(d) An appointing authority may terminate a restricted appointment at any time.

(e) The Director may, at any time, cancel a restricted appointment and/or withdraw an agency's authority to make restricted appointments.

#### **Explanation**

Proposed changes in this rule include the following:

1. The rule authorizes the Director to issue policy standards for the use of restricted appointments.

2. There will no longer be multiple restricted appointments. A person would now serve on a restricted appointment for a maximum of six months in a calendar year, with no exceptions. This will be easier to administer than the current procedures and will give agencies greater ability to recruit quality temporary workers.

3. The proposal limits use of restricted appointments to four reasons only. There have been times when such appointments have been used for other than truly temporary reasons. This change makes it clear that this would be a rule violation.

4. The agency must maintain written justification for each such appointment. This will be checked during Civil Service audits.

5. The appointing authority may set the pay at any rate within the range, without having to submit justification to Civil Service. This will help recruit qualified temporary workers.

6. The person appointed must meet the Civil Service minimum qualification requirements.

7. The amendment explicitly states that an appointing authority may terminate a restricted appointment at any time.

8. The Director may, at any time, cancel a restricted appointment and/or cancel an agency's authority to use restricted appointments.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Attachment (Policy Standards for the use of these rules)

#### **Policy Standards for Details to Special Duty**

1) There must be written justification, maintained at the agency, as to why the assignment is temporary in nature, rather than permanent. If the detail lasts more than one year, justification must be sent for the Director's approval before it extends beyond one year. Examples of temporary need are as follows:

a) The regular incumbent is on leave, or is detailed to another position, or is on leave without pay from his classified job to serve in an unclassified job.

b) Pending filling a position in a regular manner. This would include the time necessary to receive and work a certificate of eligibles or the time needed to recruit for a shortage job. (See #2 below for restrictions on this reason.)

c) To double encumber a position for training purposes due to the pending retirement of the regular incumbent.

d) For a trial period prior to promotion as explained in General Circular # 1286.

e) Pending the reclassification of the position. It would not be wise to permanently appoint an employee to a position that is in the process of being reviewed for a possible job title change.

f) The detail is made to one of the few job titles established by Civil Service that can be filled only by detail to special duty.

2) The duration of the detail should fit the reason for the detail and not exceed the period of actual need. Example: A

detail pending the receiving of and working of a certificate of eligibles should not be longer than a few weeks (or months if a special announcement needs to be made). Normally, a detail is not to be used to "get the person qualified" and then tested, especially if there is an adequate certificate of eligibles or there are other acceptable, qualified employees who can be appointed to the position.

3) Explain the detailing of an employee who does not meet the Civil Service minimum qualification requirements, especially if other current employees are qualified and/or there is an adequate certificate of eligibles. Explain why this employee is the most logical and best person for the detail. (Also, refer to #2 above.)

4) Avoid detailing probational employees, especially if the detail would be a circumvention of the hiring rules. Example: A probational employee is hired in one job and then detailed into a job for which he/she could not make a competitive grade. Such a circumvention of regular hiring rules will be viewed as serious and will be monitored in audit practices by Civil Service.

5) The Director's approval must be obtained when a detail lasts over a year. It must be obtained each time there is an extension(s) past the original one year. Avoid manipulating the time limits of details to get around the Director's approval. For example, avoid the practice of detailing a person for less than a year and then re-detailing him after a short break so that the detail does not continuously last longer than a year. This practice will be viewed as a serious circumvention of the rules and will be monitored in audit practices by Civil Service.

#### **Policy Standards for Job Appointments**

1. There must be written justification, maintained at the agency, as to why this should be a temporary appointment, rather than a permanent one. Rules 1.18 and 8.14 state only three (3) reasons as acceptable justification for a job appointment. They are as follows:

a) For work of a temporary nature. This means there is a "temporariness" attached to the situation. Job appointments are not to be used to hire employees to "see if they work out" for an ongoing job. This is the purpose of probational appointments.

b) To substitute for another employee. The regular incumbent may be on extended sick leave (includes workers' compensation), or may be detailed to another position, or may be on leave without pay to serve in an unclassified job.

c) Job appointments may be made for projects funded by grants not expected to be renewed past three years or for other projects expected to be temporary. This does not include positions normally funded by federal money. Many state positions are federally funded and there is often not a guarantee of continued funding.

2. The duration of the job appointment should fit the reason for it and not exceed the period of actual need. Example: If the job appointment is for work of a temporary nature, e.g., a special project, the employee should be used only for that project and should be let go promptly at the conclusion of the project.

3. No employee can serve continuously on a job appointment for over three (3) years. Furthermore, agencies should avoid hiring an employee long-term by placing him on a further job appointment after only a short break in service. It is not the intent of the rule to have employees make a career of temporary appointments. This practice will

be viewed as a serious circumvention of the rules and will be monitored in audit practices by Civil Service. Normally, there should be significant breaks between job appointments. For example, after a three-year appointment, a good "rule of thumb" would be a break of at least one year before the employee is placed on another job appointment.

4. Job appointments must not be used to circumvent normal, competitive hiring. Example: An agency cannot reach a desired employee on a probational certificate of eligibles, so it asks for a job appointment certificate to reach the person. This is not a legitimate use of an appointment that is supposed to be temporary by its nature.

#### **Policy Standards for Restricted Appointments**

1. There must be written justification, maintained at the agency, stating the reason for the restricted appointment. Rule 8.10(a)1 states only four reasons for such an appointment: a) for work of a temporary nature, b) to substitute for another employee, c) pending filling the position in a regular manner, and d) to address an emergency or work overload situation.

2. A restricted appointment should not be made if it would be more appropriate to make a provisional, job or probational appointment.

3. The employee must meet the minimum qualification requirements for the job.

4. The intent of this rule is to limit an employee's appointment to a maximum of six-months. The following will be considered as a serious circumvention of this rule and will be monitored in audit practices: a) a pattern of carrying over appointments from the end of one calendar year to the beginning of the next calendar year, thus resulting in appointments longer than six months, and b) reappointing the person on another restricted appointment after only a short break from a previous one near the end of a calendar year. A good "rule of thumb" is if an appointee has served six months on a restricted appointment, he/she should not be hired again on such an appointment for six months.

Allen H. Reynolds  
Director

0001#070

### **NOTICE OF INTENT**

#### **Department of Economic Development Office of Commerce and Industry Division of Business Incentives**

#### **Gaming Ineligibility (LAC 13.Chapter 3)**

The Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, in accordance with the Administrative Procedure Act R.S. 40:950, et seq. adopts the following rules regarding the policies and procedures of the Commerce and Industry Board concerning Gaming.

The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve, or disapprove applications for tax exemption programs administered by the Office of Commerce and Industry.

## Title 13

### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentives Programs

#### Chapter 3. Gaming Ineligibility

#### §301. Gaming Ineligible

A.1. Any entity who has received or applied for a license to conduct gaming or is owned, controlled or managed by a company that has received or applied for a license to conduct gaming shall be ineligible to receive a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry.

2. If an entity who has received a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry, subsequently, during the term of such contract, applies for or receives a license to conduct gaming or becomes owned, controlled or managed by a company that has applied for or received a license to conduct gaming, the Board shall, after notice, terminate the contract, and the entity shall repay any tax exemption, credit, rebate or other benefit received pursuant to the contract. The entity shall notify the Board of its application for or receipt of a gaming license or change in ownership, control or management.

3. An entity who is owned, controlled or managed by a company that has received or applied for a license to conduct gaming may apply for a contract for a tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry if the business operated by that entity is not related to and does not provide support to the gaming activity. The burden shall be on the applicant to prove that the business is not related to and does not provide support to the gaming activity. If the Board determines that the entity has provided sufficient proof that the entity is not related to and does not provide support to the gaming activity the Board may, in its discretion, grant a contract for any tax exemption, credit, rebate or other benefit.

#### B. Definitions

*Bingo* the game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on such a card.

*Economic Interest* any interest in a contract, license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

*Game* any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. Game does not include a lottery, bingo, pull-tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event or racehorse wagering.

*Gaming Device* any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine, including but not limited to slot machines or video draw poker devices, used directly or indirectly in connection

with gaming or any game which affects the result of a wager by determining wins or losses. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game.

#### *Gaming Operations or Gaming Activities*

a. the use, operation, offering or conducting of any game or gaming device;

b. the conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruise ship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit;

c. the intentional conducting or assisting in the conducting of gaming activities upon a riverboat as defined and authorized in R.S. 4:501-4:562, whereby a person risks the loss of anything of value in order to realize a profit;

d. the intentional conducting or assisting in the conducting of gaming operations at the official gaming establishment as defined and authorized in Chapter 10 of Title 4 of the Louisiana Revised Statutes of 1950.

*Pull Tabs* single or banded tickets or cards each with its face covered to conceal one or more numbers or symbols, where one or more card or ticket in each set has been designated in advance as a winner.

*Racehorse Wagering* wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator.

*Raffle* the game of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, and by conducting the game or games accordingly.

*Slot Machine* any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

*Video Draw Poker* device any unit, mechanism, or device authorized pursuant to the provisions of this Part, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for merchandise or cash. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Part. The term does not include any device authorized to be used in the conducting of charitable gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:926, 51:1786(6), 47:4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 21:258 (March 1995), LR 26:

R. Paul Adams  
Director

### Family Impact Statement

The Department of Economic Development, Office of Commerce and Industry hereby issues its Family Impact Statement: The Gaming Ineligibility rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Gaming Ineligibility

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other than those one-time costs directly associated with the publication of these rules. Present staff in the Business Incentives Division can implement this rule change.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is the estimate of this department that the failure of a few projects to become eligible for tax exemptions will not deter these projects from fruition. Therefore, no state or local governments will suffer any decrease in revenue due to this rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Businesses that are involved in gaming will not receive tax incentives granted by the Board of Commerce and Industry. No estimate of the number of ineligible businesses can be made.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that no significant affect on competition in the state will occur as a result of this rule. It is the belief of this department that the failure of a few projects to become eligible for tax incentives will not deter these projects from fruition.

R. Paul Adams  
Director  
0001#042

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

#### NSF Collection Fees (LAC 10:XV.505)

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950, et seq., and in accordance with the Collection Agency Regulation Act, LSA-R.S. 9:3576.1, et seq., and specifically, LSA-R.S. 9:3576.4, and pursuant to Louisiana Attorney General Opinion 98-257, the acting commissioner of financial institutions hereby gives notice of intent to promulgate the following rule to regulate the licensing, operations and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana, by clarifying the amount of fees which may be

collected by collection agencies and debt collectors for debts involving checks returned for nonsufficient funds.

### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

#### Part XV. Other Regulated Entities

#### Chapter 5. Debt Collection Agencies

#### §505. Collection of Nonsufficient Funds Fees

A. Purpose. In connection with the recovery of sums represented by returned checks for their clients, certain debt collection agencies are collecting service fees in excess of those allowed by law. The commissioner of the Office of Financial Institutions is statutorily mandated to implement the provisions of the Collection Agency Regulation Act, (CARA), LSA-R.S. 9:3516.1, et seq., as amended, to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana. This rule is being promulgated to clarify the amount of fees and charges which may be collected by debt collection agencies for debts involving checks returned for nonsufficient funds.

B. Definitions. The definitions for the terms utilized in this rule are the same as those provided for in the definitions section of the CARA, and specifically LSA-R.S. 9:3576.3.

C. Collection by a debt collection agency. In a debt collection agency's collection of claims represented by checks returned to its clients for nonsufficient funds, the debt collection agency may collect only those fees and charges allowed by Louisiana law, including but not limited to LSA-R.S. 9:2782.

D. Action. The commissioner may order a debt collection agency to return any fees and charges in excess of those allowed by Louisiana law. Failure to comply with this rule or the commissioner's order shall constitute a violation of the CARA and may subject the debt collection agency to administrative and/or enforcement action by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 9:3576.4

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

Any interested person may submit written comments regarding the contents of the proposed rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Blvd., Second Floor, Baton Rouge, Louisiana 70809; or by mail to: Louisiana Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana 70804-9095. All comments must be received no later than 4:30 p.m., February 20, 2000.

Doris B. Gunn  
Acting Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: NSF Collection Fees

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other

than those one-time costs directly associated with the publication of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Debt collectors will not incur additional costs or gain additional benefits as a result of this proposed rule. However, the proposed rule provides the commissioner with authority to order debt collection agencies to return any fees and charges in excess of those allowed by Louisiana law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn  
Acting Commissioner  
0001#067

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1794 State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.Chapter 1-3)

Editor's Note: *Bulletin 1794* was promulgated as a rule in LR 13:496 (September 1987), amended LR 14:227 (April 1988), LR 16:956 (November 1990), LR 16:957 (November 1990), LR 18:255 (March 1992), LR 18:955 (September 1992), LR21:201 (February 1995), LR21:551 (June 1995), LR21:1329 (December 1995), and LR 24:434 (March 1998) in uncodified format. This bulletin became a codified document in (June) 1999 and historical notes will reflect activity from that time forward.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement amendments to Bulletin 1794 promulgated in LR 25:1436-1458 (August, 1999) in codified format, referenced in LAC 28:I.919.A. The amendments reflect newly enrolled legislation that affects standards and procedures for the state textbook adoption process. The majority of revisions to the document are editorial. The bulletin is being reprinted in its entirety.

#### Title 28

#### EDUCATION

#### Part XXXIII. Bulletin 1794 State Textbook Adoption Policy and Procedure Manual

#### Chapter 1. Purpose

#### §101. Introduction

A. The State Board of Elementary and Secondary Education (SBESE), in accordance with Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, Part I, Sections 7 (4), 8(A)(1)(a) and Part IV, Section 351(A)(1), has the responsibility to prescribe, adopt, control and supervise the distribution and use of free school books and other materials of instruction in elementary, secondary, special, post secondary and vocational-technical schools across the state of Louisiana. The Louisiana Legislature appropriates funds in accordance with Article VIII, Section 13(A) of the Constitution for the purpose of providing

school books and other materials of instruction free of charge to the children of this state at the elementary and secondary levels.

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request his or her name be placed on the mailing list for textbook adoption information (R.S. 17:415.1A) by writing to:

State Department of Education  
Division of School Standards, Accountability  
and Assistance  
7th Floor, Room 740  
Baton Rouge, Louisiana 70802  
Attn: State Textbook Administrator

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

### Chapter 3. General Provisions

#### §301. Definitions

*Ancillary* materials shall be defined as materials that are intended and designed to be used with a comprehensive basal program submitted by the same publisher and may include materials such as workbooks, puzzles, assessment materials, black line masters, transparencies, etc. Ancillary materials will be added to the publisher's contract after the SBESE's approval of the basal textbook and teachers' edition.

*Basal* shall be defined as student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Content Standards for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the State standards and benchmarks and for the locally designed and aligned curriculum and course.

*Core Subject Cycle* refers to the adoption period for English/language arts, science, social studies, and mathematics.

*Teachers' Edition* shall be defined as materials used for informing teachers' instruction and are not designed or intended to be used by students. Teachers' editions may include teacher guides or instructors' manuals.

*Textbook* shall be defined as any medium or material (print or non-print), book, or electronic medium that constitutes the *principal source for teaching and learning* in a specified subject area. A textbook shall be a systematically organized core of *stand alone* instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved content standards or state curricular guides [e.g., home economics, foreign language, health, business education].

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§303. Textbook Approval**

A. The State shall prescribe and adopt free school books and other materials of instruction for use in elementary and secondary schools.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B)

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§305. Textbooks and Materials of Instruction**

A. State Screening of Textbooks and Materials of Instruction

1. The State shall assure that all school books, and materials for instruction submitted by State adoption are thoroughly screened, reviewed and approved as to their content by the SBESE and the local parish or city school board. Textbooks and teaching materials shall be available for public inspection at the Department's book depository and public libraries during regular office hours.

B. Adequate and Appropriate Instructional Materials Instruction [at the local level] shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted content standards.

C. Formal Adoption and Implementation of Textbooks

1. Each school district shall make a formal adoption of textbooks within *three months* from the date of State-level

approval by the State Board of Elementary and Secondary Education (SBESE) (Refer to Chapter 5, Local School System Representatives).

2. School systems shall implement the latest textbook adoption for core subject areas of English/language arts, science, social studies, and mathematics within a three year period, in accordance with locally determined levels of access to be provided to students (i.e. classroom sets, personal copy)(Refer to Chapter 5, Local School System Representatives).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§307. Louisiana State Adoption Cycle and Time Lines**

A. Texts for specific subject areas shall be adopted every seven years. See appendix for adoption cycles.

B. Broad time lines governing the adoption process are listed in §307.C. The Department of Education shall annually specify dates to be followed in each adoption year, per the Invitation Circular Letter to Submit Textbooks and Materials of Instruction for State Adoption, which is issued annually to publishers.

C. Time Lines

Invitation to Submit Textbooks and Materials of Instruction Issued by SDE. Notice of Publisher's Intent to Participate Due to SDE. SDE Supplies Submission Packet and Forms to Requesting Publishers.	Early March End March End March
State Committee is Appointed (confidential letter).	April
SDE Informs Participating Publishers of State Committee Names/Publicly Names State Adoption Committee.	April
SDE Provides Publishers' Mandatory Orientation Program for Publishers.	April
Submission Forms are Due from Publishers to SDE; Manufacturing Standards on each Book are Due to SDE.	May
Detailed Specifications are Filed by Publishers with SDE Regarding Hardware, Software, and Special Equipment Needed to review to review any items included in the bid.	May
Detailed Correlations to State Content Standards/Curriculum Guides are Due to SDE from Publishers.	May
SDE provides the mandatory State Committee Orientation.	June/July
State Committee Files a List with SDE of Equipment Needed to Review Textbooks.	June/July
Publishers Supply Textbooks for Review to Designated Locations.	June/July
State Committee Reviews Textbooks.	June/July - Mid September
Public Reviews Textbooks.	June/July - Mid September
Final Date for State Committee Members to Submit Written Questions to Publishers on Books Under Consideration.	Mid September
Final Date for Publishers to Submit Copies to SDE of Answers to Written Questions from State Committee.	October 1
SDE to Forward to State Committee Publishers' Written Answers.	First Week October
SDE to Forward to State Committee All Written Public Comments.	First Week October
State Committee Makes Final Recommendations for Adoption; State Committee Files Affidavit Regarding Contact with or by Publishers.	Mid October
Pub Publishers File Affidavit Regarding Contacts with State Board of Elementary and Secondary Education Members, Textbook And Media Advisory Council and Members of the Statewide Adoption Committee.	End October
SBESE receives the Report on Public Comments by Textbook and Media Advisory Council.	End October
Publishers Submit Final Versions of Texts to Replace Initial Galley Proofs.	End October
SBESE Approval of Textbooks is Recommended for Current Adoption and Contact Affidavits.	End October
SBESE Approves Publisher's Contracts.	November/December
Final Publishers of Adopted Textbooks Comply with SDE Directives on Production of Braille Materials.	End March
Textbook Caravan	November - January
Local Adoption	November - End March
Local Ordering	March - Mid May

NOTE: Specific dates and timelines to be specified by SDE each year with Invitation Circular Letter.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351 -353; 361-365; 415.1; 463

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§309. Funding for Textbooks**

A. The Constitution provides that the Legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education (SBESE) to the children of this state at the elementary and secondary levels. The SBESE annually develops and adopts a formula to determine the cost of a minimum foundation program of

education. Additional funds for textbooks may be awarded through state grants (e.g., 8g Quality Educators and K-3 Reading) and through federal grants.

B. State funds shall be used for the purchase of textbooks on the SBESE-adopted textbook list and academically related ancillary materials according to state guidelines (*Bulletin 741*, 3.026.13). Funds may also be used to purchase instructional materials that are manipulative and concrete in nature for grades Kindergarten - Three and appropriate special education classes in order to support the instructional program at these grade levels. Waivers for purchase of non-adopted textbooks/materials that exceed 10% of the state allocations may be granted to local school systems in special circumstances.

C. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

1. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

2. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials such as blocks, dramatic/housekeeping toys, manipulative (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

3. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math,

Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an *ad hoc* basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for here.

E. Public Schools

1. State and local funding for approved textbooks is generated through the Minimum Foundation Program (MFP) funding formula. The formula determines the minimum cost of total operational expenditures for each school system. Districts receive the State Board's share as part of a monthly allotment with provision for local flexibility that allows funds to be used as deemed appropriate by school systems. The amount of funding needed to supply an adequate number of new textbooks for any given adoption can be estimated using the following formula:

October 1 Student Membership (by Grade Level)	X	Textbook Unit Price (As Adopted by LEA)	=	Estimated Textbook Costs (Costs Shared State and Locally)
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2. It is required that districts take no more than three years to purchase newly adopted textbooks for core curriculum areas at all grade levels.

The following example provides a method for estimating minimum expenditures for any given adoption cycle.  
e.g., Mathematics Adoption Cycle:

<b>Step 1</b>	October 1 Membership	Unit Price	Estimated Costs	
	1,000 (Grades K-6)	X \$30.00	= \$30,000	Full Implementation
	+1,000 (Grades 7-12)	X \$40.00	= \$40,000	Full Implementation
	2,000 (Total)		= \$70,000	Full Implementation
<b>Step 2</b>	\$70,000/3	=	\$23,333	Estimated Minimum First Year <i>Math Implementation for a school district with student population 2,000</i>

F. Nonpublic Schools

1. Each nonpublic school receives a textbook allocation based on the number of K-12 nonpublic students enrolled in the SBESE and Brumfield-Dodd approved nonpublic schools. Reimbursement will be made to local school districts for purchases of nonsectarian books for nonpublic school students at the rate of \$27.02 per student.

All books (textbooks, library books, encyclopedias and encyclopedic references) that meet state standards and appropriate guidelines for selection are considered appropriate and may be purchased for nonpublic school students. *Orders for textbooks and materials of instruction must be delivered during each fiscal year (i.e., July 1 to June 30) in order to be eligible for reimbursement.*

October 1 Student Enrollment (Academically and Brumfield-Dodd approved schools)	X	\$27.02	=	State Nonpublic Textbook Allocation
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2. If materials and supplies are included in purchase orders, it will be the responsibility of the local school district to conduct audits to ensure that the materials and supplies are used to provide students with nonsectarian instruction. Furthermore, all textbooks must be purchased and distributed through the local school district for each eligible nonpublic school in its area. It is requested that reimbursement requests be submitted in a timely manner. Payments will be made from invoices only. *In no event should these funds be distributed directly to nonpublic schools.*

3. Payments for textbooks and textbook administration will be made upon receipt of the completed Nonpublic School Textbook Invoice form provided through the Division of Educational Finance Services.

#### G. Special Funding For Textbooks

##### 1. 8(g) Quality Education Support Fund

a. School districts and approved nonpublic schools may use 8(g) Quality Education Support Funds to supplement state MFP and local funding for textbooks and materials of instruction. The purpose of these funds is to ensure an adequate supply of superior textbooks, library books, and/or reference materials for these approved schools.

b. Effective with the 1996-97 granting cycle, Consent Judgement 90-880-A enjoins the State Board of Elementary and Secondary Education from making grant awards for library books and/or reference materials to nonpublic agencies that are determined to be pervasively sectarian entities.

c. Guidelines, issued each year by the State Board of Elementary and Secondary Education, should be consulted for specific requirements related to expenditures and for funding allocations.

H. Availability of Prestige License Plates and Applicable Revenues. R.S. 47:463.46, enacted during the 1997 Legislative Session, provides for a prestige license plate to provide special funding for the purchase of textbooks in approved elementary and secondary schools. The plate, bearing the words "Helping Schools," is available for purchase from the Department of Public Safety and Corrections at an annual fee of \$25.00, in addition to the regular fee. Revenues must be invested by the State Treasurer, on behalf of the SBESE. Funds must be used solely for the purchase of textbooks.

I. Use of Federal Funds. School districts are encouraged to develop a consolidated plan, using all available funding streams, including federal funds, in order that adequate and appropriate textbooks and materials of instruction are available for students.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### §311. Invitation Circular Letter

A. Specific dates are determined each year and are documented in the Invitation Circular Letter issued to publishers.

B. The Invitation Circular Letter shall be sent to interested publishers from the Office of Student and School Performance (tentatively set for *March 1 of each year; refer to specific guidelines issued by the SDE each year*). The

invitation will announce the subject and disciplines of materials being considered for adoption. Included in the invitation will be written guidelines and instructions covering the adoption process. The review of materials and adoption vote will be *limited to the student book (basal) and the teacher's edition*. Publishers are also required to list on appropriate forms all ancillary and free materials that will accompany the basal texts. (Refer to §301 for definitions of textbooks, basal, teachers= edition, ancillary, and core subject cycle.)

C. The SDE shall provide specific forms to be used for textbook submissions. Publishers must list *each* book separately, along with copyright, price, printing edition, and grade/subject area to be considered for adoption, even if the book is only part of a series.

D. *No substitutions* shall be allowed to the list of textbooks once publishers have submitted the response to Louisiana Textbook (LT) forms. Publishers *WILL NOT* be allowed to discuss upcoming editions or pending revisions of texts *at any meetings* of the State Textbook Selection Committee.

E. *EACH* book must be evaluated on the basis of its current content. Final bound galley proofs may be submitted under certain circumstances, providing that the final hardbound copy is submitted, received and approved by the SDE prior to the final vote of the State Board of Elementary and Secondary Education. (Refer to specific timelines issued by the SDE for each adoption cycle.) Unbound manuscripts *will not* be accepted.

F. Publishers must guarantee that textbooks and materials of instruction that are submitted for consideration in the "LT Submission" form will be made available for duration of a seven-year contract period. *Publishers cannot submit materials that cannot be guaranteed for the duration of the contracted period*. No substitutions of texts or prices are allowed (unless the price is lowered, per Favored Nations clause) once the Submission Form has been received by the SDE.

G. The Invitation Circular Letter shall also include an *Intent to Participate* form, which shall be returned to the SDE by all publishers interested in responding to the Invitation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### §313. Establish State Textbook Adoption Committee

A. All textbook adoption committees appointed by the Superintendent of Education shall contain a membership of not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. For purposes of this section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

B. Nominations for membership may be made by the State Board of Elementary and Secondary Education, local school superintendents, and representatives of the SBESE Nonpublic School Commission, as well as the State Superintendent of Education. The Committee shall contain a

broad cross section in membership, to include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

C. Potential committee members shall be screened for potential conflict of interest with textbook publishers. Appointed members shall have no direct or indirect contact with publishers nor shall members have any business relationship, previous or planned, with any publisher. Committee members shall receive nothing of value from publishers or representatives in the state textbook adoption procedures, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, and also an affidavit attesting that no conflict of interest with textbook publishers exists.

D. Committee members and publishers shall be informed in writing of appointment to the State Selection Committee by the State Superintendent according to the time line specified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction**

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A *State-Approved Textbook* is defined as a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the State-approved content standards and state assessment as approved by the SBESE. This definition includes any medium or material (print or non-print), book, or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State content standards, State-approved curriculum guides, and State assessment program.

2. Textbooks and materials of instruction should promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values. (R.S. 17:351).

3. Textbooks and materials of instruction should accurately reflect the contributions and achievements of people of differing races. (R.S. 17:351).

4. Other criteria as specified in the SDE-developed evaluation instrument(s).

Note: The SDE shall establish an appropriate evaluation instrument(s) that shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state content standards/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§317. Provide for a Publishers' Orientation**

A. The SDE shall schedule an orientation for all interested publishers. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the orientation or be eliminated*.

B. Publishers will receive information regarding expectations for content of state-adopted textbooks and materials of instruction. Procedures for submission, review and evaluation, and contracting will be discussed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers**

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

B. The SDE shall establish, in accordance with R.S. 17:415.1, a procedure that allows interested persons who are legal residents of Louisiana to inspect and review the books offered for adoption at the public review sites. Said procedure shall allow for written comments by citizens and written responses by publishers, and if requested, oral presentations by citizens and publishers.

C. *Interested citizens* who choose to make oral objections before the *State Textbook Adoption Committee* shall be allotted a maximum of ten minutes. Oral objections by citizens shall be limited to those objections that have been previously filed in writing with the Department of Education following review at the public display sites. Upon request, citizens may also request to state oral objections before the *Textbook, Media and Library Advisory Council* of the SBESE who will report findings to the Student Standards and Assessment Committee of the SBESE. Comments shall be limited to ten minutes and include only those previously filed in writing with the Department of Education.

D. *Publishers* shall provide a written response and shall have an option (maximum of ten minutes) to present a response before the State Textbook Selection Committee and the Textbook, Media and Library Advisory Council of SBESE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§321. Role and Responsibilities of the State Textbook Adoption Committee**

A. Committee members shall receive nothing of value from publishers during the state textbook adoption process, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, as well as an affidavit attesting that no conflict of interest with textbook publishers exists.

1. Members shall be informed in writing that they shall have *no contact with publishers* once formal appointment to the State Adoption Committee has been received. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement may result in immediate disqualification of the publisher and committee member.*

2. State Committee members shall be provided orientation and training by the Department of Education on purposes of the adoption, criteria for evaluation, use of the evaluation instrument(s), and procedures to be followed if local subcommittees assist in the review process. Staff members of the Department of Education shall serve as consultants on curricular content and adoption procedures during all meetings of the Committee.

3. Committee members are required to be in attendance and participate in all *scheduled* activities of the Committee. Members must be in attendance at all scheduled meetings of the Committee in order to cast a vote for textbooks under consideration. The committee chair shall verify the attendance of the members.

4. State Committee members shall evaluate all titles submitted for adoption using the state-approved evaluation instrument(s). One evaluation form shall be completed by each State Committee member on each title reviewed. Evaluation forms are designed to assist the State Committee member in formulating a final decision and vote. *Forms shall in no way be considered as binding upon the final vote of the committee member.* In accordance with public records law, evaluation forms used for decision making will be collected by the SDE.

a. Part of the evaluation allows each State Committee member to formulate and prioritize relevant questions to be addressed by publishers on each book. Said questions shall be forwarded to the SDE by each Committee member by a date to be specified by the SDE.

b. The Committee may elect to move titles of textbooks from one subject area to another if they believe that the publisher placed the book inappropriately in a subject area.

B. Each State Committee member may select, with assistance of the local textbook supervisor, a local five-member subcommittee. The Department encourages local subcommittees be made up of a broad cross section in membership, that may include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption to assist in the evaluation process.

1. Each subcommittee should evaluate textbook materials using procedures and instruments that parallel those specified by the Department of Education for the State Committee. The evaluation instrument(s) include an area for written questions to be addressed by publishers on specific textbooks. The questions will then be submitted to the State Committee member for consideration.

2. Evaluation forms completed by local subcommittees are to assist the State Committee member. Only those forms used by the State Committee members for decision making will be collected by the SDE.

C. The final vote on each textbook under consideration shall be through a voice roll-call vote, by those seated and present, with written record, which shall be duly recorded by the SDE. The State Committee member shall have discretion and final authority in the vote on each textbook under consideration for adoption.

1. Each book must receive a favorable majority (defined as one vote over half of appointed committee members in attendance) of votes of the State Textbook Selection Committee in order to be placed on the state adopted list.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§325. Adopting Authority**

A. The State Board of Elementary and Secondary Education (SBESE) is the official adopting authority in the state of Louisiana. The SBESE will receive the report from the Textbook, Media, and Library Advisory Council regarding public comments on textbooks proposed for adoption.

B. Oral objections shall be limited to those that have been previously filed in writing with the Department of Education following review at the public display sites. Persons choosing to make oral objections shall be allotted a maximum of ten minutes to address the full Board.

C. Publishers shall be allowed to provide a written response and or allotted a maximum of ten minutes to present relevant information before the full Board.

D. The Textbook, Media, and Library Advisory Council shall be composed of members appointed by the State Board of Elementary and Secondary Education. The Council's function is to review relevant legislation and proposed SBESE policy, to hear public comments regarding textbooks and materials of instruction proposed for state adoption, and to report findings to the Student Standards and Assessment Committee.

E. The Student Standards and Assessment Committee is made up of members of the State Board of Elementary and Secondary Education. The Committee may hear public comments which have been scheduled as a result of written comments received during the public review period. The Committee will in turn make recommendations to the full Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

## Chapter 5. Local School System Responsibilities

### §501. Local Planning

A. Local school systems shall develop a plan for providing adequate and appropriate instructional materials for students. Such plans shall include formal adoptions and appropriate procedures, as well as plans for implementation of policies included in §505. *Districts must submit plans to SDE by June 30 of each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

### §503. Formal Adoption (see also, Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within three months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Note: will require a change in *Bulletin 741*

### §505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within *three months* from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. Textbooks for Core Curriculum Areas

a. School systems shall implement the latest textbook adoption for *core subject areas* of English/language arts, science, social studies, and mathematics within a three-year period, in accordance with locally determined levels of access to be provided to students (i.e., classroom sets, personal copy, other specified arrangement).

b. *Currency* a school system shall implement the latest textbook adoption for *core subject areas within a three-year period*. Waivers of this policy shall be approved by the SBESE only upon extenuating circumstances as documented in the local Plan of Implementation to be submitted by June 30 of each year to the Department of Education.

c. *Quality* a school system shall annually provide students with textbooks *and materials of instruction that are useable and functional*. Upon initial adoption, textbooks and materials must conform to the Minimum Manufacturing Standards and Specifications for Textbooks as developed by the National Association of State Textbook Administrators (NASTA) in consultation with the American Publishers and Book Manufacturers=Institute.

d. *Access* a school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in *core subject areas* will

be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also *inform each parent/guardian in writing* at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include:

(a). textbooks provided for each student;

(b). textbooks provided via a classroom set;

(c). textbooks provided as both a classroom set and take home copy for each student; or

(d). other specified arrangement as deemed appropriate to the subject area by local officials.

3. Textbooks for Areas Other than Core Curriculum

a. Local school systems shall fully implement adoption in subject *areas other than core* as soon as funds will permit or as programmatic needs dictate. School systems must ensure that each child within the classroom will have equal access to any available instructional materials for non-core subject areas.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172;351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

### §507. Local Adoption Procedures

A. Purpose

1. To assure local public school systems have a defined procedure for textbook adoption.

2. To provide an opportunity for appropriate input in textbook selection.

3. To ensure curriculum content that reflects current national, state, and local standards of instruction.

B. Each local school system will hold a formal textbook adoption. The local textbook adoption process shall focus on those textbooks selected at the state level. *AFTER* the State Committee textbook recommendations have been approved by the State Board of Elementary and Secondary Education, within *thirty days* local school systems will be provided the list of State-approved textbooks. Additional information regarding cost items included with the basal text, as well as all items to be given at no cost to local school systems, shall also be made available.

C. Local Adoption Procedures

1. An Established Time Line

a. Local school systems *must* hold textbook adoption each year following SBESE approval of newly adopted texts. Districts are encouraged to hold local adoptions between *November and the end of March*. Participation in the State Textbook Caravan is optional but may be used as a part of the local adoption procedures (see §507 D).

b. The SDE must be notified as to the locally adopted textbooks and the school system's Plan for Implementation by *June 30* in the school year of the adoption.

2. Properly Constituted and Trained Local Adoption Committee

a. The local adoption committee will be composed of teachers, parents, and others with equitable representation by race, gender, and ethnic origin. For purposes of this

section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

b. Diverse membership is encouraged to include parents, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

c. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area content standards and assessments), voting procedure, and integrity of interaction with publishers.

#### D. Participation in State Textbook Caravan

1. School systems are encouraged to participate in the State Textbook Caravan as scheduled by the SDE. The State Textbook Caravan affords all school systems an equal opportunity to preview all State-adopted textbooks and ancillary materials with onsite availability of publishers to answer questions.

2. All school systems, public, private and parochial, are eligible to participate in the State Textbook Caravan.

#### E. Provision for Publishers= Contacts with Local School District; Optional Requests for Local Presentations

1. Local school systems are strongly encouraged to *establish a formal policy* regarding the method, time line, and procedure for publishers seeking to have contact with personnel at central offices and local school sites. Such policies may also address the provision of written materials to school and central office personnel as well as attendance of school and central office personnel at functions sponsored by publishers. Local school systems are further encouraged to *inform publishers* of local policy.

2. Local school systems may use the State Textbook Caravan as the single opportunity for publishers' presentations within the city/parish OR as a vehicle for identifying those publishers to be called for a local presentation.

3. *At the district's request, one* additional presentation by a publisher will be permitted at the local level for clarification of information on textbooks under consideration for adoption. However, such follow-up presentation *may not occur* prior to the conclusion of the State Textbook Caravan.

#### F. Sampling of Textbooks by Publishers; Violation will Disqualify Publisher

1. Publishers are to furnish examination copies *only at the written request* of the local school system textbook adoption coordinator after the State Committee review.

2. Samples are to be *limited to* sufficient quantities for the designated local adoption committee members only, as determined by the local system textbook adoption coordinator.

3. Other persons choosing to examine samples *must* use samples provided by the SDE at predesignated sites for public review.

4. No other examination copies will be permitted.

5. Publishers must notify local school systems, in writing, of the need to have samples returned. If notified by publishers, all samples received by local school systems must be picked up by the publisher within *thirty days* after the local adoption.

6. Publishers must make all necessary arrangements for sample returns at publisher's expense.

#### G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with State-adopted content standards and State and local curriculum objectives, where applicable, *shall* be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

2. An official summary report of local evaluation results is to be kept on file for a minimum of three years.

#### H. Notifying State of Local Textbook Selections

1. Local school districts shall notify the SDE of all textbooks selected by discipline and course via the local Plan of Implementation. Said notification must be made by *June 30* in the school year of the state adoption (Refer to §515 Records and Reporting Requirements).

#### I. Notifying Schools of Locally Selected Textbooks

1. Each school shall be provided a list of all components of the locally adopted basal textbook in each subject area, including those items which may be purchased with textbook funds and those items to be supplied by the publishers at no cost.

2. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

### §509. Ordering

A. All local systems must establish the amount of monies to be used for textbooks, library books, and school supplies from their MFP allocation. This breakdown shall be forwarded to the Office of Student and School Performance with its *Plan of Implementation* for the purchase of textbooks each year. The Plan of Implementation shall be submitted by *June 30* of each year.

B. Once the LEA determines the need of the schools based on the adoption schedule, orders may be placed with the SDE-designated textbook depository or directly with publishers.

C. When placing orders with the depository, the following schedule is suggested for ordering:

1. *March 15-May 15:* Initial Ordering (\*suggested time for ordering textbooks to be placed in schools for the first time in the coming school year)

2. *May 15-October 15:* Second Ordering (\*suggested time for revising initial order, ordering replacement or additional copies of texts already in use in the schools)

3. School systems may place orders in advance of the starting dates of each cycle.

D. All orders placed with the depository shall be delivered within ninety days of the end of each ordering cycle unless a later delivery date is requested by the LEA. Publishers and/or the state textbook depository may be fined 1% of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period, based upon complaints of local school districts and follow up review by the SDE. See §1901, Appendix.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§511. Direct Order of Textbooks**

A. Effective January 1, 1998, HB 1057 of the 1997 Regular Session provides that any *governing authority* of a public elementary or secondary school may order and receive State-adopted textbooks directly from a textbook publisher. Textbooks purchased directly from the publisher must be either the same price or lower than that offered from any other source.

B. Publishers may be fined 1% of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, based upon complaints of local school districts and follow up review by the SDE. (See §519 and §1901, Appendix.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§513. Waivers**

A. Purchasing Books not on the Approved State List

1. A local school system or school may use *up to but not exceed 10% of its textbook allotment* for the purchase of non-state adopted textbooks and materials of instruction. Approval by the State Board of Elementary and Secondary Education is not required.

B. Special Waiver to Exceed 10% of Textbook Allotment on Non-adopted State Textbooks and Materials of Instruction

1. A local school system, with the approval of its local school board or chartering authority, may petition in writing the State Department of Education for permission to spend *in excess of the 10%* allowance for non-adopted state textbooks. The Office of Student and School Performance will present the petition to the SBESE for action and notify systems of the results.

2. Requests shall be accepted from *March through May 31*. Textbook orders may not be processed until waivers have been approved. The last month for SBESE action on such waivers shall be *June*. Any extenuating circumstances shall be handled on an individual basis.

C. Purchase of Instructional Materials for Grades K-3

1. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

a. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

b. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials, such as blocks, dramatic/housekeeping toys, manipulatives (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

c. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. Special Purchase for Gifted Programs

1. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts *and* other parish or city school boards with programs for *gifted students* to select and purchase textbooks *not included on the lists adopted* by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to *prior approval by the Board*. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§515. Records and Reporting Requirements (see also, Bulletin 741, 1.026.12-13; 3.026.12)**

A. School systems shall maintain an inventory system for submitting records and reports as required by the Department of Education and include all textbooks on hand at the beginning of the session, as well as records of those added, worn out and in need of replacement.

1. Local Plan of Implementation

a. Local school systems shall submit an annual *Plan of Implementation* for textbook adoption to the SDE by *June 30 of each year*. Such plans shall document local implementation of adequate and appropriate instructional materials. *Specific forms for this purpose will be provided by the SDE. In addition, an ongoing textbook inventory system should be used to maintain records for a minimum of three years.*

b. The SDE must be notified of all textbook titles selected by discipline/course. This plan must address the number of books to be ordered by subject, course, and grade level. The school system shall *indicate which of the following options* will be applicable to the latest subject adoption:

- i. textbooks will be provided for each student;
- ii. textbooks will be provided via a classroom set;
- iii. textbooks will be provided as both a classroom set and take-home copy for each student;
- iv. other specified arrangements as deemed appropriate to subject area by local officials.

2. Textbooks Used By Blind and Visually Impaired Students

a. School systems in need of books and materials for use by blind and visually-impaired students should begin by contacting the school district's special education supervisor to ensure the student has an approved Individualized Educational Plan (IEP) that states the need for braille or large print materials. The local Textbook Implementation Plan submitted to the State Textbook Administrator each year should include a statement of need and a plan for securing textbooks for students who are blind or visually impaired. This plan should include the following:

- i. procedures for requesting/ordering from Louisiana Learning Resource System (LLRS);
- ii. procedures for securing textbooks not available from LLRS;

iii. number of students included on the census of students with visual impairments compiled by LLRS school code;

iv. number of students reported visually impaired and or blind to the Student Information System (SIS) at each school code.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§517. Textbooks for Home Study Program**

A. The following procedures shall be used for ordering of textbooks to be used in approved home study programs. Parents and or guardians *must* proceed through the following steps in order to access textbooks for students in home study:

1. submit an application to the SDE and obtain approval for participation in the Home Study Program;

2. present a copy of the approved Home-Study application form to the local Textbook Supervisor or designee at local school board office;

3. select the textbooks and/or materials needed from the listing provided by the textbook personnel at each local school board office (only materials approved by the SBESE and adopted by local school districts are provided, *when available*);

4. provide a deposit equal to fifty percent (50%) of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

NOTE: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13 (A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236-236.1; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§519. Report on Status of Local Ordering of Late Delivery by Publishers**

A. LEAs shall inform the SDE of any publisher who fails to provide textbooks within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period. Such notice shall be on forms prescribed by the SDE. (See §1901, appendix).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§521. Sale of Textbooks No Longer in Use**

A. LEAs shall request permission of the SDE to dispose, sell, or donate out-of-date or unuseable or unsaleable textbooks. Limitation: Textbooks no longer in use may not be sold to anyone whose intent is to resell them.

B. In order to obtain the greatest utility from out-of-use textbooks and to assist local school districts and schools, the following options are available to local school districts.

1. If a textbook or library book has been *out of use for over six months*, or upon replacement by a new edition of books, a parish or city school board may, with the *approval of the [State] Board*, donate said book to any public hospital,

any jail or prison, or any public institution, or to any individual for private use free of charge.

a. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use *in excess of six months*, or upon replacement by a new edition of books, or any textbook or library book which is deemed by said board to be unusable or unsaleable, shall be *disposed of* in an appropriate manner.

b. A parish or city school board, with the *prior approval* of the State Board of Elementary and Secondary Education, may by the *debinding* and shredding method, dispose of any textbook or library book that has not been sold or donated and has been out of use parish wide in excess of six months. If the debinding and shredding method is chosen, the following procedures are to be followed:

i. the local district shall submit request(s) to the SDE between March - June 30 of each year;

ii. upon submission of request (s), the local school districts shall notify all SBESE and Brumfield-Dodd approved non-public schools within their district of the availability of these textbooks by disciplines, giving them *three weeks* to express their interest in securing any of these textbooks;

iii. the local school district may select a vendor and enter into a contract for the debinding and shredding of those books no longer in use;

iv. the local school district shall maintain appropriate records for *three years*;

v. the local school district shall derive all funds from the debinding. Funds derived from such sale shall be used by the parish or city school board *solely* for textbook or library book purchases.

c. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited, per R.S. 17:8.1.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction.**

Note: This policy shall also be applicable to instructional materials, supplies, and equipment (See also *Bulletin 741*.)

A. HB 2175 of the 1997 Regular Session authorizes local school systems to establish methods by which responsibility for reasonable and proper care for and control over textbooks and other materials of instruction is ensured. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgment of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt

procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. School systems may withhold the grades of a student if a parent or guardian fails to compensate adequately the school or school system for lost, destroyed, or unnecessarily damaged books (through monetary fees or community/school service activities).

G. However, under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request.

H. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

I. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§525. Ongoing Inventory System**

A. Schools are required to develop and maintain an ongoing textbook inventory system. Records should be kept

on file a minimum of three years. Data elements should include those requested for the district's Plan of Implementation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

### **Chapter 7. Publishers= Responsibilities**

#### **§701. Requirements for Publishers= Participation in State Textbook Adoption**

A. Publishers are *required to follow the procedures* below in order to be eligible to participate in any state textbook adoption process. Publishers *must* provide the required information to the Department of Education by the specified time each year in order for submissions to be accepted for consideration.

B. An *Intent to Participate* form shall be mailed during each adoption year to publishers whose names and addresses are on file in the Department of Education.

C. Publishers are required to file an Intent to Participate form with the SDE by the assigned date in March each year in order to receive a full textbook submission packet.

D. Publishers are required to provide proof of registration with the Louisiana Secretary of State's Office in order for contracts to be legally negotiated. It is the *responsibility of the publisher* to ensure that proper forms have been completed and that the company is registered according to state laws and regulations.

E. Publishers are encouraged to submit such documentation along with the return of the Intent to Participate form. However, publishers may submit the verification at a later date, but no later than October 1 of each year. Under no circumstances will a contract be negotiated with a publisher without such documentation.

F. Publishers are required to provide the name, address, telephone, fax number, and electronic mail address, if applicable, of one local representative and one corporate representative of the company. The designated representatives should be those officials who are authorized to speak on behalf of the company within the State of Louisiana and who, at the corporate level, are authorized to enter into contract agreements with the Department of Education/SBSE. Such information shall be *submitted with the Notice of Intent to Participate form* to be submitted each year by interested publishers.

G. Publishers are required to *provide written notification* to the Office of Student and School Performance of changes in agents or representatives, addresses or phone numbers. *No more than two (2) names and addresses may be designated to receive information at any one time for any one person, firm, corporation or organization.*

H. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the orientation* to be scheduled annually by the SDE. Failure to have representation will result in disqualification of the publisher.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§703. Publishers- Formal State Textbook and Materials of Instruction Submission**

A. Publishers shall submit a formal response on SDE developed forms.

1. State Submission Forms for Textbooks and Materials of Instruction

a. Publishers must submit the *Intent to Participate* form by the prescribed deadline each year in order to receive the Invitation Circular Letter and accompanying SDE textbook submission packet.

b. All SDE forms must be fully and accurately completed. A publisher's submission form must clearly state each book or series of books the publishing company intends to offer in the appropriate subject area and for the appropriate grade level.

c. All submissions must be received in the Office of Student and School Performance, Department of Education building by 4:30 p.m. on the date specified each year. There will be no exceptions.

d. Failure to complete all required information on the submission form may result in disqualification of the publisher.

e. Publishers are required to submit detailed *manufacturing standards* on each book listed on the state submission forms. Manufacturing standards must be submitted *along with the submission forms*.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§705. Notification of Required Hardware, Software, Special Equipment Needed by State Textbook Adoption Committee Members to Review Textbooks and Materials Submitted by Publishers**

A. Publishers are required to submit in writing to the SDE by the designated time each year a detailed list of *hardware, software, and any special equipment* which may be needed by State Textbook Adoption Committee members for review of textbooks and materials of instruction.

B. Publishers *will be* responsible for costs associated with rental of needed equipment by State Committee members, if other means are not available to the member. Publishers will be billed by the SDE for rental of such equipment.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§707. Submission of Correlations to State-Approved Content Standards/Curriculum Guides**

A. Publishers are required to submit in writing detailed *correlations to State Content Standards/Curriculum Guides* for subject/content areas under adoption by the specified time each year.

B. Specific requirements shall be issued by the SDE regarding the format and methods to be used in preparing and reporting of correlations.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§709. Textbook Samples for Review by State Textbook Adoption Committee Members and State Citizens**

A. Publishers are *required to place a fixed label on the outside of each book* to be mailed to Committee members or to Public Review sites. Each label shall clearly identify the following, in this order:

1. traditional; non-traditional; thematic;
2. subject area which corresponds to the state submission form;
3. applicable grade level;
4. title;
5. teacher or student edition;
6. publisher; and copyright date.

B. A *checklist of titles* should be enclosed with *each box*.

1. The checklist should include the following, in this order:

- a. book title,
- b. corresponding state adoption subject area,
- c. applicable grade level,
- d. teacher or student edition,
- e. publisher, and
- f. copyright date.

2. In addition, a list of *all textbooks* submitted for State adoption is required in order to determine whether total shipments from the publisher have arrived.

C. Publishers *shall not provide any item of value*, no matter how insignificant, to State Committee members (i.e., no mugs, book bags, pens, or other token of appreciation) when samples are distributed. *No brochures or marketing information shall be included with shipments*.

D. Publishers shall send appropriately labeled samples of all basal and teachers' editions listed on submission forms to *location(s) designated by the Department of Education*.

E. Publishers should obtain a returned signed receipt as verification that *all titles* submitted for State Textbook Adoption Committee review have been received at designated location(s). Publishers shall be responsible for ensuring that books are received at designated location(s) for subsequent review by State Textbook Adoption Committee members. A summary check list that corresponds with materials submitted for review is required in addition to individual packing lists.

F. If samples are *not received* by the SDE-specified deadline, or are not of sufficient quantity for distribution, the book *shall be disqualified* from the adoption process.

G. The publisher will have the responsibility of making arrangements to have materials picked up from the Committee members at the conclusion of the voting process. If the publisher fails to make the necessary arrangements within thirty days after the adoption, the materials will become the property of the Committee members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§711. Submission of Galley Proofs**

A. Galley proofs may be submitted to designated location(s) as samples for review by State Committee members *provided that the finished books will be available by the date specified by the SDE each year.*

B. A *galley proof* shall be defined as the *final bound* manuscript set in type with all corrections made and the elements of the pages arranged in their final form [i.e., only book binding required for completion].

C. In the case of galley submissions, publishers *must* also submit detailed manufacturing standards that will be used when the final book is published.

D. Publishers shall pick up galleys from the designated public review sites and replace them with finished books prior to the State Caravan.

E. Any new or updated editions of the originally adopted book must be provided to the SDE at the same price and terms as stipulated in the submission form and State contract. *Updated editions or additions to complete a series previously adopted must be submitted to the SDE for review and recommendation to the SBESE by the specified time each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§713. Samples for Public Review**

A. *Publishers* are required to supply an adequate quantity of textbooks/materials of instruction for placement at the public review sites.

B. The SDE shall arrange sites for public display of proposed textbooks and shall provide a written form for public comment. Copies of basal textbooks being considered for adoption shall be placed in cooperating public libraries in those cities named in La. R.S. 17:415.1: New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette and Houma. Public libraries must be contacted initially for use of their facilities for public display; and if they are unable to accommodate the display, the State Department of Education may select an alternate site.

C. Publishers shall pick up galleys from the designated regional library/public review sites and replace them with finished books prior to the State Caravan.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§715. Role of the Publisher During State Committee Review**

A. The SDE shall inform all publishers submitting an Intent to Participate form of the names of appointed State Committee members. Publishers shall have *no personal contact* with the State Committee members once names of Committee members have been released by the SDE *and until such time as the State adoption process has been completed.*

B. Personal contact shall be defined as any one-on-one, written, or third parties contact, other than the presentation of materials or provision of SDE requested materials at State-requested or conducted textbook adoption proceedings.

C. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement will result in immediate disqualification of the publisher.*

D. Publishers shall provide nothing of value to any Committee member at any time during, or after the adoption process.

E. Publishers shall be required to file written affidavits regarding any contact with State

Textbook Adoption Committee members AND with State Board of Elementary and Secondary Education members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

#### **§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration**

A. Each State Textbook Adoption Committee member may formulate and prioritize relevant questions to be addressed by publishers on each book under consideration for adoption. Questions shall be forwarded to the SDE by each Committee member on forms prescribed for such purpose by a date to be determined by the SDE.

B. *Questions* may address the physical characteristics and layout; factual content of the book; relationship to State content standards and assessment; organization, presentation and sequencing of content; and any other area specified for evaluation on the State evaluation form. Questions *may not address* items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings. Questions will be forwarded to publishers.

C. Written responses shall be developed by publishers according to SDE instruction. Failure to respond according to the specified time line will disqualify the book for consideration of adoption.

D. *Responses* by publishers *may not address* items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings.

E. Sufficient copies of the *written responses* shall be forwarded to the SDE by respective publishers according to the specified time each year. The SDE shall be responsible for forwarding copies of the written responses to State Committee members.

F. All meetings of the State Textbook Adoption Committees *shall be open to the public.* The SDE shall post official public notice of all meetings of the Committee.

G. Each publisher shall be invited to a question/answer session during which time State Committee members may seek further clarification to written responses provided by publishers or may pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher= editions align with the state content standards and assessment program. *Publishers may not address ancillary or free materials proposed for addition after SBESE approval of the basals.*

H. Publishers shall be allocated a maximum time period for the question/answer session, as specified by the SDE .

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§719. Publisher Conduct During the State Caravan**

A. Publishers *shall NOT* provide any item of value, no matter how insignificant to local committee members (i.e., NO mugs, book bags, pens, or other tokens of appreciation) when samples are distributed.

B. Publishers shall NOT solicit names or make requests related to samples.

C. No sample books are to be removed from the Caravan.

D. Publisher fees will be collected to cover costs of refreshments at each location.

E. Folders of related product information may be offered.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§721. Obligations to Provide Textbooks and Materials of Instruction within Prescribed Time Periods**

A. Publishers must ensure that textbooks are delivered to local school systems within ninety days of the end of the appropriate ordering cycle as specified. The SDE may authorize fines on textbook publishers who fail to deliver ordered materials within the ninety day time line. Said fine shall equal 1% of the outstanding balance for any order that has not been received by the local school system within ninety days after the closing date of the appropriate ordering cycle.

**1. State Contract for Adopted Textbooks and Materials of Instruction**

a. The State Board of Elementary and Secondary Education, at its meeting of June 28, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and approved the following amendments to textbook adoption procedures, *effective June 28, 1990*:

Note: In the 1990-91 adoption and all other adoptions thereafter, all titles approved through the State textbook adoption process will carry a definite contract not to exceed seven years.

b. The State textbook adoption process shall be limited to basal textbooks and Teacher's Editions only. Ancillary materials will carry a fixed cost for the life of the contract. Free materials included in the formal submission by publishers must clearly indicate period of availability, if other than the seven-year contractual period.

c. Publishers with materials under contract with the State of Louisiana may add materials during the specified time each year. The *addition* can be only textbooks that complete an adopted series, ancillary materials that accompany an adopted basal program, or a new copyright edition of an adopted textbook. If a new copyright edition is requested for addition it, *must* be priced as the same cost of the copyright edition under contract. At any time during the life of this contract, if the publisher should charge less to others for materials under contract, the publisher must agree to reduce the price to the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§723. Braille Accessibility (R.S. 17:1985; SCR 15 of 1997; SCR 149 of 1997)**

A. SCR15 of the 1997 Regular Session requires the State Board of Elementary and Secondary Education (SBESE) to coordinate a statewide system of providing braille books to visually-impaired students by tracking braille books already available and supplying funds for those needed. In addition, SCR 149 of the 1997 Regular Session provides for *access and use of technology* by blind and visually impaired students.

B. Publishers shall furnish, within ninety days of state adoption, to the American Printing House for the Blind computer diskettes for State-adopted literary subjects in an electronic text file from which braille or large print versions can be produced. Files will be used by blind or visually impaired students in Louisiana. Electronic text files for nonliterary subjects - including natural science, computer science, mathematics, and music - must be provided when braille specialty code translation software is available.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**Chapter 9. Appendix A**

**§901. Adoption Cycle**

Note: Forms contained in the Appendix are subject to revision by SDE.

**Louisiana State Textbook Adoption Cycle:  
Core Subject Areas Are Adopted Every Seven Years**

1998-99	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Social Studies K-12	Language Arts K-8	Language Arts 9-12	Vocational Agricultural	Science K-12	Foreign Language	Mathematics K-12
	Grades 6-12 Literature	Reading K-8	Business Education	Health and Physical Education	Handwriting Music/Fine Arts	Computer Science
	Computer Literacy		Home Economics	Computer Literacy		
			Health Occupations			

Note: Separate categories for special education are no longer adopted.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

State of Louisiana  
Department of Education  
State Textbook Adoption

PUBLISHER’S AFFIDAVIT

I, \_\_\_\_\_ (printed name), an authorized representative of the publishing company (printed name), do hereby certify the following:

- A) No representative of my company or affiliate company will try to influence the vote of a State \_\_\_\_\_ Adoption Committee member, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be given to any *State Committee member* by my company after the State Department of Education (SDE) publicly discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens, and any other item of value or token of appreciation.

In the event that my company has within *the last year* given any item of value to a person named as a State Committee member, I shall immediately (*within ten days* of the naming of the State \_\_\_\_\_ Adoption Committee) inform the SDE in writing of such gift. The written correspondence shall describe the nature of such gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure that my company has no affiliation or business arrangement with any State Adoption Committee member.

In the event that my company has within the *last year* had an affiliation with or any business arrangement with a person named as a State Committee member, I shall immediately [(*within ten days*) of the naming of the State \_\_\_\_\_ Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and will be mailed to the LDE Textbook Administrator.

- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the SDE regarding materials to be provided and procedures to be followed during the State \_\_\_\_\_ adoption process.

\_\_\_\_\_  
Signature of Authorized Local Representative

\_\_\_\_\_  
Date

Note: *REQUIRED FORM* -- Must be returned to SDE by \_\_\_\_\_  
Date

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

State of Louisiana  
Department of Education  
State Textbook Adoption

STATE ADOPTION COMMITTEE MEMBER-S AFFIDAVIT

I, \_\_\_\_\_(printed name), do hereby certify the following:

- A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once the Louisiana Department of Education (SDE) discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately [*within ten days*] of naming the State Textbook Adoption Committee] inform the SDE of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure the Department that I have no affiliation or business arrangement with any publisher or its affiliated company. In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately [*within ten days* of naming the State Textbook Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the SDE Textbook Administrator.
- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be followed during the state textbook adoption process.
- E) I assure the Department that I will attend two mandatory meetings, the orientation to be held \_\_\_\_\_ and full committee review \_\_\_\_\_.  
(Date) (Date)

\_\_\_\_\_  
Signature of State Adoption Committee Member

\_\_\_\_\_  
(Date)

*Note: REQUIRED FORM: Return to SDE by \_\_\_\_\_.*  
*Attn: Jackie Bobbett*  
*Baton Rouge, LA 70802*  
*FAX: (225) 342-3463*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 25



State of Louisiana

Department of Education  
Division of School Standards, Accountability, and Assistance  
\_\_\_\_\_ State Textbook Adoption  
PUBLIC COMMENT FORM

Forms must be typed or neatly printed. A separate form should be completed for each textbook.

The State is currently considering textbooks and materials of instruction for \_\_\_\_\_ classrooms, grades \_\_\_\_\_. This form is intended to allow Louisiana citizens to make comments regarding those textbooks under consideration.

Publisher: \_\_\_\_\_ Subject Area: \_\_\_\_\_  
Title: \_\_\_\_\_ Author: \_\_\_\_\_  
Grade Level: \_\_\_\_\_ Copyright: \_\_\_\_\_ Name of person making comment:  
Address: \_\_\_\_\_ Area Code/Telephone No.: Home ( ) Work: ( )  
Parish of Residence: \_\_\_\_\_

Do you represent: ? Yourself An Organization (Name): \_\_\_\_\_

Do you have children of school age? ? Yes ? No;

If yes, what type of school do they attend? ? Public ? Non-Public (Receive State Funds) ? Non-Public (Does not Receive State Funds)

? I would like to present my comments in the form of an oral presentation before the State Committee(s) involved with adoption.

The following information must be completed:

I object to the following materials in this textbook. Please be specific: i.e., cite passages, pages, ideas, pictures, chart, copyright, etc. (Please use additional sheets if nee

Have you personally reviewed the material in its entirety? ? Yes ? No ? Segments Only

Is your objection to this material based upon: ? Personal exposure? ? Reports you have heard? ? Both?

Are you in anyway affiliated with a publishing company presenting material for adoption? ? Yes ? No

Would the publication have merit if the objectionable pages were removed? Explain

\_\_\_\_\_  
Signature Date

Form must be returned by 4:30 p.m. MMDDYY, to Jackie Bobbett, State Textbook Administrator  
Division of School Standards, Accountability, and Assistance Louisiana Department of Education  
P. O. Box 94064  
Baton Rouge, LA 70804-9064  
FAX: (504) 342-5736

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

STATE OF LOUISIANA  
DEPARTMENT OF EDUCATION

NOTICE OF PUBLISHER'S FAILURE TO DELIVER  
STATE ADOPTED TEXTBOOKS AND MATERIALS OF INSTRUCTION IN  
ACCORDANCE WITH STATE CONTRACTS

School districts should complete the following form and submit an original signed copy to the State Textbook Administrator in the event that State-adopted textbooks and materials of instruction are not delivered within ninety days of the last ordering cycle. Upon approval by the State Department of Education, local school systems may fine a publisher 1% of the outstanding balance of delinquent order. State contracts stipulate that failure to deliver textbooks and materials of instruction within ninety days of the last ordering cycle may render state contracts null and void.

Date

\_\_\_\_\_  
Name of Publisher

\_\_\_\_\_  
(Mo/Day/Year)

Briefly explain steps taken to date to trace/recover State adopted textbook order:

\_\_\_\_\_  
\_\_\_\_\_  
Signature District Superintendent

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**Chapter 21. Appendix , State Laws**

**§2101. Free School Books**

The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels. [Article VIII, Section 13(A) of the Louisiana Constitution of 1984]

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2103. Duties, Functions, And Responsibilities Of Board [R.S. 17:7(4) ]**

The Board shall prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2105. School Books Prescribed By Board; Contracts With Publishers [R.S. 17:8]**

A.1.a. The Board shall prescribe and adopt and shall exercise control and supervision over the distribution and use of free school books and other materials of instruction for use in elementary and secondary schools and special schools, as provided by Part IV of Chapter 1 of Title 17 of

the Louisiana Revised Statutes of 1950, and shall adopt necessary rules and regulations governing their use by schools, parish and city school boards, and parish and city superintendents of education. Such rules and regulations shall include but not be limited to a requirement that each parish and city school board shall adopt by not later than the beginning of the 1991-1992 school year procedures permitting any public school student to have use after regular school hours during the week and on weekends of any school book used to teach reading. Any public school student using any school book pursuant to the provisions of this Subsection shall be responsible for such school book. These procedures shall not be applicable to basal readers and programs.

b.i. All school students and persons responsible for a student's school attendance shall be accountable for exercising reasonable and proper care for and control over school books and other instructional materials, supplies, and equipment.

ii. Notwithstanding any law or rule or regulation to the contrary, the governing authority of an elementary or secondary school may withhold the grades of a student who does not reimburse the school or school system for the student's failure to exercise reasonable and proper care for and control over school books or other instructional materials, supplies, and equipment.

iii. In accordance with the authority granted to the State Board of Elementary and Secondary Education by the provisions of this Subsection, the Board shall formulate, develop, adopt, and provide for implementation by not later than January 1, 1998, by each governing authority of a public elementary or secondary school of appropriate policies and procedures consistent with the provisions of this Subparagraph, including meaningful sanctions and penalties, to enable school administrators to hold public school

students and persons responsible for a student's school attendance accountable for failing to exercise reasonable and proper care for and control over any public school book or other instructional materials, supplies, and equipment.

c. The Board shall adopt lists of basic textbooks and shall adopt one or more lists thereof. It may authorize and approve revised editions of any school book it adopts.

2. The Board may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the legislature for the purchase of textbooks as provided for herein.

B. The Board shall prescribe and adopt and shall exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for post secondary and vocational-technical schools and programs.

C. Each contract with a publisher for school books shall be awarded on a competitive basis. Each such contract shall be made for a term to be determined by the State Board of Elementary and Secondary Education. Each contract shall be so made as to authorize the Board to terminate it upon ninety days notice. The procedure for the announcement of school book adoptions, examining books, and awarding contracts shall be under the control of the board and in accordance with any applicable law. The Board shall have authority to set and collect fees from publishers participating in the State school book adoption procedures.

D. Each contract shall stipulate that the publisher shall automatically reduce the net cost of textbooks in the state when the net cost of the publisher for books covered by the contract are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in this state at a higher net cost than that received for that book elsewhere in the United States.

E. Each contract with a publisher shall stipulate that the book or books covered by the contract to be sold in this state shall be identical with the official samples filed with the Board with respect to size, paper, binding, print, illustrations, subject matter, and all other particulars which may affect the value of said books. However, during the period of the contract, the Board may approve revised editions of an adopted textbook or service at the bid price, which will authorize a publisher to provide such revisions.

F. Each contract with a publisher shall stipulate that, whenever five thousand or more copies of a textbook of a single title and edition are to be purchased by the State from a single publisher during a twelve month period which shall be established by the Board by rule, not less than eighty percent of the total number of the copies of such book purchased by the state shall be printed and bound by a printer licensed to do business and doing business within the state, provided that the publisher receives a timely bid made according to the publisher's bid-making requirements from such a printer and provided that the printer is able to print and bind such book in accordance with the manufacturer's specifications for state textbooks as promulgated by the State Department of Education and at a cost equal to or less than the unit cost per book for the same number of books made in

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a otherwise qualified bid by any out-of-state printer bidding on the same work. Whenever two or more printers in this state submit bids which would qualify all of them to print and bind textbooks pursuant to this Section and one such printer is a minority-owned business as defined in R.S. 39:1952(13), the minority-owned business shall be awarded not less than ten percent of the printing and binding required by this Section to be done in this state.

G. The State Department of Education shall be the depository in the state for books for the schools. The superintendent may do all things necessary and proper for the Department to function as such depository, including but not limited to the power to enter into contracts or agreements and to acquire property, through lease or purchase, in which the depository is to be located, and to determine the location or locations of the depository. The superintendent may require publishers to maintain a depository in the state or may contract, in accordance with the procedures for the letting of contracts set forth in applicable provisions of the Louisiana Procurement Code particularly R.S. 39:1593 with any other public or private agency to act as the depository.

H. The State Department of Education shall require any depository with whom the Department does business to provide the Department a written summary of all purchase orders for textbooks received by the depository from the Department. The depository shall transmit such summary within three business days whenever the Department requests it to do so and the Department shall make such a request upon the written request of any printer licensed to and actually doing business in Louisiana. Such a summary shall be a public record. The summary shall itemize the total number of copies of each book which is the subject of a purchase order, the unit price of each book, the commissions paid to or the discounts received by the depository, and the publishers of each book.

I. The books shall be distributed to the several parish and city school boards from the depository on requisition of the superintendent of education for public elementary and secondary education.

J.1. The Board shall establish a procedure enabling any governing authority of a public elementary or secondary school, effective January 1, 1998, and thereafter, to order and receive textbooks approved by the board directly from textbook publishers. The procedure shall include but not be limited to permitting a public elementary or secondary school governing authority to contract with a textbook publisher and receive any applicable publisher's discount. However, any textbook purchased under the provision of this Paragraph shall be purchased at the same or lower price than such textbook can be purchased from any source other than the publisher.

2. The Board shall adopt necessary rules and regulations in accordance with the Administrative Procedure Act to implement the provision of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2207. Sale of Schoolbooks no Longer in Use [R.S. 17.8.]**

A. A parish or city school board with the prior approval of the State Board of Elementary and Secondary Education

may sell any textbook or library book no longer in use in the school system to any person or entity for private use at a fee established by the parish or city school board. Funds derived from such sale shall be used by the parish or city school board solely for textbook or library book purchases.

B. If a textbook or library book has been out of use for over six months, or upon replacement by a new edition of any such books, a parish or city school board may, with the approval of the [State] Board, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

C. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use in excess of six months, or upon replacement by a new edition of any such book, or any textbook or library book which is deemed by said Board to be unuseable or unsaleable, shall be disposed of in an appropriate manner. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2209. Operation of Public Elementary and Secondary Schools in Accordance with State Law or Policy: Penalties for Violation [R.S. 17:172]**

No free school books or other school supplies shall be furnished nor shall any state funds for the operation of school lunch programs, or any other school funds be furnished or given to any elementary or secondary school which violates the provision of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2211. Free school books and other materials of instruction [R.S. 17:351]**

A.1. The State Board of Elementary and Secondary Education shall prescribe and adopt school books and other materials of instruction, which it shall supply without charge to the children of this state at the elementary and secondary levels out of funds appropriated therefore by the legislature in accordance with the requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

2. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which accurately reflect the contributions and achievements of people of differing races.

3. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties values, and traditional standards of moral values.

B. The Board also shall prescribe and supply school books and other materials of instruction for use by students attending vocational-technical schools and programs under the jurisdiction of the board.

C.1. The Board shall establish rules and procedures for supplying schoolbooks and other materials of instruction approved by the State Board of Elementary and Secondary Education as required by this Section for children participating in any home-study program approved by the board when available. Such rules and procedures shall include but not be limited to a requirement that any school books and other materials of instruction provided pursuant to this Subsection shall be made available only to the child or children of the parent or legal guardian obtaining approval for a home study program.

2. The board shall provide a copy of such rules and procedures to any parent or legal guardian applying for approval of a home study program.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2213. Books, Films, Other School Materials; Screening Required [R.S. 17:352]**

A.1. The State Board of Elementary and Secondary Education, the State Department of Education or either of these shall take such action as is necessary to assure that all school books and materials of instruction submitted for state adoption are thoroughly screened, reviewed and approved as to their content by the State Board of Elementary and Secondary Education and the local parish or city school board concerned.

2. The State Board of Elementary and Secondary Education or the State Department of Education shall take such action as is necessary to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction and computer and related technological equipment and supplies, including but not limited to any group created pursuant to the provision of R.S.17:415.1, shall contain a membership not less than one-third of which are teachers as defined in R.S. 17:415.1.

B. The State Board of Elementary and Secondary Education shall maintain a copy of all approved textbooks and teaching materials. Such textbooks and teaching materials shall be maintained in the Department of Education for a period of one year following their initial approval and thereafter shall be maintained in the Department's book depository during the time they are approved for use in Louisiana's public schools. Such textbooks or teaching materials shall be available for public inspection during regular office hours.

C. The State Board of Elementary and Secondary Education shall adopt rules and regulations to carry out the provisions of this Section.

D. Whoever intentionally violates any provision of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not to exceed six months, or both.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2215. Costs of Administration; Textbooks and Instructional Material Distribution to Nonpublic School Students [R.S. 17:353]**

A. Beginning with the 1993-1994 school year, each city and parish school board which disburses school library books, textbooks, and other materials of instruction to nonpublic school students shall submit to the Superintendent of Education such documentation as he may require to verify the administrative costs incurred by the school board in the disbursement of such books and instructional materials.

B. The verified costs of administration incurred by each city and parish school board shall be paid by the State.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2217. Required Reports and Records; Cost Reimbursement to Approved Nonpublic Schools (Reimbursement of Required Costs) [R.S. 17:361]**

The Superintendent of Education, in accordance with rules and regulations adopted by the State Board of Elementary and Secondary Education, shall annually reimburse each approved nonpublic school, for each school year beginning on and after July, 1979, an amount equal to the actual cost incurred by each such school during the preceding school year for providing school services, maintaining records and completing and filing reports required by law, regulation or requirement of a state department, state agency, or local school board to be rendered to the state, including but not limited to any forms, reports or records relative to school approval or evaluation, public attendance, pupil health and pupil health testing, transportation of pupils, federally-funded educational programs including school lunch and breakfast programs, school textbooks and supplies, library books, pupil appraisal, pupil progress, transfer of pupils, teacher certification, teacher continuing education programs, unemployment, annual school data, and any other education-related data which are not or hereafter shall be required of such nonpublic school by law, regulation or requirement of a state department, state agency, or local school board.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2219. Applications For Reimbursement [R.S. 17:362]**

Each school which seeks reimbursement pursuant to this Part shall submit to the superintendent an application therefore, together with such additional reports and documents as the superintendent may require, at such times, in such form, and containing such information as the superintendent may prescribe in order to carry out the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:

**§2221. Maintenance of Records [R.S. 17:363 ]**

Each school which seeks reimbursement pursuant to this Part shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services

for which reimbursement is authorized by R. S. 17:361. Such records and accounts shall contain such information and be maintained in accordance with regulations adopted by the Board, but for expenditures made in the school year 1979-1980, the application for reimbursement made in 1980, pursuant to R.S. 17:361 shall be supported by such reports and documents as the Superintendent shall require. In promulgating such regulations concerning records and accounts and in requiring supportive documents with respect to expenditures incurred in the school year 1979-1980, the Superintendent shall implement the audit procedures provided in R.S. 17:365. The records and accounts supporting reimbursement for each school year shall be preserved at the school until the completion of such audit procedures.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 72; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2223. Payment [R.S. 17:364]**

No payment to a school shall be made pursuant to this Part until the Superintendent has approved the application submitted pursuant to R.S. 17:362.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2225. Audit [R.S. 17:365]**

A. No application for reimbursement under this Part shall be approved except upon such audit of vouchers or other documents by the Superintendent as is necessary to insure that such payment is lawful and proper.

B. The legislative auditor may from time to time examine, in accordance with the provision of R.S. 24:513, any and all accounts and records of a school which have been maintained pursuant to this Part in support of an application for reimbursement for the purpose of determining the cost to such school of rendering the services referred to in R.S. 17:361. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, such school shall immediately reimburse the state in such excess amount.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2227. Materials; Adoption Procedures [R.S. 17:415.1]**

A. Any interested citizen may request that his name be included on the mailing list for textbook adoption information by writing to the Director of the Bureau of Materials of Instruction and Textbooks; State Department of Education; Capitol Station; Baton Rouge, Louisiana. Any person who has made this request shall be timely notified of the name and address of each member of all textbook adoption committees and the Textbook and Media Advisory Council; the times, places, and agenda of all committee and council meetings; and the titles, authors, and publishers of all textbooks proposed for adoption.

B.1. All textbook adoption committees appointed by the superintendents of elementary and secondary education shall contain a membership not less than one-third of which are

teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. All meetings of textbook adoption committees and the Textbook and Media Advisory Council shall be open to the public. Any member of the public may attend and file written or make oral objections to any textbook under consideration. The State Board of Elementary and Secondary Education shall adopt a form whereby any member of the public may file written objections to any textbook being considered for adoption.

2. For purposes of this Subsection, the term **Teacher** shall mean any persons employed by a city or parish school board who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education.

C. The State Department of Education shall ensure that, all textbooks being considered for state adoption are placed prior to State adoption and for a period of at least sixty (60) days in a cooperating public library in New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma, and any other city designated by the Superintendent of Elementary and Secondary Education. Any interested person may inspect and review the books during the period when they are on display.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2229. SCR 15 of 1997, Regular Session**

The Legislature of Louisiana urges and requests the State Board of Elementary and Secondary Education to coordinate a statewide system of providing Braille books to visually impaired students by tracking the Braille books already available and providing funding for those books which are needed.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the State Board of Elementary and Secondary Education, LR 26:

**§2231. SCR 149 of 1997, Regular Session**

A. The Legislature of Louisiana hereby urges and requests that information technology programs and activities of the state which are supported in whole or in part by public funds incorporate aspects which facilitate access to and use of such technology by the blind and visually impaired. In addition, the Louisiana Data Base Commission and other state entities involved in the development of information technology adopt guidelines which shall ensure the following, to the extent feasible,

1. That information technology, equipment, or software used by employees or program participants who are blind or visually impaired can present information for effective, interactive control and use by both visual and non-visual means; is compatible with equipment and software used by other individual with whom the blind or visually impaired must interact; and can be integrated into the network or networks used to share communications among employees or program participants.

2. That information technology used in the dissemination of services to the public provides blind or visually impaired individuals with access, including

interactive use of equipment and services, which is equivalent to that provided to individuals who are not blind or visually impaired; and that such information technology is designed to present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use.

3. That the procurement of information technology, whether through contract or agreement, shall be accomplished so as to provide equivalent access for effective use by both visual and non-visual use; and can be integrated into networks for obtaining, retrieving, and disseminating information used by individual who are not blind or visually impaired.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the Board of State Elementary and Secondary Education, LR 26:

**§2233. R.S. 39:1615 Multiyear Contracts**

**Note:** This section refers to R.S. 39:1615(D).

**A. Educational Institutions Excepted**

1. An educational institution may enter into a multiyear nonexclusive contract, not to exceed ten years, with a vendor who has made a gift to the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

2. The State Superintendent of Education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the depository in the state for school books.

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

**HISTORICAL NOTE:** Promulgated by the Board of State Elementary and Secondary Education, LR 26:

**§2335. Books for School; Special Plates [R.S. 47:463.46]**

A. The Secretary of the Department of Public Safety and Corrections shall establish a prestige license plate for motor vehicles, restricted to passenger cars, pickup trucks, and vans for the purpose of promoting support for elementary and secondary education. The Secretary shall determine the design of the special prestige license plate issues under the provisions of this Section, provided such design shall bear the words "Helping Schools" and include a logo which is a symbol for reading programs in education.

B. The prestige plate shall be issued upon application to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The charge for this special license plate shall be \$25.00 annually in addition to the regular fee charged under the provisions of R.S. 47:463.

D. The revenue from the additional \$25.00 fee imposed by Subsection C of this Section, shall be deposited immediately upon receipt into the state treasury. After compliance with the requirements of Article 7, Section 9(B) of the Constitution of Louisiana relative to the Bond, Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited shall be credited to the State Board of Elementary and Secondary Education and shall be used solely for the purchase of textbooks to be used in approved elementary and

secondary schools of the state. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

E. The Superintendent of the Department of Education shall promulgate rules and regulations as necessary to implement the provisions of this Subsection relative to the purchase and distribution of textbooks.

F. The secretary shall promulgate rules and regulations to implement the provisions of Subsections A, B, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Interested persons may submit written comments until 4:30 p.m. March 10, 2000 to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064, or fax to 225-342-5843.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1794 State Textbook Adoption  
Policy and Procedure Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Estimated effects on revenue collections are expected to be revenue neutral.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Estimated costs to directly affected persons or non-governmental groups is expected to be cost neutral. Teachers and students benefit directly from having access to the latest instructional materials/information and benefit indirectly from methods that improve selection, acquisition and distribution of such materials. School districts will benefit directly from improved communication via reporting requirements that will also help decision making at the local level.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No estimated effect on competition and employment is expected as a result of the proposed rule.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0001#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Tuition Opportunity Program for Students (TOPS)  
(LAC 28:IV.301, 705, 805, 907)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Tuition Opportunity Program for  
Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
TOPS applicants will be provided more specific information concerning the academic year credit hour requirement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley  
Assistant Executive Director  
0001#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program  
for Students (TOPS) Eligibility  
(LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Tuition Opportunity Program for Students (TOPS) Eligibility

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing these rule revision in the *Louisiana Register* as emergency, notice and rule is approximately \$100. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change. There are no costs inconsistent with current budgetary appropriations for this purpose.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS applicants who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley  
Assistant Executive Director  
0001#037

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Formula Distribution of Federal Grant Funds  
(LAC 22:III.Chapter 57)

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 15:1201, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, hereby gives notice of its intent to promulgate rules and regulations regarding the formula for the distribution of federal funds.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

#### Part III. Commission on Law Enforcement and Administration of Criminal Justice

#### Subpart VI. Grant Applications or Subgrants Utilizing Federal, State, or Self-Generated Funds

#### Chapter 57. Formula for Distribution of Federal Grant Funds

##### §5701. Adoption

The proposed distribution formula will be adopted by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

##### §5702. Introduction

The Commission distributes federal grant funds to the state's local law enforcement agencies through law enforcement planning districts via a formula initially devised in 1977. Neither the formula nor the data that support it have been revised since 1977.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

##### §5703. Distribution Formula

A. Included in the 1977 distribution formula was a variable base of funding for each law enforcement planning district based on the percentage of the district's crime rate to that of the entire state, as well as a rural adjustment for those areas of the state facing unique fund distribution problems given their population and criminal justice manpower percentage deviations. The rural adjustment allowed these rural districts to have sufficient funding for meaningful programs. Once the variable base and adjustments have been determined, the formula uses the following variables to determine how the remaining funds are distributed to each law enforcement planning district.

1. Planning district's percentage of the state's total Uniformed Crime Reporting Part 1 Offenses.

2. Planning district's percentage of state's total criminal justice manpower.

3. Planning district's percentage of state's total population.

B. Given the changes in the state's crime, population, and manpower figures since 1977, the Commission collected data on the aforementioned variables for the year 1997, the most recent year for which complete data was available. The distribution formula devised for the years 2000 through 2010 maintains the variable base and modifies the rural adjustment to reflect current conditions, and adds an urban adjustment for Orleans Parish-given the demographic changes that have occurred in Orleans Parish over the last twenty years-in order for that district to have sufficient funding for meaningful programs.

C. The proposed distribution formula percentage for each Law Enforcement Planning District for the years 2000 through 2010, as based on the 1997 data, is as follows:

Law Enforcement Planning District	Formula Distribution Percentage
Northwest	11.11
North Delta	7.82
Red River	9.54
Evangeline	10.50
Capital	15.60
Southwest	10.16
Metropolitan	15.88
Orleans	19.39

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

Interested persons may submit written comments on this proposed rule no later than February 1, 2000 at 5 p.m. to Judy Mouton, Deputy Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

A public hearing will be held on February 2, 2000 at 10 a.m. at the Louisiana Municipal Association Office, 700 North Tenth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed rule.

**Family Impact Statement**

The proposed amendments to LAC 22:III.Chapter 57 regarding the distribution of federal funds 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 Supervision;
3. The Functioning of the Family;
4. Family Earnings and Family Budget;
5. The Behavior and Personal Responsibility of Children;

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule.

Michael Ranatza  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Formula Distribution of Federal Grant Funds**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs to state or local governmental units for the proposed rule. The Programs affected are already in existence. The proposed rule revises the formula for the distribution of federal grant funds to the state's eight (8) law enforcement planning districts. The eight law enforcement districts received a total of \$16,548,563.00 in federal grants funds in federal fiscal year 1999-2000.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect the implementation of the proposed rule will have on state or local governmental units is indeterminable. The availability and amount of the federal funds affected by the proposed rule is unknown at this time. The federal appropriation, if any, will be effective October 1, 2000.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no costs associated with the proposed rule that directly affected persons or non-governmental groups. The economic benefits of the proposed rule directly affecting persons or non-governmental groups are indeterminable because the availability and amount of the federal funds affected by the proposed rule is unknown at this time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The effect on competition and employment is indeterminable because the availability and amount of the federal funds affected by the proposed rule is unknown at this time.

Michael A. Ranatza  
Executive Director  
0001#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Data Base Commission**

Louisiana Data Base (LAC 4:XI.Chapter 1)

Under the authority of R.S. 39:292, et seq., the Louisiana Data Base Commission proposes to promulgate a rule concerning the Louisiana Data Base. This rule defines the Louisiana Data Base and the associated procedures for identifying and incorporating information in the Louisiana Data Base.

**Title 4**  
**ADMINISTRATION**

**Part XI. Office of Data Base Commission**

**Chapter 1. Definition of the Louisiana Data Base**

**§101. Policy**

A. The Louisiana Data Base consists of the official databases and related information services required to support the policy, planning, and administrative needs of the state. This includes needs of state government personnel, as well as needs for access to official state databases and services by local government, the business community, and private citizens. The Louisiana Data Base may incorporate databases outside state government that are determined to be sources of official information for state policy, planning, or administration.

B. The Louisiana Data Base is defined in a catalog that contains relevant information identifying the existence, location, scope, format, access, and other information as determined by the Commission and electronic information services required to support the policy, planning, and administrative needs of the state. The catalog is hosted on a Commission data server; however, each database and service identified in the catalog is hosted by, and remains the responsibility of, the provider of the database or service. The catalog will be available electronically to all users; however, the entry identifying the database will not include any information declared confidential or otherwise exempt from disclosure as a public record by law or that is protected by a valid license agreement or contract and no access shall be provided to such information through the Louisiana Data Base. The catalog entry will contain a notation as prescribed by the Commission that the data is confidential or otherwise protected from further disclosure.

C. The Louisiana Data Base is driven by the policy, planning, and administrative needs of the state. It incorporates both current and historical information. Its structure supports the inclusion in its catalog of, and access to, databases for recurring, ongoing information needs as well as predictable and random ad hoc information requests. Its design is flexible to support dynamic, changing information needs. To ensure that the Louisiana Data Base remains a viable resource for policy, planning and administration, the Commission will continuously evaluate the state's needs through personal contact and surveys. The Louisiana Data Base will also permit its users to electronically record their problems, comments, suggestions and satisfaction.

D. Information services that increase usability are valuable components of the Louisiana Data Base. Value-added services such as geographic reference, format translation, and electronic commerce are evaluated, based on user need, to determine if they are appropriate for inclusion in the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

**§103. Purpose**

To define the Louisiana Data Base, to specify criteria for its content and associated information services, and to define procedures for its establishment, operation, and maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

**§105. Applicability**

Applies to all agencies, organizations, entities, and individuals, either within or outside Louisiana state government, who are involved in the establishment, use, operation, or maintenance of the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

**§107. Procedure**

A. Establishment. The Louisiana Data Base is initially established by creating the central catalog and implementing the electronic capability to logically access databases and information services that reside at the provider locations. Thereafter, the database is populated incrementally with official databases and information services following a four-step process.

1. The first step is identification of candidate databases and services for incorporation in the Louisiana Data Base. This step is generally user driven and is based on nominations from personal interviews, surveys, electronic feedback, legislation review, and ad-hoc inputs.

2. Next, nominations from the first step are analyzed and evaluated to determine if they address the policy, planning, and administration needs of the state and whether they can be made available to all departments and branches of state government. Where legislation mandates information responsibility for specific areas, such as Consensus Estimating Conferences, the Commission will coordinate the determination of official information and sources with those legislated entities. The final analysis activity is to develop a work plan to integrate catalog information for the nominations that qualify as official databases and services into the Louisiana Data Base.

3. The third step involves obtaining formal approval to proceed and commitment of resources from the provider. This approval and commitment is based on the contents of the work plan developed in the analysis step.

4. The approved work plan is then executed, integrating the catalog information for the approved databases and information services into the Louisiana Data Base catalog and providing access to the data bases and information services.

B. Operation. The components of the Louisiana Data Base include the central catalog and access to the individual databases and services distributed, maintained, and provided by the providers. The Commission is responsible for operation of the electronic catalog, and each provider is responsible for operation of its respective databases and services. Operations may be performed under the provisions of Service Agreements executed between the Louisiana Data Base Commission and each provider.

C. Maintenance. Each database and service cataloged in the Louisiana Data Base is maintained by the respective provider. The Commission maintains the catalog with a focus on uniformity, accuracy, format, and timeliness; however, each provider is responsible for supplying the

Commission catalog updates to reflect changes to its database or service in a timely manner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

### §109. Definitions

**Catalog** an electronic index that contains information that defines the databases and information services contained in the Louisiana Data Base.

**Commission** the Louisiana Data Base Commission.

**Consensus Estimating Conferences** six forecasting conferences established by the Louisiana Legislature under R.S. 39:2 and R.S. 39:21 to provide for official information to be universally used across state government for budget and planning purposes. The six conferences are Economic Estimating, Demographic Estimating, Education Estimating, Criminal Justice Estimating, Health and Social Services Estimating, and Transportation Estimating.

**Current Data** data that are updated to reflect the most recent actions or status.

**Geospatial** the geographic location and extent of an individual, agency, organizational, or physical entity or event.

**Official Data** a database that has been identified by the designated entity as the best possible source for information determined to qualify for incorporation in the Louisiana Data Base catalog.

**Official Information** data, forecasts, estimates, analyses, studies, and other information adopted by the principals of a Consensus Estimating Conference.

**Provider** an agency, organization or entity that owns a database or service that is incorporated in and made available to users of the Louisiana Data Base.

**User** any individual who physically accesses the Louisiana Data Base on behalf of himself or another person, agency, organization, or entity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

### §111. Responsibility

A. The Commission has overall responsibility for establishing and maintaining the Louisiana Data Base catalog and providing access to the included databases and information services. The Commission achieves its objectives for the Louisiana Data Base through cooperative efforts with other entities who have a vested interest in the Louisiana Data Base or the benefits it provides. Following is the allocation of responsibilities for establishing and maintaining the Louisiana Data Base.

1. The Commission is responsible for:
  - a. determination of the data needs for state policy, planning and administration;
  - b. selecting the contents to be included in the Louisiana Data Base;
  - c. providing the catalog and the capabilities for users to access the catalog to discover relevant databases and services;
  - d. providing capabilities to link to access specific provider databases and services using the electronic catalog;

- e. determination of appropriate value-added services that improve use of the database or enhance the analytical tools available to users;

- f. providing specific direction for establishment, maintenance and use of the Louisiana Data Base;

- g. reporting database use information;

- h. collection of and response to user feedback;

- i. ensuring that official data is accessible to all departments and branches of state government;

- j. providing for the uniformity, accuracy, format, and timeliness of the catalog.

2. The Office of Data Base Commission is responsible for:

- a. providing technical and administrative support to the Louisiana Data Base Commission for performance of all Commission responsibilities;

- b. establishment, operation and maintenance of the catalog on behalf of the Commission;

- c. providing technical support to providers as required for establishment and maintenance of their components of the Louisiana Data Base;

- d. providing technical support to users regarding use of the Louisiana Data Base.

3. Providers are responsible for:

- a. providing access to their databases and information services that are determined to be official data and services for state policy, planning and administration;

- b. operating and maintaining the currency and accuracy of their components of the Louisiana Data Base;

- c. ensuring that the information regarding its databases and services contained in the catalog is current and accurate.

4. Consensus Estimating Conferences and other officially designated entities are responsible for:

- a. determination of the information needs and official databases for their respective areas of responsibility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

A public hearing will be held on these rules on Tuesday, February 29, 2000 at 10:00 a.m. in Room 404, State Office Building, Baton Rouge, Louisiana. All interested parties will be afforded an opportunity to submit data, views or arguments orally at the hearing. Written comments may also be submitted prior to the hearing to Edwin M. Leachman, Director, Office of Data Base Commission, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Jerry Guillot  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Data Base

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule defines processes that have been established and implemented by the Louisiana Data Base Commission to conform to legislative mandate, therefore, the only anticipated cost will be publication costs for a Notice of Intent and a Rule.

State and local governmental entities will be informed of the proposed rule via the Louisiana Data Base Commission's web page, which is already a budgeted cost of the Division of Administration.

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 resulting from this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Because this rule defines processes already in place, there will be no costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule because the processes contained in the rule have already been established and implemented by the Louisiana Data Base Commission.

Whitman J. Kling, Jr.  
Deputy Undersecretary  
0001#060

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Division of Administration Office of Facility Planning and Control

(Editor's Note: The following notice, which appeared on pages 2305 through 2310 of the November 20, 1999 *Louisiana Register*, is being republished to include changes to §511.)

#### Rental and Lease Procedure and Regulations (LAC 34:III.511)

The Division of Administration, Office of Facility Planning and Control, in accordance with R.S. 49:950, et seq. gives notice that in order to be in conformity with law intends to amend and reenact the following rules governing the Office of Facility Planning and Control's Real Estate Leasing Section.

LAC 34:III.501 is being amended to reflect changes to La. R.S. 39:1641. More specifically, Acts 1988, No. 919, Section 3 repealed subsec. E of Section 1641, thus removing all but one of the exceptions found in LAC 34:III.501. Acts 1997, No. 600, Section 1 repealed subsec. F of Section 1641, thus removing the remaining exception in LAC 34:III.501.

LAC 34:III.503 is being amended to reflect changes by Acts 1995, No. 635 to La. R.S. 39:1643 (A), increasing from 2,500 square feet to 5,000 square feet as the amount of square feet requiring advertising and competitive bidding.

LAC 34:III.505 is being amended to require a bidder "control" the offered properties and parking areas on the date of the bid opening and throughout the term of the lease and option period.

LAC 34:III.506 is being promulgated to merely reflect the law contained in La. R.S. 39:1599.

LAC 34:III.507 has been incorporated into the proposed LAC 34:III.503.

LAC 34:III.508 is being promulgated to merely reflect the law contained in La. R.S. 39:1594.

The proposed LAC 34:III.509 contains only a few minor changes.

LAC 34:III.510 is being promulgated merely to reflect provisions contained in state leases.

LAC 34:III.511 is being re-promulgated.

LAC 34:III.512 is being promulgated to reflect the law as contained in La. R.S. 39:1661.

LAC 34:III.513 is being amended to clarify that the emergency procurement provisions apply only to leases of 5,000 square feet or more because emergency procurements relieve the State of the need to advertise for bids. For smaller leases, the State is not required to advertise for bids.

LAC 34:III.514 is being promulgated to reflect the law as contained in La. R.S. 39:1598.

LAC 34:III.515 is being amended to reflect the changes to La. R.S. 39:1643(A) by Acts 1995, No. 635.

LAC 34:III.516 is being promulgated to reflect current procedures followed by the Real Estate Leasing Section and what is contained in La. R.S. 39:1644(A).

LAC 34:III.517 is being amended to add what is implicit in the law, i.e. that the rules for the Office of State Purchasing apply if they are not in conflict with the rules for Rental and Lease Procedure.

### Family Impact Statement

Furthermore, in accordance with La. R.S. 49:972 (as enacted by Acts 1999, No. 1183), the following Family Impact Statement is made. It is not anticipated that the proposed rules will have any 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. the family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

### Title 34

## GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL Part III. Facility Planning And Control Chapter 5. Rental and Lease Procedure and Regulations

### §511. Resolution of Controversies

A. Right to Protest. Any prospective lessor who is aggrieved in connection with the solicitation or award of a contract may protest to Facility Planning and Control. Protests with respect to a solicitation shall be submitted in writing no later than 10 days prior to the opening of bids. If a person protests a solicitation, an award cannot be made until said protest is resolved. Protests with respect to the award of a contract shall be submitted in writing within 14 days after contract award. Said protest shall state fully and in particular, the reason for protest if a protest is made with respect to the award of a contract. Work on the contract cannot be commenced until it is resolved administratively.

B. Decision. Facility Planning and Control, must notify the protesting party in writing and the legal counsel of the Division of Administration within 14 days after receipt of said protest whether or not the protest is denied or granted. If the protest with reference to the solicitation is granted, an

addendum can be issued or the solicitation can be canceled and reissued. If the protest with reference to the award is granted, then the lease will be voided and the remaining bids may be re-evaluated for another selection. If another selection cannot be made or if it appears to be in the best interest of the state, a new solicitation will be issued.

C. Appeal. If an aggrieved party is not satisfied with the rendered decision, then that party may appeal said decision in writing to the commissioner of administration within seven days of the decision. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 14 days of receipt of the appeal. The commissioner's decision is final and an aggrieved party may bring judicial action within two weeks from receipt of said decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 11:945 (October 1985), amended in LR 22:345 (May 1996), repromulgated LR 26:

Roger Magendie  
Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Rental and Lease Procedure and Regulations**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule changes will have any implementation costs or savings to the State or to local governmental units because the changes were required by changes in the law itself.

For example, Acts 1988, No. 919, Section 3 repealed subsec. E of La. R.S. 39:1641 and amended subsec. F of the same statute. As a result, certain agencies were no longer exempt from the Procurement Code's provisions regarding the acquisition of housing space. In addition, Acts 1997, No. 600, Section 1 repealed subsec. F of La. R.S. 39:1641. As a result, leases for the storage of voting machines are now administered by the Office of Real Estate Leasing of the Office of Facility Planning and Control. These changes are reflected in the proposed changes to the *Louisiana Administrative Code*, Title 34, Part III, Chapter 5, Section 501, Authority, Policy, Purpose, and Application.

Another statutory change was the increase in the amount of square feet necessitating advertisement and competitive bidding. Acts 1995, No. 635 amended La. R.S. 39:1643(A), increasing from 2,500 to 5,000 square feet the amount of square feet in a lease that must be publicly advertised and bid. This change is reflected in Sections 503 and 515 of the proposed rules.

Section 505 of the current rules is now incorporated in Section 515 of the proposed rules.

Section 507 of the current rules is now incorporated in Section 503 of the proposed rules.

Other than the above-cited substantive changes necessitated by changes in the law itself, the proposed rules are basically the same, but re-written and organized in a format easier to comprehend.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules will have any 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)

It is not anticipated that any changes in the rules will increase costs or benefits to directly affected persons or nongovernmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any effect on competition and employment.

Roger Magendie  
Director  
0001#076

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Advertising and Soliciting by Dentists  
(LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301 "Advertising and Soliciting by Dentists." No preamble has been prepared.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XXXIII. Dental Health Professions

#### Chapter 3. Dentists

#### §301. Advertising and Soliciting by Dentists

A. - I. ...

J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. - 3. ...

4. Repealed

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January

1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Advertising and Soliciting by Dentists**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#002

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Expanded Duty Dental Assistant Certification  
(LAC 46:XXXIII.506)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly

R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to rescind LAC 46:XXXIII.506 "Dental Assisting National Board Examinations For Expanded Duty Dental Assistant Certification." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 5. Dental Assistants**

**§506. Dental Assisting National Board Examinations  
for Expanded Duty Dental Assistant  
Certification**

**Repealed**

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Expanded Duty Dental Assistant  
Certification**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#006

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Licenses, Permits, and Examinations of Dental Hygienists  
(LAC 46:XXXIII.419)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.419 "Licenses, Permits, and Examinations." No preamble has been prepared.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 4. Fees and Costs

#### Subchapter D. Fees for Dental Hygienists

#### §419. Licenses, Permits, and Examinations (Dental Hygienists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental hygienist applicant \$250.00
2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice.

C. Barry Ogden  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Licenses, Permits, and Examinations of Dental Hygienists

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#005

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Licenses, Permits, and Examinations of Dentists  
(LAC 46:XXXIII.415)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.415 "Licenses, Permits, and Examinations." No preamble has been prepared.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 4. Fees and Costs

#### Subchapter C. Fees for Dentists

#### §415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental applicant 600.00
2. - 12. ...
13. Application and permit for mobile or movable dental office 250.00
14. Yearly renewal of mobile or movable dental office permit 400.00

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health & Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR, 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130.

Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Licenses, Permits, and  
Examinations of Dentists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#004

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Requirements of Applicants for Licensure by Credentials  
(LAC 46:XXXIII.306)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, "Requirement of Applicants for Licensure by Credentials." No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§306. Requirements of Applicants for Licensure by  
Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition;

A.20. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Requirements of Applicants for  
Licensure by Credentials**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by

examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#003

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Requirements of Applicants for Licensure by Credentials  
(LAC 46:XXXIII.706)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.706 "Requirements of Applicants for Licensure by Credentials."

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 7. Dental Hygienists**

**§706. Requirements of Applicants for Licensure by  
Credentials**

A. ...

1. - 17. ...

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. - 24. ...

B. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty 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 twenty days of the date of this notice. No preamble has been prepared.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Requirements of Applicants for  
Licensure by Credentials**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0001#007

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners of Nursing Facility Administrators**

**Board Member Per Diem (LAC 46:XLIX.307)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, LA Board of Examiners of Nursing Facility Administrators proposes the following rule regarding per diem payments to board members of the LA Board of Examiners of Nursing Facility Administrators. This rule shall be enforced retroactively to September 7, 1999. This rule complies with and is enabled by R.S. 37:2504.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility  
Administrators**

**Chapter 3. Board of Examiners**

**§307. Board Member Per Diem**

Board members shall be paid \$75 per day during which board business is conducted. This rule shall not apply to board members who represent agencies of the State of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2504 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing facility Administrators, LR 26:

Kemp Wright  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Board Member Per Diem**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The only cost associated with the implementation of the proposed amendment of 46:XLIX.307 will be the cost of printing the new regulation and the \$25 increase in board member per diem. The estimated cost of publication in the *Louisiana Register* is \$300, and it is estimated the Board will expend an additional \$1,900 for the net increase in board member per diem.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed amendment would have no effect on any revenue collections for this board or any other state or local government entity.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed amendment would provide board members of the LA Board of Examiners of Nursing Facility Administrators with an additional \$25 dollars in per diem payments for every board meeting.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The Board does not anticipate any effect on competition or employment.

Kemp Wright  
Executive Director  
0001#051

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

Sanitary Code Commercial Seafood Inspection Program  
(Chapter IX)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, intends to adopt the General Hazard Analysis Critical Control Points (HACCP) Requirements of the National Shellfish Sanitation Program (NSSP) manual to Chapter IX of the Louisiana State Sanitary Code. The General HACCP Requirement would make it mandatory for every oyster processor or dealer to conduct a Hazard Analysis and Hazard Analysis Critical Control Point Plan. This hazard analysis is to determine whether there are food safety hazards that are reasonably likely to occur and to identify the preventive measures that the processor or dealer can apply to control those hazards. Every processor or dealer shall have and

implement a written HACCP plan whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur. The following sections and text will be added to Chapter IX of the Louisiana Sanitary Code:

**Chapter IX. Seafood**

**9:027-1 General Hazard Analysis Critical Control Points (HACCP) Requirements for Dealers**

A. Hazard Analysis. Every dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventive measures that the dealer can apply to control those hazards. Such food safety hazards can be introduced both within and outside the processing plant environment, including food safety hazards that can occur before, during, and after harvest. A food safety hazard that is reasonably likely to occur is one for which a prudent dealer would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the particular type of shellfish product being processed in the absence of those controls.

B. HACCP Plan. Every dealer shall have and implement a written HACCP plan. A HACCP plan shall be specific to:

1. each location where shellfish products are processed by that dealer; and

2. each kind of shellfish product processed by the dealer. The plan may group kinds of shellfish products together, or group kinds of production methods together, if the food safety hazard, critical control points, critical limits, and procedures required to be identified and performed in §1C. are identical for all shellfish products so grouped or for all production methods so grouped.

C. Contents of the HACCP Plan. The HACCP plan shall, at a minimum:

1. list the food safety hazards that are reasonably likely to occur, as identified in accordance with §1A. and that thus must be controlled for each shellfish product. Consideration should be given to whether any food safety hazards are reasonably likely to occur as a result of the following:

- a. natural toxins;
- b. microbiological contamination;
- c. chemical contamination;
- d. pesticides;
- e. drug residues;
- f. unapproved use of direct or indirect food or color additives; and
- g. physical hazards;

2. list the critical control points for each of the identified food safety hazards, including as appropriate:

a. Critical control points designed to control food safety hazards introduced outside the processing plant environment, including food safety hazards that occur before, during, and after harvest. As an alternative, the dealer may establish other critical control points which the dealer can demonstrate that provides equivalent public health protection. If the dealer can demonstrate through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required with the exception of receiving which shall always be considered as a critical control point.

b. Critical control points designed to control food safety hazards that could be introduced in the processing plant environment. As an alternative, the dealer may establish other critical control points which provide equivalent public health protection. If the dealer can demonstrate to the authority through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required.

3. List the critical limits that must be met at each of the critical control points. As an alternative the dealer may establish other critical limits which the dealer has demonstrated provide equivalent public health protection with the exception of receiving which shall always be considered as a critical control point.

4. List the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits.

5. Include any corrective action plans that have been developed in accordance with §1F.(2), to be followed in response to deviations from critical limits at critical control points.

6. Provide for a record keeping system that documents the monitoring of the critical control points. The records shall contain the actual values and observations obtained during monitoring.

7. List the verification procedures, and frequency thereof, that the dealer will use in accordance with §1G.(1).

#### D. Signing and Dating the HACCP Plan.

1. The HACCP plan shall be signed and dated, either by the most responsible individual on site at the processing facility or by a higher level official of the dealer. This signature shall signify that the HACCP plan has been accepted for implementation by the dealer.

2. The HACCP plan shall be signed and dated:

- a. upon initial acceptance;
- b. upon any modification; and
- c. upon verification of the plan in accordance with §1G.(1)(a).

E. Sanitation. Sanitation controls may be included in the HACCP plan. However, to the extent that they are monitored in accordance with §2 they need not be included in the HACCP plan, and vice versa.

#### F. Corrective Actions.

1. Whenever a deviation from a critical limit occurs, a dealer shall take corrective action either by:

- a. following a corrective action plan that is appropriate for the particular deviation, or
- b. following the procedures in §1F.(3).

2. Dealers may develop written corrective action plans, which become part of their HACCP plans in accordance with §1C.(5), by which they predetermine the corrective actions that they will take whenever there is a deviation from a critical limit. A corrective action plan that is appropriate for a particular deviation is one that describes the steps to be taken and assigns responsibility for taking those steps, to ensure that:

- a. no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation; and
- b. the cause of the deviation is corrected.

3. When a deviation from a critical limit occurs and the dealer does not have a corrective action plan that is appropriate for that deviation, the dealer shall:

a. segregate and hold the affected product, at least until the requirements of §1F.(3)(b) and (c) are met;

b. perform or obtain a review to determine the acceptability of the affected product for distribution. The review shall be performed by an individual or individuals who have adequate training or experience to perform such a review. Adequate training may or may not include training in accordance with §1I.;

c. take corrective action, when necessary, with respect to the affected product to ensure that no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation;

d. take corrective action, when necessary, to correct the cause of the deviation;

e. perform or obtain timely reassessment by an individual or individuals who have been trained in accordance with §1I., to determine whether the HACCP plan needs to be modified to reduce the risk of recurrence of the deviation, and modify the HACCP plan as necessary.

4. All corrective actions taken in accordance with this section shall be fully documented in records that are subject to verification in accordance with §1G. and the record keeping requirements of §1H.

#### G. Verification.

1. Every processor shall verify that the HACCP plan is adequate to control food safety hazards that are reasonably likely to occur, and that the plan is being effectively implemented. Verification shall include, at a minimum:

a. a reassessment of the adequacy of the HACCP plan whenever any changes occur that could affect the hazard analysis or alter the HACCP plan in any way or at least annually. These changes may include: Raw materials or source of raw materials, product formulation, processing methods or systems, finished product distribution systems, or the intended use or consumers of the finished product. The reassessment shall be performed by an individual or individuals who have been trained in accordance with §1I. The HACCP plan shall be modified immediately whenever a reassessment reveals that the plan is no longer adequate to fully meet the requirements of §1C.

b. ongoing verification of activities including:

- i. a review of any consumer complaints that have been received by the dealer to determine whether they relate to the performance of critical control points or reveal the existence of unidentified critical control points;
- ii. the calibration of process-monitoring instruments; and
- iii. at the option of the dealer, the performing of periodic end-product or in-process testing.

c. a review, including signing and dating, by an individual who has been trained in accordance with §1I., of the records that document:

i. the monitoring of critical control points. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that they document values that are within the critical limits. This review shall occur within one (1) week of the day that the records are made;

ii. the taking of corrective actions. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that appropriate corrective actions were taken in accordance with §1F. This review shall occur within one (1) week of the day that the records are made;

iii. the calibrating of any process monitoring instruments used at critical control points and the performing of any periodic end-product or in-process testing that is part of the dealer's verification activities. The purpose of these reviews shall be, at a minimum, to ensure that the records are complete, and that these activities occurred in accordance with the processor's written procedures. These reviews shall occur within a reasonable time after the records are made.

2. Dealers shall immediately follow the procedures in §1F. whenever any verification procedure, including the review of a consumer complaint, reveals the need to take a corrective action.

3. The calibration of process-monitoring instruments, and the performing of any periodic end-product and in-process testing, in accordance with §1G(1)(b)(ii) and (iii) shall be documented in records that are subject to the record keeping requirements of §1H.

#### H. Records.

1. All records required by §1 and §2 shall include:

- a. the name and location of the dealer;
- b. the date and time of the activity that the record reflects;
- c. the signature or initials of the person performing the operation; and
- d. where appropriate, the identity of the product and the production code, if any. Processing and other information shall be entered on records at the time that it is observed.

2. All records required by §1 and §2 shall be retained at the processing facility for at least one (1) year after the date they were prepared in the case of refrigerated products and for at least two (2) years after the date they were prepared in the case of frozen products.

3. Records that relate to the general adequacy of equipment or processes being used by a processor, including the results of scientific studies and evaluations, shall be retained at the processing facility for at least two (2) years after their applicability to the product being produced at the facility.

4. If the processing facility is closed for a prolonged period between seasonal operations, or if record storage capacity is limited on a processing vessel or at a remote processing site, the records may be transferred to some other reasonably accessible location at the end of the seasonal operations but shall be immediately returned for official review upon request.

5. All records required by §1 and §2 and HACCP plans required by §1B. and §1C. shall be available for official review and copying at reasonable times.

6. The maintenance of records on computers is acceptable, provided that appropriate controls are implemented to ensure the integrity of the electronic data and electronic signatures.

#### I. Training

1. At a minimum, the following functions shall be performed by an individual who has successfully completed training in the application of HACCP principles to shellfish processing at least equivalent to that received under standardized curriculum recognized as adequate by the FDA or who is otherwise qualified through job experience to perform these functions:

a. developing a HACCP plan, which could include adapting a model or generic-type HACCP plan that is appropriate for a specific processor, in order to meet the requirements of §1C.;

b. reassessing and modifying the HACCP plan in accordance with the corrective action procedures specified in §1F.(3)(e), and the HACCP plan in accordance with the verification activities specified in §1G.(1)(a); and

c. performing the record review required by §1G.(1)(c).

2. Job experience will qualify an individual to perform these functions if it has provided knowledge at least equivalent to that provided through the standardized curriculum.

3. The trained individual need not be an employee of the dealer.

### **9:027-2 General Sanitation Requirements**

A. Sanitation Monitoring. Each dealer shall monitor conditions and practices that are both appropriate to the plant and the food being processed with sufficient frequency. The requirements relate to the following sanitation items:

1. safety of the water that comes into contact with food or food contact surfaces, or is used in the manufacture of ice, hereinafter referred to as Safety of Water for Processing and Ice Production;

2. condition and cleanliness of food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as: Condition and cleanliness of food contact surfaces;

3. prevention of cross contamination from insanitary objects to food, food packaging materials, and other food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as Prevention of Cross Contamination

4. maintenance of hand washing, hand sanitizing, and toilet facilities, hereinafter referred to as: Maintenance of hand washing, hand sanitizing and toilet facilities;

5. protection of food, food packaging material, and food contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants, hereinafter referred to as: Protection from adulterants;

6. proper labeling, storage, and use of toxic compounds, hereinafter referred to as: Proper labeling, storage, use of toxic compounds;

7. control of employee health conditions that could result in the microbiological contamination of food, food packaging materials, and food contact surfaces, hereinafter referred to as: Control of employees with adverse health conditions; and

8. exclusion of pests from the food plant, hereinafter referred to as Exclusion of Pests. While monitoring of those specified conditions and practices that are not appropriate to the plant and the food being processed is not required, compliance with such conditions and practices remains mandatory.

B. Sanitation Monitoring Records. Each dealer shall maintain sanitation control records that, at a minimum, document the monitoring and corrections prescribed by §2A. These records are subject to the requirements of §1H.

C. Relationship to HACCP Plan. Sanitation controls may be included in the HACCP plan, required by §1B. However, to the extent that they are monitored in accordance with §2A. they need not be included in the HACCP plan, and vice versa.

The proposed rule change should have no direct impact on the formation, stability nor autonomy of the family unit.

Interested persons may submit written comments on the above proposed rule to: David Guilbeau, Sanitarian Program Administrator, Commercial Seafood Program, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810 by the close of business on February 8, 2000. He is responsible for responding to inquiries regarding this adoption. Copies of the proposed Chapter IX, along with the General HACCP Requirement can also be viewed at the office of the Louisiana Register or at Mr. Guilbeau's office as listed above.

A public hearing on the adoption by reference will be held on Tuesday, February 29, 2000 at 10:00 a.m. at 6867 Bluebonnet Blvd., Room 230, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

David W. Hood  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Sanitary Code Commercial Seafood Inspection Program**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no savings or cost to local units. In Fiscal Year 1999/2000 the agency will incur a one-time fee of approximately \$160.00 for publication in the *Louisiana Register*.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed General Hazard Analysis Critical Control Point (HACCP) Requirement would make it mandatory for every oyster processor or dealer to conduct a Hazard Analysis and implement a Hazard Analysis Critical Control Point (HACCP) Plan. This hazard analysis is to determine whether there are food safety hazards that are reasonably likely to occur and to identify the preventive measures that the processor or dealer can apply to control those hazards. Every processor or dealer shall have and implement a written HACCP plan whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur. The estimated costs of any required analysis will vary with individual firms.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition or employment.

Jimmy Guidry, M.D.  
Assistant Secretary  
0001#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Office of State Police**

Analysis of Blood and Urine for Alcohol and Drugs  
(LAC 55:I.555, 561, and 571-591)

Pursuant to R.S. 32:663 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, hereby gives notice of its intent to amend Lac 55, Part I, Chapter 5, Subchapter B §555.G and §561.D and to adopt LAC 55, Part I, Chapter 5, Subchapter C pursuant to R.S. 49:950 et seq. The proposed amendment to §555.G is necessary as a result of a name change in a previously approved kit currently in use for testing of alcohol in blood under Louisiana's Implied Consent Law. The amendment to §561.D is necessary to delete the requirement of a solution check because this check is currently being performed by the manufacturer of the solution. The proposed new rules found in Subchapter C are necessary as a result of the passage of Act 1212 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved testing methods for alcohol and controlled dangerous substances under Louisiana's Implied Consent Law.

The Superintendent of the Office of State Police will consider comments and public input for a period of thirty-five (35) days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailslip #11, Baton Rouge, LA 70896, 225-925-6103 (phone) 225-925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 9:00 a.m. Tuesday, February 22, 1999, in the classroom #2 of the Louisiana State Police Training Academy located at 7901 Independence Boulevard, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part I. State Police**

#### **Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques**

#### **Subchapter B. Analysis of Blood**

#### **§555. Certified Techniques of Analyst**

A. - F. ...

G. Blood drawn for the purposes of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" Numbers

4000, 4990 or 4991 (manufactured by Becton-Dickinson division of Becton-Dickinson and Company), or "NIK Blood Alcohol Kit" Numbers 4000, 4990, 4991 (manufactured by NIK Public Safety, Inc.) or similar blood collection kits as approved. Such kits will be made available to all law enforcement agencies by the Louisiana State Police.

G.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:360 (June 1988), LR 17:676 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:

#### **§561. Quality of Glassware and Supplies**

A. - C. ...

D. All reagent solutions utilized in confirming instrument calibration, maintenance and certification shall be drawn from commercially available solutions with known and certified alcohol contents between 0.04 grams and 0.40 grams percent. The manufacturer's certificate of standard reagent quality shall be prima facie evidence as to the standard of quality of the reagent solutions.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:361 (June 1988), LR 17:677 (July 1991), repromulgated LR 17:800 (August 1991), amended LR 26:

### **Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances**

#### **§571. Definitions**

The following words and terms used in this subchapter shall have the following meanings:

*Aliquot* different samples from the same specimen.

*Analyte* the drug or drug metabolite suspected or detected.

*Chain of Custody* the accounting of the integrity of each specimen through the tracking of all individuals or agencies which may have handled the sample from the point of collection to final disposition.

*Confirmation Test* a second analytical procedure to identify the presence or absence of a specific drug or drug metabolite.

*Crime Laboratory* the Louisiana State Police Crime Laboratory.

*Department* the Department of Public Safety and Corrections, Public Safety Services.

*False Negative* not reporting an analyte which is present in the sample.

*False Positive* the reporting of an analyte which is not present in the sample.

*Proficiency Testing Program* performance of testing on specimens containing drugs or drug metabolites or lack of which the laboratory shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used screening techniques.

*Quality Assurance* a program to ensure quality standards in all aspects of the testing process including but not limited to, specimen acquisition, chain of custody,

screening and confirmation testing, and validation of analytical procedure.

*Quality Control* procedures designed to assess the conduct of each step of the process for testing of drugs.

*Retention Times* the time for a sample component to elute from a chromatographic column which is useful in the possible identification of that component.

*Screening (Initial) Test* a test documented to indicate the possible presence of absence of a particular drug, drug class, or drug metabolite.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

#### **§573. Qualifications of Forensic Laboratories**

Each forensic laboratory seeking approval from the Department to perform analysis of controlled dangerous substances in bodily fluids shall comply with the qualifications as established by the Louisiana State Police Crime Laboratory in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

#### **§575. Operating Procedures**

A. The laboratory shall have a procedural manual which will include detailed descriptions of procedures for testing. In addition, laboratory policies shall exist which govern sample receiving, chain of custody, analysis, quality control and quality assurance, choice of reagents, review of data, and reporting. The procedural manual shall include the following:

1. instructions for preparation of reagents;
2. details of the analytical procedure;
3. instructions for preparation of controls and calibrators;
4. references to include theory and principle of the method.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

#### **§577. Personnel**

A. The Toxicology Laboratory shall be supervised by a person who is qualified by reason of appropriate education and experience to assume the required professional, organizational, educational, and administrative responsibilities. The supervisor shall possess at least a bachelor's of science degree from an accredited college or university in one of the chemical, physical or biological sciences, medical technology, criminalistics, forensic science, toxicology, or pharmacology, and shall have at least four years of full-time experience in a toxicology or forensic laboratory.

B. Analytical personnel shall also possess the minimum educational requirements as stated for the supervisor. The analyst shall be trained and show proficiency in each procedure performed.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§579. Certification**

A. Individuals seeking to conduct drug testing in compliance with R.S. 32:661-669, shall:

1. make application to the Louisiana State Police Crime Laboratory;

2. submit a copy of their laboratory's operating procedural manual as related to toxicological testing;

3. successfully screen a sample comprised of one or more drugs or drug metabolites in a sample of whole blood, serum, or urine matrix. The sample may be furnished through the Louisiana State Police Crime Laboratory. Successful screening shall consist of:

a. not reporting any false positives;

b. confirming the presence of no less than 75 percent of the analytes routinely screened.

B. Personnel employed full time in the Toxicology Laboratory for a period of two years prior to the adaptation of these rules, shall be granted certification based upon review by the Louisiana State Police Crime Laboratory.

C. Certification shall be valid for a period of two years from the date of issuance or such time as determined by the Director of the Louisiana State Police Crime Laboratory. Certificates may be renewed upon subsequent application and successful completion of A(3) above.

D. Failure to adhere to any of the Rules and Regulations set forth herein or to maintain any qualification, as determined by the Director of the Crime Laboratory, may result in suspension, revocation, or cancellation of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§581. Receiving and Sampling of Evidence**

A. Evidence submitted for toxicological examination shall be labeled for identification, securely sealed, and submitted in a container appropriate for shipping and maintaining security. They shall have been taken with the contents of a NIK Kit No. 4000, 4990, or 4991 (manufactured by NIK Public Safety, Inc.), B-D Kit No. 4000, 4990, or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company), or similar kit previously approved by the Louisiana State Police Crime Laboratory. Such kits shall be made available to all law enforcement agencies through the Louisiana State Police.

B. The kits shall contain no components which would interfere with the results of the test and each kit must be suitable for the purpose of collecting blood and/or urine for forensic toxicological determinations.

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within twenty-four (24) hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for the analysis at the earliest possible opportunity after collection, not to exceed seven (7) days.

D. After submitting the sample to the testing facility, specimens shall then be refrigerated in a designated evidence security area.

E. Following analysis, the evidence will be stored for a period of one year under refrigeration either at the testing facility or by the submitting agency. After the one year storage period, the evidence may be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§583. Analytical Procedures**

A. Analytical procedures shall include the use of at least two (2) tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g. blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte along with a 20 percent correlation between ion ratios of the base peak and another major ion. Retention times between the analyte in question and the reference analyte shall be within + or B2 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§585. Review of Data**

Before results are reported, all analytical data shall be reviewed and approved by the Toxicology Supervisor or a designee with the analytical protocols used by the laboratory. The review shall be documented within the analytical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§587. Quality Assurance**

The laboratory shall participate in an external proficiency testing program for drugs in at least one type of specimen at least once every calendar year. The results of the proficiency testing shall be reviewed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

### **§589. Maintenance, Repair and Inspection of Instrumentation**

Maintenance and repair of all analytical instrumentation used for the purpose of analyzing the samples required in these guidelines may be performed by the supervisor of the Toxicology Unit or by an analyst assigned to the unit. This may include, but not be limited to, cleaning, replacing septa and injection port liners, changing columns, changing gases and gas flows, adjusting temperature settings, and other routine checks deemed necessary for accurate performance. In addition, the supervisor or analyst may perform diagnostic testing and repair as instructed by a service engineer from the equipment manufacturer or other service repair facility or from a manual provided by the equipment manufacturer.

detailing diagnostics and repair. Following each maintenance and repair, inspection of the instrument shall include the analysis of a known drug standard or mixture of standards to insure that the instrument is in proper working order. Instrumentation is to be checked each day that analysis is to be performed. A maintenance log shall be maintained for each particular instrument listing all repair or maintenance work performed. The log shall at a minimum list the date, time, nature of work and the name of the person performing the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

#### **§591. Reagents and Supplies**

A. All drugs used for the preparation of reference drug standards shall be commercially purchased and shall be traceable to a certificate of analysis indicating that it has met the manufacturer's acceptable specifications for use. Purity of chemicals used in the analytical procedures shall be at least reagent grade as recognized by the American Chemical Society and water shall be distilled or de-ionized.

B. All instrument reagents shall be prepared in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

#### **Family Impact Statement**

1. The Effect of these Rules on the Stability of the Family. These rules should have a positive effect on the stability of the family as said rules will allow the effective enforcement and prosecution of individuals driving under the influence of alcohol or controlled dangerous substances in this state.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules should have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules should have a positive effect on the functioning of the family as the passage of these rules which will allow the effective enforcement and prosecution of individuals driving under the influence of alcohol or controlled dangerous substances in this state will provide safer roads and highways for all families.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules should have a positive effect on the behavior and personal responsibility of children who are authorized to drive under state law as they provide for effective enforcement and prosecution of those individuals driving on the roads and highways in this state under the influence of alcohol or controlled dangerous substances.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. The rules should have no effect on the ability of the family or local government to perform the function as contained in the proposed rules as

neither families or local governments perform forensic testing for the detection of alcohol or controlled dangerous substances under Louisiana's Implied Consent Law.

Nancy Van Nortwick  
Undersecretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Analysis of Blood and Urine for Alcohol and Drugs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no implementation costs or savings to the Department. The proposed new rules will regulate an existing program. The proposed new rules are necessary as a result of the passage of Act No. 1212 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved testing methods for alcohol and controlled dangerous substances under Louisiana's Implied Consent Law.

The amendment to LAC 55, Part I, Chapter 5, §555.G is necessary as a result of a name change in a previously approved kit for testing of alcohol in blood under Louisiana's Implied Consent Law. This kit is currently in use so there should be no economic implementation costs or savings to the Department by the addition of the name of this approved kit to the existing regulation. LAC 55, Part I, Chapter 5, §561.D is being amended to delete the solution check as this is already done by the manufacturer of the solution.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of the state as the program for which the proposed new rules applies does not raise revenue. There should be no effect on revenue collections of local governments as the programs for which these rules are being adopted and/or amended are not utilized use by local governments.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There should be no effect on costs and there should be no economic benefit to directly affected persons or nongovernmental groups as it related to the program for which the proposed rules apply. This program is already in effect and being utilized by affected entities. The program is simply now being promulgated as administrative rules as a result of a requirement derived from a recent statutory change. Additionally, the kit being added to LAC 55, Part I, Chapter 5, §555.G is currently in use by entities affected by this regulation. LAC 55, Part I, Chapter 5, §561.D is being amended to delete the solution check as this is already done by the manufacturer of the solution.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There should be no effect on competition and employment. The proposed new rules simply promulgate regulations for an existing program for approved testing methods for controlled dangerous substances when testing blood and urine for controlled dangerous substance under Louisiana's Implied

Consent Law which are currently in use. Any entity currently utilizing these methods as well as the method for testing solutions in LAC 55, Part I, Chapter 5, §561.D or the kit being added to LAC 55, Part I, Chapter 5, §555.G should be able to continue to do so without any change in the number of individuals it employs.

Nancy Van Nortwick  
Undersecretary  
0001#072

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of the State Fire Marshal

#### Fire Extinguishers and Fire Alarms (LAC 55:V.Chapter 30)

In accordance with the provisions of R.S.49:950, et. seq. and R.S.40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Portable Fire Extinguishers, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment, notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules.

### TITLE 55

### PUBLIC SAFETY

#### Part V. Administrative Rules on Fire Protection

#### Chapter 30: Portable Fire Extinguisher, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment Rules

##### §3001. Purpose

The purpose of these rules is to regulate the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler equipment and/or systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1625, et seq. and 1651, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

##### §3003. Applicability of Rules

These rules shall apply to all businesses and persons engaged in the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems and/or hydrostatic testing.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

##### §3005. Exceptions

These rules shall not apply to businesses and/or persons engaging in the activity of planning, certifying, inspecting, installing or servicing fire detection and alarm equipment and/or systems in one or two family dwellings which is governed by R.S. 40:1662,.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

##### §3007. Notices by the Fire Marshal

Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1625, et seq. or 1651, et seq. or these rules must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or business involved to assure that the Office of the State Fire Marshal has a correct address for the person or business.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

##### §3009. Certificate, License, Permit Required

A. Each firm engaged in the activity of certifying, inspecting, installing, inspecting, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a certificate of registration in the class(es) of certification desired in accordance with L.A.C. 55:V:3015 prior to conducting any such activity in this state.

B. Each business engaged in the activity of planning, certifying, inspecting, installing, or servicing fire protection sprinkler systems shall employ a qualifying person or certificate holder and obtain a permit for such in accordance with R.S. 40:1625, et seq. prior to conducting any such activity in this state.

C. Each person or employee, except apprentices, engaged in the activity of inspecting, installing, servicing portable fire extinguishers or planning, certifying, inspecting, installing or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a license in the class and/or classes of licensure desired in accordance with L.A.C. 55:V:3017 prior to conducting any such activity in this state.

D. Each apprentice, as defined in L.A.C. 55:V:3013, engaged in the activity of inspecting, installing, maintaining or servicing portable fire extinguishers or inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a permit in accordance with L.A.C. 55:V:3019 prior to conducting any such activity in this state.

E. Any business(es) and/or person(s) described in A, B, C and D of this section, which have not applied for and received a current and valid certificate of registration, license or permit shall immediately cease such activities.

The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.40:1563

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3011. Qualifying Persons**

A. Each certified business or each business seeking certification, other than portable fire extinguisher and pre-engineered fixed fire extinguishing system firms, shall employ at least one qualifying person. No systems shall be planned, installed or submitted to this office for review if the business does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall only qualify the one business for which he is employed. A contract employee cannot be used to fulfill this requirement except as provided by subsection G below.

C. The qualifying person shall be primarily and regularly engaged in the planning, and the supervision of the installation and servicing of fixed fire extinguishing, fire detection and alarm, and/or fire protection sprinkler equipment and/or systems.

D. If the qualifying person is a professional engineer currently registered with the Louisiana Board of Professional Engineers, the following endorsements shall be required for each discipline:

1.a. Fire protection sprinkler systems--Mechanical Engineer

b. Engineered Fixed Fire Extinguishing Systems--Mechanical Engineer

c. Fire Detection and Alarm Systems--Electrical Engineer

2. A Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline.

E. At anytime that a business finds itself without a qualifying person, such businesses shall only be able to continue certifying, inspecting and/or servicing existing contractual obligations but shall not be engage in any new work involving the planning, certifying, inspecting, installing or servicing of fixed fire extinguishing equipment and/or systems, or fire detection and alarm equipment and/or systems, or fire protection sprinkler equipment and/or systems until a qualifying person has been employed as provided herein.

F. This office shall be notified in writing within ten (10) working days anytime a qualifying person's employment is terminated for any reason.

G. A business who loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have forty-five (45) days to hire another qualifying person. If after the loss of such an employee, a replacement cannot be found, within the forty-five (45) the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six (6) months. Not later than thirty (30) days prior to the expiration of the six month period, the business can request an additional six (6) month

period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one (1) additional six (6) month period during which a business may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within ten (10) working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license or permit as required by these rules. The examination requirement for licensure or permitting will be waived for these employees. If a firm desires to use multiple qualifiers for submitting plans and supervising installations or service, then it must register and license the additional qualifiers with the Office of the State Fire Marshal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.40:1563

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3013. Definitions**

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

*Activity* the leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems pursuant to R.S.40:1625, et seq. and R.S.40:1651, et seq.

*Apprentice* a person to whom a permit has been issued pursuant to R.S.40:1651, et seq., to perform various acts of inspection, installation, maintenance or service while under the direct supervision of and accompanied by an employee of the same certified firm, and licensed under the same statutes to perform such acts.

*Branch Office* a location other than firm's main office, from which the acts authorized by the certificate of registration are performed.

*Business* for the purpose of these rules the term business shall mean "firm" as used in R.S.40:1651, et seq. and "fire protection sprinkler contractor" as used in R.S.40:1625, et seq.

*Certificate of Registration* that document issued by the State Fire Marshal to a person, firm, corporation, or association authorizing same to engage in such activities as defined in L.A.C. 55:V:3015 B.

*Certify* to attest to the proper charging, or filling, or functionality, or inspection, or installation, or maintenance, or recharging, or refilling, or repair, or service, or testing of portable fire extinguishers, fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

*Class A Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers and hydrostatic testing not required by the U.S. Department of

Transportation (U.S. DOT). Please note: Hydrostatic testing required by the U.S. DOT requires a Class E Certificate defined in "I" below.

*Class B Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems and those activities specifically authorized by a Class "B-1" Certificate.

*Class B-1 Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

*Class C Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying, inspecting, installing, maintaining and servicing of engineered or pre-engineered fixed fire extinguishing systems.

*Class D Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm systems and those activities specifically authorized by a Class "D-1" certificate.

*Class D-1 Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

*Class D-2 Certificate of Registration* that document issued by the State Fire Marshal that authorizes an owner of a fire alarm system to perform routine inspection, and minor service and repairs of fire detection and alarm systems within the owner's own facilities only. No planning, installing or certifying of these systems is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

*Class E Certificate of Registration* that document issued by the State Fire Marshal that authorizes a firm to engage in hydrostatic testing of fire extinguishers manufactured in accordance with the specification and procedure of the United States Department of Transportation.

*Contact Person* that individual designated by a business to act as liaison with the Office of the State Fire Marshal.

*Department of Transportation (DOT) Cylinder* all fire extinguisher cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation. Please note: DOT regulations place 21 year age restriction on drivers who transport certain DOT regulated cylinders.

*Employee* one who works for a 'firm' as defined by LSA-R.S.40:1652(1) in return for financial or other compensation. However, the term shall include the following.

a. For the purposes of the licensing requirements, contained in R.S. 40:1653 (C)(1) employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered "employees" if he or she is or will be physically certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems and/or equipment or in planning, certifying, inspecting, installing, maintaining or servicing fire detection and alarm systems and/or equipment or doing hydrostatic testing.

*Engineered Systems* special systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines

*Fire Protection Equipment/Systems* as governed by R.S.40:1651, et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire extinguishing systems (pre-engineered or engineered) and/or fire detection and alarm systems.

*Fire Protection Sprinkler Systems* as defined in R.S.40:1625(5), including but not limited to water sprinkler systems, standpipes, and hose stations, and shall include the provisions of NFPA 13, 13D, 13R, 14, 20 and 25.

*Hydrostatic Testing* pressure testing cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

*Inspection* the act of visually checking the physical condition and placement of portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems and/or certifying the same for functional performance of equipment/system in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

*Installation* the initial placement of a portable fire extinguisher, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems or an extension, or alteration after initial placement.

*License* that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by L.A.C. 55:V:3017 and 3025.

*Maintenance* repair service, including periodically recurrent inspections and tests, required to keep fire protection equipment/systems and fire protection sprinkler systems and their components in an operable condition at all times, together with replacement of the equipment/system or of its components, when for any reason they become undependable or inoperable.

*Nationally Recognized Testing Laboratory* a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

*NFPA* the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

*Non-Conforming* a system or component of a system which does not comply with applicable NFPA codes or standards.

*Non-Required* a system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

*Office* office of State Fire Marshal.

*Permit* those documents issued by the State Fire Marshal pursuant to LSA-R.S.40:1625, et seq. or LSA-40:1651, et seq.

*Person* a natural individual, including any owner, manager, officer, or employee of any business.

*Pocket License or Permit* that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee or permittee, authorizing the employee to engage in the activities as defined by L.A.C. 55:V:3017, 3019, 3025 and 3027.

*Pre-Engineered Systems* packaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

*Portable Fire Extinguisher* a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

*Qualifying Person* the employee of a business who is certified by the National Institute for the Certification of Engineering Technologies (NICET) Level III or has passed the written examination required to be certified at the NICET Level III in Fire Protection in the appropriate discipline or a professional engineering currently registered with the Louisiana Board of Professional Engineers with the appropriate endorsement as provided by section 3011 D.

*Recharge* the replacement of the extinguishing agent, the expellant or both.

*Semi-Portable* any portable fire extinguisher mounted on skids or wheels.

*Service* the act of repair or replacement of fire protection equipment/systems or fire protection sprinkler systems or their components to ensure the proper functioning of the equipment/system.

*Shop* a facility of a certified business where designing, certifying, inspecting, maintaining, pre-assembling, servicing, repairing or hydrostatic testing is performed and where parts and equipment are maintained.

*Trainee* a person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3015. Permits and Certificates of Registration**

A. Any individual, partnership, corporation, association or joint venture must obtain from the State Fire Marshal a permit as provided for by R.S.40:1625, et seq. before engaging in the installation, repair, alteration, addition, maintenance or inspection of fire protection sprinkler systems.

1. Each fire protection sprinkler contractor, as defined by R.S.40:1624(4)(a) shall have at least one (1) qualifying person or certificate holder.

2. Fire protection sprinkler contractors as defined by R.S.40:1624(4)(a) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. Any, person, partnership, corporation or association must obtain from the State Fire Marshal a certification of registration as provided for by R.S.40:1651, et seq. before engaging in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems or fire detection and alarm systems.

1. Each firm, as defined by R.S.40:1652(1), shall have at least one (1) licensed technician per class of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S.40:1652(1) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the State Fire Marshal.

C. The following shall apply to both permits and certificates of registration:

1. Posting. Each permit or certificate shall be posted conspicuously at each firm and/or branch office premises. All businesses without a physical location in this state shall be required to purchase a duplicate permit or certificate to post in each vehicle which will come into this state to do work.

2. Changes of ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate permit or certificate must be obtained from the State Fire Marshal to replace a lost or destroyed permit or certificate. The permit or certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in L.A.C. 55:V:3031.

5. Revisions/Changes. The change of a business's name, location, or mailing address or operating status requires a revision of the permit or certificate of registration. Permits or certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit or certificate of registration holder must submit written notification of the change with the surrendered permit certificate of

registration, accompanied by the required fee specified in L.A.C. 55:V:3031.

6. Non-transferability. A permit or certificate of registration is not transferable from one business to another.

7. Validity. A permit or certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3017. Licensure**

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S.40:1651, et seq. other than an apprentice, who certifies, inspects, installs, maintains and services portable fire extinguishers, and/or plans, certifies, inspects, installs, maintains or services fixed fire extinguishing systems and/or fire detection and alarm systems and/or engages in hydrostatic testing shall have a current and valid license issued by the State Fire Marshal.

B. Types of licenses. Each license shall be identified by class, which indicates the authorized act or acts which may be performed by the licensee as follows.

1. Class "A" Technician's License authorizes the person to certify, inspect, install, maintain and service portable fire extinguishers.

2. Class "B" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems.

3. Class "B-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Class "C" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service engineered or pre-engineered fixed fire extinguishing systems.

5. Class "D" Technician's License authorizes a person to plan, certify, inspect, install, maintain and service fire detection and alarm systems.

6. Class "D-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Class "D-2" Technician's License authorizes the person to perform routine inspection and minor service and repair of fire detection and alarm systems within the owner's own facility. No planning, installing or certifying of these systems/equipment is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or

annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

8. Class "E" Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

9. Trainee License authorizes the person to inspect, install, maintain and service portable fire extinguishers, fixed fire extinguishing systems and/or equipment of fire detection and alarm systems and/or equipment while under the direct supervision of a licensed technician who holds a current and valid license for the work to be performed. A trainee license can be renewed annually as long as the individual or firm desires. The supervising technician and trainee must work for the same firm which must be certified for the work to be performed.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket license. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be on his/her person at all times when conducting fire protection work in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate license. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in L.A.C. 55:V:3031.

F. Revised licenses. The change of a licensee's employer, home address or mailing address or employment status requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within ten (10) days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in L.A.C. 55:V:3031.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License reciprocity. The State Fire Marshal may waive any license requirements for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3019. Apprentice Permit**

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S.40:1651, et seq. engaged as an apprentice shall have a current and valid apprentice permit issued by the State Fire Marshal.

B. Validity. A permit shall be valid for a period of one year from the date of issuance and is non-renewable.

C. Supervision. An apprentice may perform the various acts of inspecting, installing, maintaining or servicing portable fire extinguishers, fixed fire extinguishing equipment and/or systems and fire detection and alarm equipment and/or systems only while under the direct supervision of and accompanied by a licensee holding a valid license to perform such acts. The apprentice and the supervising licensee must be employees of the same firm.

D. Identification. A permit holder shall, upon demand by the State Fire Marshal or his designated representative, show and allow the examination of such permit.

E. Posting. It is not necessary to post the apprentice permit on a wall, but it must be kept on the apprentice's person at all times whenever the apprentice is performing activity regulated by R.S. 40:1651, et seq. and these rules.

F. Pocket Permit. The pocket permit must be kept on the apprentice's person at all times and shall be on his/her person at all times while conducting fire protection work in the field. The pocket permit need not be visibly displayed when working in areas where the permit may be damaged or lost. The permit must still be available for inspection upon request.

G. Duplicate Permit. A duplicate permit must be obtained from the State Fire Marshal to replace a lost or destroyed permit. The permittee and his employer must submit written notification within 10 days of the loss or destruction of the permit, accompanied by the required fee as specified in L.A.C. 55:V:3031.

H. Revised Permits. The change of a permittee's employer, home address or mailing address or employment status requires a revised permit. Permits requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit holder and his employer must submit written notification within 10 days of the necessary change, with surrendered permit, accompanied by the required fee as specified in L.A.C. 55:V:3031.

I. Non-transferable. A permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3021. Alteration of Certificates, Licenses or Permits**

Any alteration of a certificate of registration, license or permit renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S.40:1625, et seq., 1651, et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3023. Application for Permits or Certificates of Registration**

A. Applications for certificates of registration for fire protection firms and their branch offices and permits for fire protection sprinkler contractors shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC-55:V:3031(A).

B. The application for permits or certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;

2. identify the type of permit or certificate of registration applied for;

3. identify the principal location of the business;

4. identify the location of each branch office.

5. identify the business's Louisiana Sales Tax number and Federal Tax number;

6. identify any and all names by which the business may conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules;

7. identify the contact person as defined by these rules;

8. identify the qualifying person for businesses seeking permitting or certification in any of the following disciplines:

a. engineered fixed fire extinguishing systems;

b. fire detection and alarm systems; or

c. fire protection sprinkler systems.

9. include for engineered fixed fire extinguishing system and fire detection and alarm systems firms a separate employee application for their qualifying person along with the qualifying person's credentials and an originally signed and notarized employment affidavit;

10. except for fire protection sprinkler contractors, be accompanied by:

a. at least one application with fee from an employee seeking to obtain a technician's license in each class of certification;

b. a current certificate of insurance issued to the office of State Fire Marshal in the following minimum amounts:

No.	Class Of Certificate	Amount
1.	Class A: Portables	\$ 300,000
2.	Class B: Pre-Engineered Systems	\$ 500,000
3.	Class B-1: Kitchen Suppression Systems	\$ 500,000
4.	Class C: Engineered & Pre-Engineered Systems	\$ 1,000,000
5.	Class D: Alarms	\$ 500,000
6.	Class D-1: Non-Required Systems	\$ 300,000
7.	Class D-2 :Owner of Fire Alarm Systems	\$ 300,000
8.	Class E: Hydrostatic Testing	\$ 500,000

c. a copy of the local business or occupational permit for the firm.

11. if the firm desires a Class "E" (Hydrostatic) Certificate of Registration, be accompanied by the following:

- a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and
- b. a copy of the firm's identifying mark (symbol).

12. for out of state businesses, include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1625, et seq., 40:1651, et seq. and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S.40:1625, et seq., 1651, et seq. and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is applying to be permitted or certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the permit or certificate of registration. After issuance of a permit or certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3025. Application for Licenses**

A. Original and renewal applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in L.A.C. 55:V:3031.

B. Applications for technician's licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to plan, certify, inspect, install, maintain or service those systems and/or equipment for which the applicant desires to become licensed.

C. Applications for technician's licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as provided in LAC-55:V:3033.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3027. Application for Apprentice Permit**

A. Each person employed as an apprentice by a certified firm shall apply for a permit on a form provided by the State

Fire Marshal and accompanied by the required fee as specified in L.A.C. 55:V:3031.

B. Due to the supervisory requirements of R.S.40:1653(D), no competency examination is required for an apprentice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3029. Fees-General Information**

A. Every fee required in accordance with the provisions of R.S.40:1625, et seq. and 40:1651, et seq. and these rules, shall be paid by check or money order made payable to the "Office of State Fire Marshal." Cash cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal at 5150 Florida Blvd., Baton Rouge, Louisiana 70806.

C. Late fees are required by R.S. 40:1625, et seq. and 40:1651, et seq. on all permit, certificate of registration or license holders who fail to submit renewal applications on or prior to their expiration date.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the permit, certificate or license being renewed.

E. Holders of permits, certificates and licenses which have been expired for less than two years cannot be issued new certificates or licenses.

F. Permits, certificates or licenses which have been expired for two years or more cannot be renewed, and the holders thereof must apply for a new permit, certificate or license.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3031. Fees-Specific Information**

A. Permit Fee: R.S.40:1625, et seq. (Fire Protection Sprinkler Contractors):

1. Original (Initial) Permit Fee: (R.S.40:1628(A)) \$100.00.
2. Renewal Fee: [R.S.40:1631(D)] \$100.00.
3. Late Renewal Fee: [R.S.40:1631(C)] \$150.00.
4. Revised or Duplicate Permit Fee: \$20.00.

B. Certificates of Registration Fees: R.S.40:1651, et seq. (Fire Protection Firm):

1. Original Certification Fees:
  - a. Original Certification Fee: [R.S.40:1653(A)] \$350.
  - b. Each additional certification fee: \$100.
  - c. Original Hydrostatic Testing Certification Fee: [R.S.40:1653(E)] \$50.
2. Renewal Fee: (R.S.40:1653(A))
  - a. Class A (portable fire extinguishers): \$150.00.
  - b. Class B (pre-engineered fixed fire extinguishing): \$100.00.

c. Class B-1 (pre-engineered kitchen fixed fire extinguishing): \$50.00.

d. Class C (engineered & pre-engineered fixed fire extinguishing): \$100.00.

e. Class D Certificate (required fire detection and alarm): \$100.00.

f. Class D-1 Certificate (non-required fire detection and alarm): \$50.00.

Class D-2 Certificate (owner of fire alarm): \$50.00.

h. Class E Certificate (hydrostatic testing): \$50.00.

3. Late Renewal Fee:

A penalty shall be assessed in accordance with R.S.40:1657 (E) for the late renewal of a certificate of registration.

4. Change in ownership: [R.S.40:1653(B)] \$350.

5. Changes or alterations: [R.S.40:1653(B)] \$20.

6. Duplicate Certificates of Registration: [R.S.40:1653(B)] \$20.

C. Branch Office Fees.

1. Original Application fee:

Regardless of how many classes of certification of registration selected by the applicant, the original (initial) fee for a branch office is always \$100 [R.S.40:1653 (A)], including branch offices of firms certified in hydrostatic testing.

2. Renewal fees: [R.S.40:1653(A)] \$100.

3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S.40:1657(E) for the late renewal of a license.

a. Not more than 90 days: \$150.

b. More than 90 days but less than two years: \$250.

4. Change in Ownership: [R.S.40:1653(B)] \$100.

5. Changes or alterations: [R.S.40:1653(B)] \$20.

6. Duplicates: [R.S.40:1653(B)] \$20.

D. License Fees: Classes A, B, B-1, C, D, D-1, D-2 and Trainee.

1. Original license fee: [R.S.40:1653(C)]

a. The first class of license selected: \$50.

b. Each additional license: \$10.

2. Renewal Fees: [R.S.40:1653(C)]

a. First class of license renewed: \$50.

b. Each additional class of license renewed: \$10.

3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S.40:1657(E) for the late renewal of a license.

a. Expired not more than 90 days

(1). First class of license renewed: \$75

(2). Each additional class of license renewed: \$15

b. Expired more than 90 days but less than two years

(1). First class of license renewed: \$100

(2). Each additional class of license renewed: \$20

4. Changes or Alteration Fees. [R.S.40:1653B)] \$20.

5. Duplicate License Fees. [R.S.40:1653B)] \$20.

6. Initial Competency Examination Fee:

(Non-refundable) [R.S.40:1653(C)] (per exam) \$10.

7. Re-examination Fee:

(Non-refundable)[R.S.40:1653(C)] (per re-exam) \$10.

E. Apprentice Permit Fees

1. Original (initial) permit fees: [R.S.40:1653(D)] \$30.

2. Changes or alterations: [R.S.40:1653(B)] \$20.

3. Duplicate permits: [R.S.40:1653(B)] \$20.

F. Fees for Class E Licenses

1. Original (initial) license fee: [R.S.40:1653(E)] \$25.

2. Renewal license fee: [R.S.40:1653(E)] \$25.

### §3033. Examinations

A. Applicants for licenses are required to take an examination and obtain at least a grade of 75 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1651, et seq.

2. a section on the planning, certifying, inspecting, installing, maintaining and servicing of those types of systems for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards adopted by LAC-55:V:103.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination prior to the issuance of a new license. No examination is required for a licensee whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this Office or the examination administrator. The pre-registration form and the required fee must be received by the Office five working days prior to the examination date.

G. Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within thirty (30) days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the Office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus

2. length of course and specific time covered per topic

3. example of test questions

4. a copy of the certificate granted

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### §3035. Portable Fire Extinguishers

A. General Provisions

1. Portable fire extinguishers shall be inspected, installed, maintained and serviced in compliance with the

edition of NFPA 10 most recently adopted by the Office of the State Fire Marshal in LAC-55:v:103.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10, as adopted by the Office of the State Fire Marshal in LAC-55:V:103, the extinguisher shall be red tagged or removed from service and destroyed in accordance with NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103, shall be performed. If these procedures fulfill the requirements of a six year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six year maintenance procedures shall begin from that date.

B. Record Tag. Each six year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103. Previous six year maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six year maintenance was performed;
2. the name of the firm and its certificate number;
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm. (Preprinted or printed in permanent ink);
2. name and license number of the person who perform the service. (Preprinted or printed in permanent ink);
3. month and year that the service was performed. (To be punched).

E. A new external verification collar shall be provided for an extinguisher each time internal maintenance or recharging is performed or the extinguisher is opened for

any other reason. A new external verification collar is not needed when a CO<sub>2</sub> extinguisher is recharged without opening the cylinder for inspection or on side cartridge type extinguishers.

F. External verification collars shall be affixed in the following manner.

1. Any collar previously attached shall be removed prior to affixing a new collar.

2. The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

G. The diameter of the opening for external verification collars shall not exceed 1/4" the diameter of the extinguisher's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3037. Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems**

A. All new (complete or renovated) required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, reviewed plans and the applicable codes and standards adopted in L.A.C.55:V:103 and 3053. All existing required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be certified, inspected, maintained and serviced in an operational condition in accordance with the manufacturer's installation manuals, specifications, and per the inspection, testing and maintenance chapters of the applicable codes and standards adopted in L.A.C.55:V:103 and 3053. All non-required and non-conforming fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC-55:V:103 and 3053 as authorized by the Office of the State Fire Marshal. Non-required and/or non-conforming systems/equipment which only comprise of smoke detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications, as provide by R.S.40:1561, et seq., and NFPA 101 as adopted by LAC-55:V:103.

B. All systems shall be planned, certified, inspected, installed, maintained and serviced by certified firms having licensed personnel working within their certification and licensing discipline. In cases where disciplines cross over, the following reasoning will prevail.

1. Automatic detection and control systems will be planned, inspected, installed, maintained and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of an engineered or

pre-engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that engineered or pre-engineered system to any alarm initiated system, to include but not limited to annunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm certified in Fire Detection and Alarms must plan, certify, inspect, install, maintain or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC-55:V:103 will be planned, certified, inspected, installed, maintained and serviced by certified fire protection sprinkler contractors. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of the piping system must be installed by certified fire protection sprinkler contractors and connected to the fire alarm system by a certified fire detection and alarm firm.

C. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility. Non-required systems shall be maintained in accordance with the inspection, testing, and maintenance chapters of the applicable NFPA codes, standards and manufacturer's specifications governing that particular system as long as the system is within the facility.

D. Interconnected smoke detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC-55:V:103, or as authorized by this office must be planned, inspected, installed, maintained and serviced by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1656 (7). These systems must be submitted to this office for review prior to installation.

E. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

a. the certificate number of servicing firm, preprinted or printed in permanent ink;

b. name and license number of the person who performed the service, preprinted or printed in permanent ink;

c. month and year that the service was performed. This information must be punched.

F. A new external verification collar is not needed in the following circumstances:

1. when a CO<sub>2</sub> cylinder is recharged without opening the cylinder for inspection;

2. cartridge operated type of systems.

G. External verification collars shall be affixed in the following manner:

1. any collar previously attached shall be removed prior to affixing a new collar;

2. the collar shall be placed around the exterior of the cylinder at or below the valve assembly.

H. The diameter of the opening for external verification collars shall not be more than 1/4" larger than the diameter of the cylinder's neck, measured directly below the valve assembly.

I. The Office may exempt additional cylinders from this requirement if good cause is shown that the requirement is impractical or overly burdensome.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3039. Hydrostatic Tests**

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC-55:V:103. The owner shall be informed of a needed test or replacement.

1. Recording of Tests:

a. High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

b. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible.

c. The record tag shall contain the following information, which, exception for subsection c and d hereof, must be hand punched:

i. year and month that the hydrostatic test was performed;

ii. test pressure used;

iii. name of the firm and its certificate number;

iv. initials of the person performing the maintenance and his license number.

d. Previous hydrostatic test record tags shall be removed when a new one is affixed.

2. Minimum Equipment and Facilities Requirements. The following equipment shall be required depending upon the firm's class of certification:

a. Class A (low pressure hydrostatic testing)

i. approved equipment for drying cylinders;

ii. test apparatus including appropriate adapters, fittings and tools;

iii. approved Closed Recovery Unit;

iv. department of Agriculture approved scales for unit measure. Scales shall be certified annually by the Department of Agriculture or its designated agent;

v. hydrostatic test labels as required by the applicable NFPA code(s) or standard(s), as adopted by the Office of State Fire Marshal in LAC-55:V:103;

- vi. facilities for leak testing of pressurized extinguishers;
- vii. adequate safety cage for hydrostatic testing of low pressure cylinders
- viii. cylinder inspection light
- viii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric)
- ix. continuity Tester
- x. gauge Tester
- b. Class E (high pressure hydrostatic testing)
  - i. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including appropriate adapters, fittings and tools
  - ii. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch
  - iii. clock with sweep second hand on or close to hydrostatic test apparatus
  - iv. approved equipment for drying cylinders
  - v. facilities for leak testing of pressurized extinguishers
    - vi. cylinder inspection light
    - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric)

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3041. Installation Tags**

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire detection and alarm and fixed fire extinguishing systems. On kitchen fixed fire extinguishing systems, the tag shall be permanently affixed to the side of the extinguishing agent cylinder. This requirement does not apply to portable fire extinguishers or fire protection sprinkler systems. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required on the front side of the tag:

1. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters, in bold type);
2. Installation Tag (Preprinted);
3. Installation Date: (date to be hand written);
4. Business's Name (Preprinted);
5. Business's Certificate Number (Preprinted);
6. Technician's Name: (Name to be preprinted or hand written);
7. Technician's License Number: (Number to be preprinted or hand written);
8. Technician's Signature: (Signature cannot be preprinted);
9. NFPA Code Edition System Was Installed Under: (Hand written);
10. Plan review or exemption number: (To be hand written);
11. Serial or model number of panel and/or cylinder, if applicable: (To be hand written).

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag;

initials are not permitted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If a installation tag is replaced, hand write REPLACEMENT after the installation date. If the installation date is not known the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3043. Service, Yellow, and Red Tags**

A. All portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems shall be tagged in the following manner.

1. Service Tags

a. A service tag shall be completed and attached to a portable fire extinguisher, a fixed fire extinguishing system, a fire detection and alarm system, a fire protection sprinkler system, a standpipe and a hose station after it has been certified, inspected, installed, maintained or serviced indicating all work that has been done.

b. Service tags shall be green in color for fixed fire extinguishing systems, fire detection and alarm systems, standpipe/hose stations and fire protection sprinkler systems. Service tags may be of any color but yellow or red for portable fire extinguishers.

c. The service tag shall be attached at the following locations:

- i. for portable fire extinguishers the tag shall be attached at the valve;
- ii. for fixed fire extinguishing systems the tag shall be attached at the tank and at the panel;
- iii. for kitchen fixed fire extinguishing systems the tag shall be attached at the tank and at the manual pull station;
- iv. for fire detection and alarm systems the tag shall be attached at the panel;
- v. for fire protection sprinkler systems the tag shall be attached at the riser and/or fire pump;
- vi. for standpipes/hose stations the tag shall be attached at the valve control and/or fire pump.

d. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

e. A service tag shall be attached on all systems found to be in proper working condition and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA

codes and standards. This tag shall be used for new installations and shall be in addition to the installation tag provided for in Section 3041 above. This tag shall also be used for all service and maintenance where the system is found to meet the above conditions.

f. Service tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which service was performed (must be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. type of service performed. Only service and inspection shall be noted on tag for type of work performed (must be punched through service tag); specifics as to service performed shall be noted on rear of tag, (i.e., recharged cylinder, changed smoke detector, repaired pull station, etc);

viii. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel and fire detection and alarm system control panel.

ix. owner of system and address of owner (to be noted on rear of tag).

## 2. Partial Impairment Tags (Yellow Tags)

a. All businesses engaged in the activity of planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on these systems. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag (red tag).

b. A partial impairment tag may be placed on all systems in which there is a deficiency with the system but where the system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the system or equipment.

c. A partial impairment tag shall not remain on a system for more than 60 days. If the problem is not corrected after 60 days the certified business shall be required to notify, in writing, the Office of the State Fire Marshal Inspection Section.

d. Partial impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the impairment was found (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler system check valve;

x. Owner of system and address of owner (to be noted on rear of tag).

## 3. Impairment Tags (Red Tags)

a. Upon the effective date of these rules, a new impairment tag, which shall be red in color, shall be used.

b. An impairment tag shall be placed on all fixed fire extinguishing, fire detection and alarm systems or fire protection sprinkler systems where the system is impaired to the point that life safety is at risk or to the point that the automatic or manual discharge system will be prevented from functioning as intended.

c. Portable fire extinguishers, standpipe systems or hose stations shall be red tagged when the equipment or system is inoperable for any reason.

d. Impairment tags shall also be placed on any system or portable where life safety is in imminent danger.

e. Written notice shall be made to the owner and to the Office of the State Fire Marshal Inspection Section by the certified business as soon as is practically possible but shall not exceed two working days after the impairment is discovered. Written notification can be by mail or facsimile. The Office of State Fire Marshal shall provide a form for notification.

f. Impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the inspection was performed (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler systems check valve;

x. owner of system and address of owner (to be noted on rear of tag.

g. Notification of fire protection equipment/systems and fire protection sprinkler systems inspections where no deficiencies are found shall not be sent to the Office of the State Fire Marshal unless specifically requested.

4. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal:

a. name, address, and telephone number of the owner of the system;

b. name, address, telephone number, and certificate number of the business noting the impairment;

c. name and license number of the technician who did the inspection;

d. type of system (manufacturer and model number should also be included);

e. code, inspection chapter and year edition firm used for inspection;

f. reason for the impairment;

Note: A copy of the inspection or service report shall be included.

g. date system or equipment was red or yellow tagged.

5. Non-required and/or Non-conforming Systems. Where a fire protection or fire protection sprinkler system is non-required or permitted to be installed in a non-conforming state by this Office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in this section.

a. Each business shall stamp or write on the installation tag and/or service tag one of the following statement as applicable:

i. NON-REQUIRED SYSTEM; or

ii. NON-CONFORMING SYSTEM; or

iii. NON-REQUIRED/NON-CONFORMING SYSTEM.

b. Such print or stamp shall be in all capital letting and be written or stamped so as to not obscure other information provided on the tag.

c. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

#### 6. MISCELLANEOUS PROVISIONS

a. On all fixed fire extinguishing, fire detection and alarm systems and fire protection sprinkler systems, a plastic pocket pouch/sleeve shall also be attached to the panel, riser or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen fixed fire extinguishing systems, the pocket pouch/sleeve shall be attached at or near the manual pull station. Upon a new annual inspection (or six month inspection for kitchen fixed fire extinguishing systems), all

previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers, standpipes or hose stations.

b. All tags must be card stock, plastic, vinyl, tyevak or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted except for fire protection equipment or systems on vehicles, vessels and areas subject to adverse conditions. Self adhesive tags shall contain all of the information required on hanging tags.

c. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

d. Businesses shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the business's file.

e. All tags remain the property of the a certified business and may be removed only by licensed employees of the certified business or employees of the State Fire Marshal's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3045. Prohibited Acts and Equipment**

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against businesses, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;

3. impersonating the state fire marshal, his designated representative or any other public official;

4. intimidating or coercing a customer;

5. planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

6. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;

7. falsifying tags, labels, inspection reports, invoices and/or other documents;

8. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;

9. working an employee or apprentice or as an employee or apprentice without the appropriate class of license or permit or working without a proper license or permit;

10. working without the appropriate classification of firm certificate or working without a permit or certificate;

11. working with an expired license, permit or certificate;

12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

13. contracting to a business, person or employee which is not properly certified, permitted or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S.40:1625, et seq. and 1651, et seq. or these rules;

14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

15. installing a fixed fire extinguishing system, fire detection and alarm system or fire protection sprinkler system prior to submitting and receiving a stamped set of plans or go to work letter from the Plan Review Section of the Office of the State Fire Marshal;

16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, certify, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted;

17. failing to adhere to all applicable laws and rules governing fire protection sprinkler systems or fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;

18. engaging in false, misleading or deceptive acts or practices;

19. aiding and abetting an unlicensed individual, employee or business in the planning, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;

2. portable fire extinguishers or fixed fire extinguishing system cylinders without labels of an approved testing laboratory or name plates, except that a portable fire extinguisher or fixed fire extinguishing system cylinders whose original label or name plate has been replaced with a manufacturer approved replacement label or name plate, and maintenance records as provided below, documenting the replacement shall not be prohibited.

3. Maintenance records shall include the following:

a. manufacturer;

b. type and size of the portable fire extinguisher or fixed system cylinders;

c. serial number of extinguisher or fixed system cylinders;

d. dates and types of service performed.

4. Any portable or cylinder prohibited by the adopted NFPA codes and standards listed in LAC55:V:103.

5. Systems without listing from an approved testing laboratory.

6. Systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### §3047. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a business's physical locations, vehicles or job sites to verify required certificates or permits,

employee lists, employee licenses and permits, insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that fire protection sprinkler system, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm businesses and their employees are engaging in activity in accordance with the requirements of R.S. 40:1625, et seq., 40:1651, et seq. and L.A.C. 55:V:Chapter 30.

B. The State Fire Marshal shall investigate all complaints of alleged violations of L.R.S. 40:1574, 40:1625, et seq., 40:1651, et seq. and L.A.C. 55:V:Chapter 30. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those businesses and /or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### §3049. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license or permit and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, it is found that a person, certified business, licensee or permit holder, or an applicant for registration, license or permit, failed to comply with the provisions of these rules, R.S. 40:1625, et seq., R.S. 40:1646, et seq. and/or R.S. 40:1651, et seq.

1. Offenses: The following categories shall denote classification of offenses for persons, businesses and employees for determining the penalty to be imposed:

a. minor:

i. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

ii. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

iii. working with an expired (1-60 days) license, permit or certificate of registration;

iv. failing to properly display a firm certificate or permit or an individual license or permit;

b. serious:

i. misrepresenting oneself and/or one's business to a customer, prospective customer, state fire marshal, his designated representative or other public official;

ii. planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

iii. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done and licensed to the same firm;

iv. working an employee or as an employee without the appropriate class of license or permit;

v. working without the appropriate classification of firm certificate or permit;

vi. working with an expired (61-180 days) license, permit or certificate;

vii. installing a fixed fire extinguishing system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal;

viii. contracting to a business, person or employee which is not properly certified, licensed or permitted through the Office of the State Fire Marshal to perform any certification, inspection, installation, maintenance or service on fire protection sprinkler systems or fire protection systems and/or equipment;

ix. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted;

x. committing five or more minor offenses within a three year period.

c. major:

i. charging a customer for work that was not performed;

ii. impersonating the State Fire Marshal, his designated representative or any other public official;

iii. intimidating or coercing a customer;

iv. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;

v. falsifying tags, labels, inspection reports, invoices and/or other document;

vi. working without any license or permit;

vii. working without any firm certificate of registration or permit;

viii. working an employee or an apprentice without any license or permit.;

ix. aiding and abetting an unlicensed person, employee or business in the planning, certifying, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.;

x. committing three or more serious offenses within a three year period;

xi. engaging in false, misleading or deceptive acts or practices.

3. Penalties. The following fine schedule shall be used to assess fines to persons, businesses, and/or employees who violate the laws and rules governing the fire protection sprinkler, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm industries. Penalties will be imposed to persons, businesses and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Businesses and/or Persons

i. Minor: \$50 fine to \$250 fine and/or official warnings may be imposed.

ii. Serious: \$250 fine to \$500 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$500 fine to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons

i. Minor: \$10 fine to \$50 fine and/or official warnings may be imposed.

ii. Serious: \$50 fine to \$250 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$250 to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. Revocations may be up to a year, after which reapplication must be made. The Office of the State Fire Marshal may refuse the issuance of a new certificate of registration, a permit or a license if the applicant can not show good cause for reissuance.

d. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

e. Those offenses not enumerated in this list shall receive penalties for violations of similar nature.

f. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

#### **§3051. Severability**

If any provision of these rules or the application thereof to any business, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

#### **§3053. Adopted Standards**

A. The office adopts by reference in their entirety those copyrighted standards enumerated in L.A.C. 55:V:103 published by and available from the National Fire Protection Association, Inc.(NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

1. ASME/ANSI A17.1 - 1993, Safety Code for Elevators and Escalators;

2. ASME/ANSI A17.3 - 1993, Safety Code for Existing Elevators and Escalators;

3. ASME/ANSI A117.1 - 1980, Specifications for Handicapped Accessibility;

4. ADAAG - 1994, American Disability Accessibility Act Guidelines;

5. United States Department of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3055. National Recognized Testing Laboratory**

A. The criteria for recognition by the Office of State Fire Marshal as a "Nationally Recognized Testing Laboratory" shall be as follows. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards.

1. Fire Test Standards: ANSI/UL 154, CAN4-S503-M83
2. Performance Standards
  - a. CO2 Types: ANSI/UL 154, CAN4-S503-M83
  - b. Dry Chemical Types: ANSI/UL 299, ULC-S504
  - c. Halon Types: ANSI/UL 1093, ULC-S504
  - d. 2-1/2 Gallon Stored Pressure Water Types: ANSI/UL 626
  - e. Factory Follow-up on Third Party Certified Portable Fire Extinguishers: ANSI/UL 1803
  - f. Foam Types: ANSI/UL 8

B. The applicant laboratory shall maintain a follow-up inspection program to confirm that the manufacturer is providing the controls, inspections, and tests necessary to assure that all current manufactured extinguishers will meet the laboratory's testing standards. This follow-up inspection shall occur no less than once each six months for the first two years and once each year thereafter.

1. The application by a testing laboratory for recognition by the State Fire Marshal as a "nationally recognized testing laboratory" shall not be on any particular form but shall include all of the information and material requested in subsection (2) below.

2. The address and telephone number of the main facility and all branch offices;

- a. a current organizational Chart showing the relationship between administration, operation, and quality control;
- b. resumes of the education and experience of key personnel;
- c. a floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;
- d. a list of all equipment used to test portable fire extinguishers, identified by manufacturer, model number and serial number; detailed plans and specifications shall be submitted on any testing equipment fabricated by the applicant;
- e. procedures for selecting, receiving, storage, handling, and shipping of test specimens;
- f. test standards and procedures most frequently used;
- g. method and frequency of test equipment calibration;
- h. procedure for safekeeping of records and files;
- i. copies of all data sheets and test report forms;
- j. facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;
- k. procedure for periodic updating of the report;
- l. method of distributing test reports and certifications, including an indication of who may obtain

copies of the final reports and how the reports may be obtained.

m. a copy of the laboratory's partnership agreement, if a partnership, or of the articles of incorporation, if a corporation, and a copy of any by-laws;

n. a list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

o. copies of the test reports on all listed portable extinguishers which must be in sufficient detail to provide for complete verification and evaluation of the operations and objectives, and must include the signature of personnel performing the test and must also include the name of the supervisory engineer;

p. whether the applicant testing laboratory has been recognized as a "nationally recognized testing laboratory" by any other state or by an organized, voluntary recognized organization such as the National Voluntary Laboratory Association Program and whether recognition by any other state or organization has been denied;

q. how long the applicant testing laboratory has tested portable extinguishers;

r. a notarized statement of independence which shall state that, with reference to the laboratory's testing of portable extinguishers.

i. There are no managerial affiliations with any producer, supplier, or vendor.

ii. Changes in any major test equipment.

iii. Establishment of a new branch office or facility at which portable fire extinguishers are to be tested.

iv. Changes in principal officers, key supervisory personnel, or key testing personnel in the company.

B. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation and the United States Testing Company, Inc. as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

**§3057. Equipment and Facilities**

A. Each certified business location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly plan, inspect, install, maintain or service the systems or equipment for which it is certified. Fire protection fire sprinkler contractors shall have such equipment, tools NFPA codes, standards and manuals available at each of its operating locations. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals. At a minimum, all Class A firms shall have the necessary equipment to perform a recharge, six year maintenance and hydrostatic test on low pressure non DOT dry chemical cylinders. All Class D and D-1 firms shall have manufacturer approved smoke detector sensitivity/calibration testing equipment or have access to such equipment through contract to another firm.

B. The State Fire Marshal or his representative may inspect a business's physical locations or vehicle(s) to ensure the proper equipment, tools, NFPA codes, standards and

manufacturer's UL listed installation and service manuals are possessed by the business.

C. The State Fire Marshal or his representative may require that a business or its employee(s) demonstrate a proficiency to use the necessary equipment to properly plan, inspect, install, maintain or service fire protection sprinkler systems/equipment, portable fire extinguishers, fixed fire extinguishing systems/equipment and fire detection and alarm systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

D. For those businesses or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain additional training within a thirty day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

E. The Office may specifically enumerate required equipment at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3059. Plan Review**

A. Plans for designing or installing fixed fire extinguishing systems, fire protection sprinkler systems and/or fire detection and alarm systems must be done in accordance with L.R.S. 40:1574 Parts A and B. This procedure is not required for plans that will go in sites, such as offshore drilling platforms that are outside the three mile limit of the state's jurisdiction. For the purpose of computing the Fire Marshal plan review fees, devices shall be defined as follows:

1. for fixed fire extinguishing systems (Halon, CO<sub>2</sub>, etc.): the distribution nozzles and the automatic detectors shall be considered as devices;
2. for fire protection sprinkler systems: each sprinkler head per floor shall be considered.;
3. for fire detection and alarm systems: the number of floors per building shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3061. Advisory Committee**

The State Fire Marshal may create an advisory committee to assist him or his representative to create new rules or modify existing rules as necessary to reflect changes or new trends in the industry. Associations requested to participate on the committee shall nominate the members to attend. This

committee is to be a volunteer committee. No stipends or mileage will be paid to committee members.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3063. Electrical Contractors**

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in Section 3053 of these rules.

B. The planning, certifying, inspecting, maintenance and servicing of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3065. Compressed Gas**

A. Subject to the requirements contained in Part B below, persons who engage solely in the activity of filling compressed gas cylinders with gases such as CO<sub>2</sub>, pursuant to a contract with a firm which is certified by the Office of State Fire Marshal to plan, certify, inspect, install and/or service, fire protection equipment or systems shall be exempt from the licensing requirements contained in R.S. 40:1651 et seq.

B. A person meets the qualifications to be exempt from R.S. 40:1651 et seq. if he/she fills compressed gas cylinders, has a United States (U.S.) Department of Transportation (DOT) certificate to fill these compressed gas cylinders (only if required by DOT) and does not plan, certify, inspect, install, maintain and/or service any fire protection equipment and/or systems other than to fill the fire extinguishing cylinders with compressed gas pursuant to a contract with a firm certified by the Office of the State Fire Marshal to plan, certify, inspect, install and/or service fire protection equipment and/or systems.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

### **§3067. Miscellaneous Provisions**

A. Marking of vehicles: Ninety (90) days after the effective date of these rules, all vehicles owned or operated by fire protection sprinkler contractors as defined by R.S.40:1625(4)(a) and firms as defined by R.S. 40:1652(1) or their employees, used for regulated activities for which the business is certificated, or permitted, shall permanently

inscribe, paint, stencil or affix by magnetic means the business name and business certificate or permit number on such vehicles. Such markings shall be a minimum of two and one-half (2 1/2) inches in height and not less than one-fourth (1/4) inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. For fire protection sprinkler contractors with multiple qualifying persons, only one permit number is required.

**B. Restrictions**

1. Certificate holders, licensees and permittees are not agents or representatives of the State of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate, license or permit does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to plan, certify, service, inspect, install or maintain fire protection equipment and/or systems or fire protection sprinkler systems and/or equipment without the owner's permission.

3. Certificate holders, licensees and permittees shall not permit the use of their certificate, licenses or permit by other businesses, persons or employees.

4. A certificate holder, licensee or permittee shall not perform any activity relating to portable fire extinguishers, fixed fire extinguishing equipment/system, fire detection and alarm equipment/systems or fire protection sprinkler systems unless employed by and within the course and scope of that employment with a business regulated by the provisions of R.S.40:1625 et seq. or R.S.40:1651 et seq..

5. A person shall not perform any act for which a certificate, license or permit is required unless:

- a. first being certified, licensed or permitted to perform such acts; and
- b. is employed by a business certified to perform those acts; and
- c. is performing those acts for the certified business by whom he is employed.

6. An apprentice, as defined in LAC-55:V:3013, shall not perform any activity regulated by R.S.40:1651 et seq., unless employed by a certified firm, supervised by a licensee authorized to perform such act or acts and both the apprentice and licensee are employed by the same certified firm.

**C. Multiple Names:** A business which uses multiple names must apply for a separate certificate of registration if each named business has a separate tax number. All "doing business as" names shall be registered with this office at the time of application.

**D. Required Inspection**

1. The following shall be the building owner's responsibility.

- a. Portable fire extinguishers shall be inspected and certified annually by a certified firm.
- b. Fixed fire extinguishing systems shall be inspected and certified at a minimum annually by a certified firm.
- c. Clean Agent Gas (Halon 1301 Replacement) fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

d. Kitchen fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

e. Fire alarm and detection systems shall be inspected and certified at a minimum annually by a certified firm.

f. All non-required and non-conforming systems/equipment shall be inspected and certified at a minimum annually by a certified firm.

g. Fire protection sprinkler systems/equipment shall be inspected and certified at a minimum annually by a certified fire protection sprinkler contractor. The certified firm shall not be responsible for more frequent inspections as required by the applicable engineered specifications, manufacturer's specifications or per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards unless under contract to perform such.

**E. Service Invoices and Inspection Reports:** All service invoices or inspection reports shall reflect the inspection, installation, maintenance, or service performed, date of service, the technician who did the service, the manufacturer of the equipment/system and if applicable, the serial number of the equipment/system if applicable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.40:1563

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business March 15, 2000.

Nancy Van Nortwick  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Fire Extinguishers and Fire Alarms**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Implementation costs would be limited to the cost of copying the new rules and advertising in the State Register. However, it is anticipated that these costs will be very minimal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Overall revenue collection will increase \$1,250 each year. Fee collection will be reduced by approximately \$5,000 per year due to not requiring a firm/employee to hold both a Class B and Class C certificate/license and fewer Apprentice permits being issued; however, there will be an additional collection of approximately \$6,250 per year by the creation of the D-2 and Trainee license categories.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Firms will pay an additional \$1,250 each year for D-2 and Trainee licenses. Minimum expense would be experienced for marking vehicles and printing new tags.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Firms will be able to compete on an equal level with others in the industry due to clarity in rules and ambiguities removed.

Nancy VanNortwick  
Undersecretary  
0001#069

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Crawfishing on Agricultural Lands Within  
Sherburne WMA (LAC 76:VII.177)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to repeal rules and regulations governing crawfishing activities on the agricultural lands on Sherburne WMA.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§177. Crawfishing on Agricultural Lands Within  
Sherburne WMA**

**Repealed**

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Dave Morrison, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 2, 2000.

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).

Thomas M. Gattle, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Crawfishing on Agricultural Lands  
Within Sherburne WMA**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Repeal of this rule will result in an estimated annual gross savings to the State of \$1,250. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since the establishment of the rule in 1996, there has been 47 commercial crawfishing permits issued. By repealing the rule, the State's annual revenue collections is estimated to decrease by \$700. Local government revenue collections will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The commercial crawfish fishers who traditionally fish in this area will be directly affected by this action and will have to move to a new fishing location. In 1999, seven (7) persons were issued commercial crawfishing permits. Since commercial will be allowed on the remainder of the Sherburne Wildlife Management Area, there should be little or no economic impact on the affected persons. Recreational crawfish fishers will benefit from the repeal of this rule, since the South Farm impoundment area will be limited to recreational crawfishing only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition in the public and private sectors resulting from the proposed action.

James Patton  
Undersecretary  
0001#054

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Recreational Electronic Licensing (LAC 76:I.327)**

The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries do hereby advertise their intent to supplant an existing rule on non-resident hunting and recreational fishing licenses with regulations on electronic licenses issuance.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part I. Wildlife and Fisheries Commission and Agencies  
Thereunder**

**Chapter 3. Special Powers and Duties  
Subchapter H. Electronic Licenses Issuance  
§327. Recreational Electronic Licensing**

A. In accordance with Act 164 of the 1998 first Extraordinary Session of the Louisiana Legislature, the secretary of the Department of Wildlife and Fisheries hereby establishes rules for electronic licenses issuance within the Department of Wildlife and Fisheries, providing regulations and qualification criteria of license vendors, criteria to accept or reject applications or suspend the licensee, and establish effective license authorization numbers.

B. The Department may enter into contracts to acquire electronic methods for issuing hunting and recreational fishing licenses within the State Purchasing regulations.

C. Effective June 1, 2000, all recreational licenses previously issued by non-electronic methods, shall be available through electronic issuing methods pursuant to these rules.

D. The secretary of the department shall have the authority to enter into contracts with license issuing agents

(license vendors) for the purpose of distribution of electronic licenses. Licensing vendors shall be required to execute a contract provided by the Department which shall, at a minimum:

1. provide for a security deposit(s) by the vendor for electronic issuing equipment;
2. provide the mechanisms by which the electronic issuance and transfer of license fees shall be accomplished;
3. provide for compensation of licensing vendors in an amount not to exceed fifty-cents per license privilege, to be retained by the license vendor from license fees collected;
4. provide for other terms and conditions to be fulfilled by license vendors.

E. To qualify to become a license vendor, an applicant must complete the application, providing all required supporting documentation, sign a contract with the department, and pay security deposit(s) for equipment.

F. To remain qualified, a licensing vendor must abide by all terms and conditions of the contract executed with the department. Failure to do so may result in suspension of authority to participate in the program and subject the offender to other penalties as provided by law.

G. Funding for the electronic license system shall be provided from grants, license fees and other sources provided by law.

H. All payments for licenses sold shall be paid by bank transfer. The department shall specify the type of bank transfer(s) permitted.

I. Any vendor whose bank account is not sufficiently funded for three consecutive weeks, will be suspended from selling licenses until all funds due to the department have been satisfied. If any balance due from a suspended vendor is not paid within sixty days of written notification from the department, the vendor shall be dropped from the program, any balance due will be turned over for collection.

J. License vendors may only issue licenses to applicants who meet the requirements as set forth in R.S. 56, and who provide the required identification and documentation for the license.

K. Licensees who purchase licenses by telephone or Internet will be issued an effective license number (authorization number) that shall be effective immediately, or in accordance to dates provided therein, and will be valid for up to fourteen days.

L. Out-of-state licensees obtaining privileges by electronic methods shall have in their possession picture identification issued by an agency of a state or the federal government. Louisiana residents shall possess identification as required in R.S. 56:8(12). R.S. 56:8(60.1) requires that the appropriate identification be in possession at all times when engaging in the activity for which the license was issued.

M. The secretary shall have the authority to provide for the implementation of lottery-type issues through electronic methods as provided herein.

N. If any provision of these regulations is held invalid, such invalidity shall not affect the other provisions of these regulations which can be given effect without the invalid provisions, and to this end the provisions of these regulations are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21) and R.S. 56:641.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mrs. Janis Landry, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 2, 2000.

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).

Thomas M. Gattle, Jr.  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Recreational Electronic Licensing**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs of the proposed rule to the state are estimated to be \$359,845, \$1,335,974, and \$1,301,297 in FY 99-00, FY 00-01 and FY01-02, respectively. Savings in printing costs to the state will be incurred in FY 00-01 and FY 01-02. No increase or decrease in manpower requirements is anticipated to implement the proposed rule. Local sheriffs' offices will experience a decrease in workload and paperwork beginning in FY 00-01.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State revenue collections are estimated to increase by \$449,127, \$1,877,126, and \$1,951,170 in FY 99-00, FY 00-01, and FY 01-02, respectively. Beginning with FY 00-01, local sheriffs will not be distributing nor collecting a 15 percent commission on licenses issued. Recent legislation, however, has provided an alternative funding source to these local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Recreational anglers, hunters and non-consumptive users will benefit from the electronic licensing system, since they will be able to obtain any type of recreational license in one location. Vendors will likely experience increases in operation costs of \$360 per year for a dedicated phone line and will be required to provide a \$150 deposit for equipment. They will benefit by not having to purchase license stock for resale and will have all recreational licenses available for sale. The total impact on vendor receipts cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impacts on competition or employment in the public and private sector will result from the proposed rule.

James Patton  
Undersecretary  
0001#053

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office