Rules

RULE

Department of Economic Development
Board of Architectural Examiners

Architects Selection Board (LAC 46:I.Chapter 19)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I Chapter 19 pertaining to the election of members of the Louisiana Architects Selection Board. The Board repealed the rules contained in existing LAC 46:I Chapter 19 and adopted the rules contained herein. The rules contained herein, also replaced the emergency rules adopted at a special meeting of the Board of Architectural Examiners held on July 27, 1999, which were published in the August 20, 1999 issue of the *Louisiana Register.* The rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 19. Architects Selection Board

§1901. Districts

A. Only one architect may be elected from each of the districts set forth in La. R.S. 38:2311(A)(1)(a).

B. If the parishes comprising any district or if the number of districts are changed by the legislature, these rules shall be revised to be consistent with the latest expression of the legislature without the need of formal action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 988 (May 2000).

§1903. Nominations

For terms commencing September 15 of each year, the board will accept nominations for election to the Architects Selection Board on the following basis: any resident architect holding a current Louisiana license desiring nomination must deliver a written nomination on a current form and/or reproduction obtained from board office to the board office in Baton Rouge, signed by not less than 10 resident architects other than the nominee holding a current Louisiana license, between May 1 and May 31 at 5:00 p.m. preceding the election. The nomination shall state the parish in which the nominee resides and the district for which election is sought. Nominations received on or before such deadline shall be considered timely delivered. Confirmation of receipt is the sole responsibility of the nominee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 988 (May 2000).

§1905. Waiver of Election

If only one resident architect is nominated from any district, no election shall be held in that district, and that nominee shall be deemed elected without any further activity of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 988 (May 2000).

§1907. Ballots

If an election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately three weeks after the closing date for nominations. On the ballot shall be printed the names of the candidates for each district in alphabetical order, the date for the return of the ballots, and any other information the board believes helpful in the election process. Attachments to the ballot may include biographical information of the candidates and instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 988 (May 2000).

§1909. Voting

A. Only resident architects in good standing in Louisiana shall have the right to vote. A resident architect may vote in one or more but less than all district elections, and no ballot shall be voided for that reason.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. No marks identifying the voting architect shall be placed on the ballot itself. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless:

1. the signature and license number appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided. Any ballot containing more than one vote for candidates in one district will be entirely voided. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided;

3. the signature and license number of the voting architect appear on the return envelope; and

4. the return envelope is received by the board office on or before the deadline.

D. The deadline for returning the ballots will be fixed by the president and will be at least 14 calendar days after the

ballots are mailed to all resident architects. Ballots received after the deadline shall not be counted.

E. Upon receipt, each return envelope shall be stamped by the board office showing the date received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 989 (May 2000).

§1911. Plurality

The candidate elected in each district will be based on plurality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1913. Tabulation

A. On a date fixed by the president, within 14 calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall open and count all ballots properly prepared. The executive director will notify the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall:

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the candidates of the results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1915. Tie

A. In the event no candidate receives a plurality, a run-off election between those candidates who received the highest number of votes will be held.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §1907, except only the names and information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person elected, and for tabulating votes set forth in §1909, §1911, and §1913 shall be applicable.

E. In the event no candidate in the run-off election receives a plurality, the procedure set forth herein shall be repeated until one candidate receives a plurality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 989 (May 2000).

§1917. Vacancies

Any vacancy occurring with respect to any person elected shall be filled in the following manner. The executive director shall give notice of the vacancy to any person who has previously requested such notice in writing, and the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than 10 calendar days. The advertisement in the official journal of the state need not appear more than three times during the 10 day period. The executive director may publish other such advertisements in his or her discretion. The advertisements shall identify the district in which a vacancy has occurred and state that any resident architect in that district holding a current Louisiana license desiring nomination must furnish a nomination signed by not less than 10 resident architects holding a current Louisiana license by certified mail to the board office, that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination, and any other information the board may consider necessary. The deadline for filing a nomination to fill a vacancy shall be at least 10 calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26: 989 (May 2000).

§1919. Election Contest

A. The executive director will notify the candidates of the results of the election by U. S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

B. Any candidate desiring to contest an election shall, within the time period mentioned in the preceding paragraph, file a written petition addressed to the board stating the basis of the complaint. Upon receipt of such petition, the president shall call a special meeting of the board to hear the complaint, which meeting shall be held within 10 calendar days from the date the petition is received

and at a time and place to be designated by the president. At the hearing the board shall consider any evidence offered in support of the complaint. The decision of the board shall be announced within 72 hours after the close of the hearing.

C. All ballots shall be preserved until the expiration of the time allowed for the filing and hearing of a contest. After such period has elapsed, if the election be not contested, the executive director shall destroy the ballots. If the election is contested, the executive director shall maintain the ballots until the contest is concluded, after which the executive director shall destroy the ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26: 990 (May 2000).

Mary "Teeny" Simmons
Executive Director

0005#003

RULE

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 promulgates 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 26:990 (May 2000).

Doris B. Gunn
Acting Commissioner

0005#044

RULE

Department of Economic Development
Racing Commission

Parlay Wagering (LAC 35:XIII.Chapter 119)

The Louisiana State Racing Commission hereby adopts the following rule.

Title 35
HORSE RACING
Part XIII. Wagering
Chapter 119. Parlay Wagering
§11901. Series of Wagers

The parlay is not a separate mutual pool, it is a series of wagers (consisting of legs) combining wagering entries in win, place or show pools. The initial amount wagered constitutes the wager on the first leg, and if successful, the payout from the first leg constitutes the wager on the second leg, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:990 (May 2000.

§11903. Limitation of Wagers

A parlay wager is limited to win, place or show which have a corresponding pool conducted on the race selected. The wager must combine at least two races but not more than six races. The races in a parlay must be in chronological order but do not need to be consecutive races or combine the same type pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:990 (May 2000.

§11905. Combinations

A parlay wager may only be on one pool and one wagering interest per leg and cannot combine wagers on races on other days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000.

§11907. Breakage

Payouts included as wagers in subsequent races and the final payout to the parlay wagerer shall be broken to the nearest dime. Parlay breakage shall be reported separately and added to regular breakage at the end of the day for the purpose of taxation and distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26: 991 (May 2000.

§11909. Payouts

Parlay payouts will be included as wagers in subsequent pools by the track operator so the amount of such wagers, including their impact on the wagering odds, will be displayed. Wager totals in such pools shall be displayed in truncated fashion, to the lowest dollar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000).

§11911. Cancellations

Parlay wagers may be cancelled by the ticket holder, in accordance with track policy, only before the start of the first parlay leg in which a parlay selection starts. Parlay wagers not cancelled must be completed or terminated by operation of these rules in order to be entitled to a payout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000.

§11913. Scratches

If a race, pool or wagering entry in a parlay is scratched, which includes an entry being declared a non-starter for wagering purposes, or a race or pool is cancelled, the parlay shall consist of the remaining legs. The parlay terminates if there are no remaining legs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000.

§11915. Coupled Entries and Fields

A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of the coupled entry or field starts for pari-mutuel purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S.4:149.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:991 (May 2000.

Albert M. Stall
Chairman

0005#022

RULE

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., the State Board of Elementary and Secondary Education adopted 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 26:992 (May 2000).

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 teacher=s 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.

Teacher=s Edition¢ shall be defined as materials used for informing teachers' instruction and are not designed or intended to be used by students. Teacher=s editions may include teacher guides or instructor=s 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 26:992 (May 2000).

§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: 992 (May 2000).

§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: 992 (May 2000).

§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.	Early March
Notice of Publisher's Intent to Participate Due to SDE.	End March
SDE Supplies Submission Packet and Forms to Requesting Publishers.	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 26:993 (May 2000).

§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-3 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 percent 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)

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:

Step 1

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

Step 2

$70,000/3 = $23,333 Estimated Minimum First Year

Math Implementation for a school district with student population 2,000

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

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, 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 26:995 (May 2000).

§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 26:995 (May 2000).

§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 26:996 (May 2000).

§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 26:996 (May 2000).

§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 26:996 (May 2000).

§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 26:996 (May 2000).

§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 26:997 (May 2000).

§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 26:997 (May 2000).

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 26:998 (May 2000).

§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: 998 (May 2000).

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 26:998 (May 2000).

§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 by June 30 and the school system's Plan for Implementation 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 26:999 (May 2000).

§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 percent of all outstanding balances on orders not delivered within 90 days of the end of each ordering cycle, or within

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 26:1000 (May 2000).

§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 percent of all outstanding balances on orders not delivered within 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 26:1000 (May 2000).

§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 percent of it 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 percent 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 26:1000 (May 2000).

§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 26:1001 (May 2000).

§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 26:1001 (May 2000).

§519. Report on Status of Local Ordering -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 26:1001 (May 2000).

§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 26:1001 (May 2000).

§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 26:1002 (May 2000).

§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 26:1002 (May 2000).

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/SBESE. 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 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 26:1003 (May 2000).

§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 26:1003 (May 2000).

§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 26:1003 (May 2000).

§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 26:1003 (May 2000).

§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 26:1003 (May 2000).

§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 26:1004 (May 2000).

§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 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 26:1004 (May 2000).

§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 26:1004 (May 2000).

§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-s 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 26:1005 (May 2000).

§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 26:1005 (May 2000).

§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 26:1005 (May 2000).

§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 26:1005 (May 2000).

Chapter 9. Appendix A

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

§901. Adoption Cycle

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 Health Occupations	Computer Literacy		

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 26:1005 (May 2000).

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 26:1006 (May 2000).

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 26:1007 (May 2000).

State of Louisiana
Department of Education
State Textbook Adoption

LOCAL ADOPTION SUBCOMMITTEE 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 selected by the State Adoption Committee Member. 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)* inform the State Adoption Committee Member in writing of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the LDE 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)* inform the State Adoption Committee Member in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall 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 Textbook adoption process.

_____
Signature of Local Adoption Subcommittee Member Date
Note: REQUIRED FORM: -- To be collected by State Committee Member

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 26:1008 (May 2000).

Chapter 17. Appendix E
§1701. Public Comment Form

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 needed.)

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 26:1009 (May 2000).

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 26:1010 (May 2000).

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 26:1010 (May 2000).

§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 26:1010 (May 2000).

§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 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 26:1011 (May 2000).

§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 26:1012 (May 2000).

§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 26:1012 (May 2000).

§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 26:1012 (May 2000).

§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 26:1013 (May 2000).

§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 26:1013 (May 2000).

§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 26:1013 (May 2000).:

§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 26:1013 (May 2000).

§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 26:1013 (May 2000).

§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 26:1013 (May 2000).

§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 26:1013 (May 2000).

§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 Ateacher@ 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 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 26:1014 (May 2000).

§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 26:1014 (May 2000).

§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 26:1014 (May 2000).

§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 26:1014 (May 2000).

§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 26:1015 (May 2000)..

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

0005#073

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. ...

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an exception request form, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the reinstatement request and must submit the request no later than May 30 of the academic year the student requests reinstatement into TOPS.

2. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible for an exception provided in §2103.E 11(2) by LOSFA, recipient may appeal in accordance with §2109 of these rules.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS because of failure to meet the initial or continuous enrollment requirements may request reinstatement in TOPS based on one or more of the following exceptions.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly-adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date, or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per child.

2. Physical Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified medical professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) per occurrence.

3. Substance Abuse Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a substance abuse program prescribed by a qualified professional and administered by a qualified professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters). This exception shall be available to a student only one time.

4. Temporary Disability

a. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery, or the student/recipient is providing continuous care to his/her spouse, dependent, parent or guardian due to an accident, illness, injury or required surgery.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the disability, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional of the existence and of the accident, injury, illness or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) for recipient; up to a maximum of two consecutive semesters (three consecutive quarters) for care of a disabled dependent, spouse, parent, or guardian.

5. Permanent Disability

a. Definition. The student/recipient is permanently disabled in a manner that prevents the student from attending classes on a full time basis.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, a description of the disability, the reason for the disability, the reason(s) the disability restricts class attendance to less than full time; and

ii. a written statement from a qualified professional stating the diagnosis of and prognosis for the disability, stating that the disability is permanent, and opining why the disability restricts the student/recipient from attending classes full time.

c. Maximum Length of Exception. Up to the equivalent of eight full time semesters of postsecondary education in part time semesters.

6. Exceptional Educational Opportunity

a. Definition. The student/recipient is enrolled in an internship, residency, cooperative work, or work/study program or a similar program that is related to the student's major or otherwise has an opportunity not specifically sponsored by the school attended by the student that, in the opinion of the student's academic dean, will enhance the student's education. Participation in one of the programs does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from the college/school official that the applicant is a student at the school/college and that the program is offered or sponsored by the college/school, or a statement from the dean of the college or the dean's designee that the program is related to the student's major and will enhance the student's education. The statements must include the dates of leave of absence, the semester(s) or number of days involved, the beginning and ending dates of the program.

c. Maximum Length of Exception. Up to two semesters (three consecutive quarters) or required program of study.

7. Religious Commitment

a. Definition. The student/recipient is a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of the religious obligation; and

ii. a written statement from the college official and a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters).

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, guardian, dependent, sister or brother or grandparent dies.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Maximum Length of Exception. Up to one semester or two quarters per death.

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves and is called on active duty status or is performing emergency state service with the National Guard.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates), and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty; or

iii. a certified copy of the military orders.

c. Maximum Length of Exception. Up to the length of the required active duty service period.

10. Transfer/Graduation Part Time

a. Definition. A student/recipient who completed his or her program requirements for graduation or for transfer to another institution.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts and the semester affected; and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient was not required to attend full time in order to complete his or her program requirements for graduation or for transfer to another institution.

c. Maximum Length of Exception. One semester or one quarter.

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). financial conditions related to a student's ability to meet his or her educational expenses are not a justified reason for failure to meet the hours or continuous enrollment requirement, because TOPS is a merit, rather than need-based award;

(b). dropping a course, failing a course, or withdrawing from school to protect the student's grade point average or because of difficulty with a course or difficulty arranging tutoring;

(c). not being aware of or understanding the requirements;

(d). assumption that advanced standing, summer course work, or correspondence course work credited outside the appropriate regular semesters or quarters would be applied to the hours requirement;

(e). differing scholarship or award requirements for other programs, such as NCAA full-time enrollment requirements;

(f). voluntary withdrawal from school to move out of state or pursue other interests or activities;

(g). claims of receipt of advice that is contrary to these rules, public information promulgated by LOSFA, award letters, and the Borrower's Rights and Responsibilities document that detail the requirements for full-time continuous enrollment;

(h). failure to provide or respond to a request for documentation within 30 days of the date of the request, unless additional time is requested in writing, LOSFA grants the request, and the requested documentation is provided within the additional time granted.

ii. All other situations will be assessed at the discretion of LOSFA and subject to appeal to the Commission.

b. Certification Requirement. Submit a completed exception request form including a sworn affidavit from the student detailing the circumstances and including the official college transcripts and documentation necessary to support the request for reinstatement.

c. Maximum Length of Exception. Up to two consecutive semesters or three consecutive quarters.

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000).

Jack L. Guinn
Executive Director

0005#068

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Recordkeeping for Specific Licensing of Radioactive Material (LAC 33:XV.325, 342, and 478)(NE022)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.325, 342, and 478 (Log #NE022*).

This rule is identical to federal regulations found in 61 FR 24669, May 16, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact resulted from the rule; therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule specifies records important to decommissioning. It requires the transfer of records pertaining to decommissioning to the new licensee and states that the license will not be terminated until the Nuclear Regulatory Commission (NRC) receives the required records. Changes have occurred in the federal regulations that must be reflected in the state regulations. The basis and rationale for this rule are to maintain state compatibility with the NRC.

This rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
§325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A – D.6.d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important

to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the division considers important to decommissioning consists of the following:

* * *

[See Prior Text in D.7.a – d.iv]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000).

§342. Records

A. If licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee, and the new licensee will be responsible for maintaining these records until the license is terminated:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and
2. records required by LAC 33:XV.472.B.4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000).

Chapter 4. Standards for Protection Against Radiation

Subchapter I. Records

§478. Records of Waste Disposal

* * *

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the division terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000).

James H. Brent, Ph.D.
Assistant Secretary

0005#047

RULE

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 promulgates 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 26:1018 (May 2000).

§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 26:1018 (May 2000).

§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 26:1019 (May 2000).

Michael Ranatza
Executive Director

0005#024

RULE

Office of the Governor
Crime Victims Reparation Board

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby promulgates rules and regulations to the awarding of compensation to applicants. There will be minor impact on family earnings and family budget as set forth in R.S. 49:972 by an expansion of reimbursable child care expenses.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 5. Awards
§503. Limits on Awards

A. - C.3. …

D. Lost Wages/Earnings

1. - 4. ...

5. Repealed

6. - 7. ...

8. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.

9. - 11. ...

E. - K.2. ...

L. Child Care Expenses

1. A maximum of $1,500 may be paid for each eligible child care claim.

2. The board may award up to $100 per week per child, up to a maximum of $200 per week per family.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May l994), amended LR 22:710 (August l996), LR 24:328 (February 1998), LR 25:2170 (January 1999), LR 26:1019 (May 2000).

Lamarr Davis
Chairman

0005#004

RULE

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Rental and Lease Procedure and Regulations
(LAC 34:III.Chapter 5)

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control
Chapter 5. Rental and Lease Procedure and Regulations
§501. Authority, Policy, Purpose, and Application

A. Authority. Louisiana Revised Statutes provide that all agreements for the lease or rental of space shall be made by the agency whose offices and/or activities are to be housed, but shall be made and entered into only with the approval of the commissioner of administration. (Louisiana Procurement

Code, Louisiana Revised Statutes, Chapter 17 of Title 39 R.S. 39:1551 et seq. with particular reference to 39:1641-1644). The commissioner has designated the Office of Facility Planning and Control, Real Estate Leasing Section, to administer this function (1641).

B. Policy. It is the policy of the Division of Administration to acquire the best available rental space for state agencies with the greatest amount of competition among lessors of privately owned facilities (1594(G), 1594(E) as amended, 1643(A) as amended).

C. Purpose. The purpose of these procedures and regulations is to simplify and clarify the procurement practices for renting and leasing of space for state agencies, to provide increased economy and efficiency in procurement activities, to foster more effective competition for bid space, ensure fair and equitable treatment of all persons involved, to enable greater public confidence in the lease procurement process, and to maintain a procurement system of quality and integrity.

D. Application. The definition of "agency" stated in R.S. 39:2(2) shall be the sole definition of the term "state agency" employed herein in connection with the acquisition of housing space and the fact that an agency is supported by fees or taxes collected by, or dedicated to, the agency or which otherwise receives its operating funds through means other than direct appropriations, shall not be a test as to whether these rules shall be applicable to an agency of the state. [39:1641(C)].

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 Department in LR 10:902 (November 1984), amended LR 26:1020 (May 2000).

§503. Space Acquisition Method

A. In General

1. The Office of Facility Planning and Control, Real Estate Leasing Section, will retain an original of each lease and will notify a user agency when its lease is about to expire.

2. All standard forms mentioned herein are available on request from the Office of Facility Planning and Control, Real Estate Leasing Section.

3. Every lease for the use of 5,000 square feet or more, with the exception of emergency and sole source procurements as set forth in Rules 513 and 514 and cooperative use agreements between public procurement units, as set forth in R.S. 39:1701 and 1704, must be procured in accordance with R.S. 39:1594.

4. All leases and lease amendments, including amendments both for space of less than 5,000 square feet (which can be negotiated) and for 5,000 square feet or more, which must be bid, must be preceded by a request for approval form RL-2A (negotiable and amended leases) and RL-2B (leases competitively bid) on which the request for space, location and terms of lease are detailed.

5. The Office of Facility Planning and Control, Real Estate Leasing Section, will examine the request in relation to authorized programs, funds, and personnel, and will approve, take under advisement, or disapprove the user agency request, taking into consideration, including but not limited to, the price per square foot of rental space, space allocation, availability of housing in State-owned space, location of the requested space, number of locations considered, timeliness of the availability of the requested space.

B. Procedure for Space Less than 5,000 Square Feet

1. An agency seeking to acquire a lease for less than 5,000 square feet or to amend an existing lease which will result in total leased space of less than 5,000 square feet, shall attempt to obtain at least three written proposals. Upon receipt of these proposals, the user agency shall enter into a negotiation process to obtain the best price and terms possible under the circumstances subject to approval by the Division of Administration.

2. Once the agency has completed this negotiation process and has selected a prospective lessor, it submits an RL-2A form to the Office of Facility Planning and Control, Real Estate Leasing Section, for approval of the proposed lease.

3. If an RL-2A request is not approved, the agency is notified in writing of the reasons for disapproval. Facility Planning and Control, Real Estate Leasing Section, may request additional information for further consideration.

4. Upon approval of the RL-2A request, the Real Estate Leasing Section will prepare the lease and extract of lease/amendment. The lease, extract of lease/amendment, and accompanying affidavit are executed, first by the lessor, then by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The extract of lease and the affidavit become a part of the lease. All leases and amendments shall be executed as four originals and distributed as follows: two leases shall be distributed to the user agency, one distributed to the lessor, and one retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record the extract of lease/amendment, lease or amendment in the public records of the parish in which the leased premises are located, and provide the Real Estate Leasing Section with a certified copy showing such recordation.

C. Space 5,000 Square Feet or Greater

1. The Bid Specifications and Solicitation

a. The Office of Facility Planning and Control, Real Estate Leasing Section, receives the RL-2B from the user agency. If an RL-2B is not approved, the agency is notified in writing of the reasons for disapproval. Additional information may be requested for further consideration. If the RL-2B is approved, the Office of Facility Planning and Control, Real Estate Leasing Section, prepares the bid specifications. The bid specifications shall include the bid proposal form, affidavit attesting to control of the offered property and parking area, evidence of agency, corporate, or partnership authority (if applicable), space specifications and requirements, criteria for evaluation of the bids and a sample lease. Criteria for evaluation of bids shall include location of the proposed space, conditions of the proposed space, suitability of the proposed space for the user agency's needs, and timeliness of availability of the proposed space. (Act 635 of 1995 amending 39:1594(E) and Act 121 of 1997 adding 39:1594(C)(4).

b. The Real Estate Leasing Section forwards the bid specifications to the user agency for final review and comment prior to advertisement.

2. Advertisement and Notice. As required by R.S. 39:1643, leases for the use of 5,000 square feet or more of

space are to be awarded pursuant to R.S. 39:1594 (unless exempt under R.S. 39:1593) which requires adequate public notice of the invitation for bids to be given at least 20 days prior to bid opening date. This notice is given by advertising in the official journal of the state and in the official parish journal of the parish where the property is to be leased. The advertisement shall be published twice in the state and parish journals, with one publication on a Saturday, if available. The bid specifications are then made available and distributed to bidders who request a copy. Bidders receiving a copy of the bid specifications, become a "Bidder of Record" for that solicitation.

3. Pre-Bid Conference. A pre-bid conference may be held upon the request of the user agency to answer questions from prospective bidders. The date and time of the pre-bid conference shall be included in the advertisement, which shall state if attendance at the pre-bid conference is a pre-requisite to submission of a bid.

4. Addenda to Bid Specifications

a. A potential bidder or the user agency can request changes/alterations to the advertised bid specifications, but only in writing to the Office of Facility Planning and Control, Real Estate Lease Section. The written request is reviewed by the Real Estate Leasing Section and by the user agency. If approved, an addendum to the bid specifications is issued and provided to all "Bidders of Record."

b. Addenda modifying the bid specifications must be issued no later than three working days prior to the advertised time for the opening of bids, excluding Saturdays, Sundays and any other legal holidays. If the necessity arises to issue an addendum modifying the bid specifications within the three-day period prior to the advertised time for the opening of bids, the opening of bids shall be extended exactly 14 days, without the requirement of re-advertising. Addenda shall be sent to all "Bidders of Record."

c. If any changes/alterations to the advertised bid specifications are a substantial deviation from the advertised bid specifications, the solicitation must be re-advertised with a new bid opening date established. The bid opening is rescheduled for at least 20 days after the re-advertisement. Any alterations or changes to advertised geographic boundaries may be grounds for re-advertisement of the solicitation.

5. Bid Opening

a. Bids are opened by the Real Estate Leasing Section at the specified date, time and place. The Real Estate Leasing Section evaluates the bids and arranges them on a bid tabulation sheet. If deemed necessary by the Real Estate Leasing Section, additional information and documentation evidencing control of the offered property and parking areas can be requested of the apparent low bidder.

b. The Real Estate Leasing Section sends the bid tabulation to the user agency with a request that the user agency verify availability of funds for rental payments to the apparent low bidder and compliance of the property offered by the apparent low bidder with the specified geographic boundaries.

6. Determination of Lowest Bidder

a. Upon receipt from the user agency of verification of availability of rental payments to the apparent low bidder and verification of compliance of the property offered by the apparent low bidder within the specified geographic boundaries, the Real Estate Leasing Section sends written notice to the apparent low bidder requesting schematic floor plans, site plans, and outline specifications of the proposed lease space. The apparent low bidder is allowed 20 days in which to provide the required documents. The user agency shall then review the documents as to adjacencies and lay-out of the space. If they meet the agency's requirements, the agency shall then submit the schematic plans, site plans, and outline specifications to the Real Estate Leasing Section for review. Once the Real Estate Leasing Section determines they are in compliance with the advertised bid specifications, it will proceed with the issuance of the lease documents.

b. If the schematic plans, site plans, and outline specifications are not approved by the Real Estate Leasing Section, the apparent low bidder is allowed ten days in which to correct any deficiencies or discrepancies between the submitted plans and the advertised bid specifications. Upon receipt of the revised plans, the Real Estate Leasing Section reviews for compliance with the advertised bid specifications. If the documents are then approved by the Real Estate Leasing Section, the lease documents are then issued. Should the schematic plans, site plans, and outline specifications still not comply with the advertised bid specifications, the bid may be rejected for non-compliance with the advertised bid specifications. The next apparent low bidder can then be considered by following the same procedures.

c. Should all bidders be considered non-responsive or not in compliance with the advertised bid specifications, the bid solicitation is canceled. The bid specifications can be reviewed for possible revisions in order that a new solicitation can be issued.

7. Execution of the Lease. The Real Estate Leasing Section will prepare the lease and extract of lease. The lease and extract of lease and accompanying affidavit are executed, first by the lessor, who must return the signed lease and the affidavit within ten days after receipt. The lease is then executed by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The affidavit and extract of lease become a part of the lease. All leases shall be executed as four originals and are distributed as follows: two leases to the user agency, two to the lessor, and one retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record an extract of lease or lease in the public records of the parish in which the leased premises are located and provide the Real Estate Leasing Section with a certified copy showing such recordation.

8. Notice to Other Bidders. When the lease documents are mailed to the lowest, responsible bidder for execution, all other bidders are notified via certified mail of the contract award.

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 Department in LR 10:902 (November 1984), amended LR 26:1021 (May 2000).

§505. Space Offered

A. A bidder may offer space consisting of any of the following: owned or leased space ready for occupancy, owned or leased space to be renovated for occupancy, owned or leased new construction.

B. Space may not be offered for lease in response to a solicitation if the same space has been offered/bid for another solicitation within the last 60 days and has not been withdrawn for that solicitation.

C. A bidder must control the offered property and parking areas as of the date of the bid opening and throughout the term of the lease and option period. He shall submit an affidavit with his bid indicating how the property and parking areas are controlled. The Real Estate Leasing section shall ask the apparent low bidder to provide schematic plans, outline specifications, and site plans and will evaluate those plans and specifications to determine compliance of the offered space with the advertised bid specifications.

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 Department in LR 10:902 (November 1984), amended LR 26:1022 (May 2000).

§506. Rejection of Bids and Cancellation of Invitations for Bids or Requests for Proposals

A. The Chief Procurement Officer or designee has the right to reject any or all bids, and to cancel an invitation for bids, a Request for Approval Form RL-2, or other solicitation when it has been deemed to be in the best interest of the State of Louisiana. Such determination must be made in writing.

B. If the solicitation is cancelled prior to bid opening, all bidders of record (those bidders who obtain from the Real Estate Leasing Section a copy of the bid specifications) are notified. If the solicitation is cancelled after the bid opening, all bidders are notified.

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, LR 26:1022 (May 2000).

§507. Additional Requirements of Lessor

Repealed

§508. Correction and Withdrawal of Bids

A. Prior to Bid Opening. Prior to the bid opening, a written request for the withdrawal of a bid will be granted if the request is received prior to the specified time of the bid opening. If a bidder withdraws a bid, all bid documents shall remain the property of the State.

B. After Bid Opening. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders. Such bid may be corrected or withdrawn after bid opening only with the approval of the Office of Facility Planning and Control, Real Estate Leasing Section. A bidder who wishes to correct or withdraw a bid, must request approval for such action in writing. The request must specify the justification for the proposed correction or withdrawal. If a bidder is allowed to withdraw a bid, he may be required to withdraw all other bids he has submitted for that solicitation.

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, LR 26:1022 (May 2000).

§509. Determination of Responsibility

A. The Real Estate Leasing Section may request that an apparent low bidder submit suitable evidence that he is a responsible bidder. A responsible bidder shall:

1. have adequate financial resources for performance, or have the ability to obtain such resources as required during performance;
2. have the necessary experience, organization, technical qualifications, skills, and facilities, or have the ability to obtain them (this may include subcontractor arrangements);
3. be able to comply with the proposed or required occupancy date; and
4. not have an unsatisfactory record of contract performance.

B. The Real Estate Leasing Section may request the following information:

1. a letter of credit from a financial institution;
2. financial statement;
3. a letter of commitment from the bank or other institution financing the project and addressed to the Division of Administration, stating the amount and terms of commitment to the Lessor;
4. information from the prospective Lessor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;
5. other information supportive of financial responsibility, including financial data, and records concerning lessor performance;
6. publications, including credit ratings and trade and financial journals; and
7. information from other sources, including banks, other financial companies, state departments and agencies, and courts.

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 Department in LR 10:902 (November 1984), amended LR 26:1022 (May 2000).

§510. Assignment of Proceeds of Lease and Assignment of Lease

Assignments of Lease and Assignments of Proceeds of Lease by a lessor must be approved in advance and in writing by the Office of Facility Planning and Control¢ Real Estate Leasing Section. Approval of a requested assignment shall not be unreasonably or arbitrarily withheld by either party. However, the approval of any assignment of proceeds of lease may be conditioned upon receipt of reasonable assurances from assignee of his ability and willingness to assume responsibility for performance of the terms of the lease in the event of failure of performance by the assignor. Assignment of Lease forms and Assignment of Proceeds of Lease forms shall be provided by the Office of Facility Planning and Control, Real Estate Leasing Section.

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, LR 26:1022 (May 2000).

§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. The assistant director, 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, the solicitation will be canceled and reissued. If the protest with reference to the award is granted, then the lease will be voided and the remaining solicitations 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 26:1023 (May 2000).

§512. Lease Clauses

A. A lease may include clauses providing for equitable adjustments in prices, time for performance, or other contract provisions, as appropriate, covering such subjects as:

1. the unilateral right of the state to order in writing changes in the work within the general scope of the contract in the drawings, designs, or specifications for space to be furnished;

2. the unilateral right of the state to order in writing temporary stopping of the work or delaying of performance; and

3. variations between estimated and actual quantities.

B. A lease may include clauses providing for appropriate remedies covering such subjects as:

1. liquidated damages as appropriate;

2. specified excuses for delay or non-performance;

3. termination of the contract for default; and

4. termination of the contract in whole or in part if sufficient funds have not been appropriated by the Legislature.

C. A lease may also provide that in the event that the lessor fails to fulfill or comply with the terms of any contract, he may be subject to disqualification on future state projects and the chief procurement officer may award the contract to the next lowest responsible bidder, subject to acceptance by that bidder, and charge the difference in cost to the defaulting lessor.

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, LR 26:1023 (May 2000).

§513. Emergency Procurement

A. The Office of Facility Planning and Control, Real Estate Leasing Section, may make emergency procurements for acquisition of housing space of 5,000 square feet or more when there exists an imminent threat to the public health, welfare, safety or public property.

B. The declaration of an emergency must be made in writing by the Chief Procurement Officer or his designee, fully documenting the nature of the emergency, the circumstances leading up to the emergency and a description of the threat to public health, welfare, safety or public property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:1023 (May 2000).

§514. Sole Source Procurements

The Office of Facility Planning and Control, Real Estate Leasing Section may make sole source procurements for acquisition of housing space of 5,000 square feet or more or may amend an existing lease to total in excess of 5,000 square feet or more when the Chief Procurement Officer, or his designee, determines in writing that there is only one source for the required space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1597.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department, LR 26:1023 (May 2000).

§515. Amendments to Leases

A. Additional Space. Any additional space added is to be only that for which the requirement could not reasonably have been foreseen at the time of execution of the lease or the latest option renewal; the additional space provision is not to be used to circumvent the bid law.

1. Leases for Space of Less than 5,000 Square Feet. Any lease for less than 5,000 square feet may be amended by negotiation between the user agency and the lessor. The square footage of such a lease may be increased up to a total of 4,999 square feet with the approval of the Division of Administration. If the amendment causes the space to measure 5,000 square feet or more, the additional space must be procured in accordance with RS 39:1594 unless it is deemed a sole source or emergency procurement.

2. Leases for Space of 5,000 Square Feet or More. Any lease for space of 5,000 square feet or more, may be amended by negotiations between the user agency and the lessor to include up to 4,999 square feet of additional space. Such amendment must also be approved by the Division of Administration. If the amendment adds 5,000 square feet or more, the additional space must be procured in accordance

with RS 39:1594 unless it is considered a sole source or emergency procurement.

B. Modifications and Alterations. In the event alterations to or modifications of space currently under lease are required to meet changed operating requirements, a lease may be amended. Such lease amendment may, with the approval of the Division of Administration, provide an adjustment in monthly lease payments not to exceed 25 percent of the original annual lease price per square foot, sufficient to reimburse the lessor for paying for the leasehold improvements. Any adjustment in lease payments shall also require the approval of the Joint Legislative Committee on the Budget. The continuance of a rental adjustment in excess of 25 percent of the original rental rate shall be further contingent on the appropriation of funds in the following fiscal years.

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 Department in LR 10:902 (November 1984), amended LR 26:1024 (May 2000).

§516. Renegotiation and Renewal of Current Leases

A. Leases of Less than 5,000 Square Feet. If an agency wishes to renew an existing lease of less than 5,000 square feet, it may renegotiate with the present lessor or attempt to obtain proposals from other prospective lessors.

B. Space of 5,000 Square Feet or More. An existing lease for office or warehouse space of 5,000 square feet or more, may be renegotiated with the present lessor, but only after the Division of Administration has entered into a competitive negotiation process involving discussions with at least three offerors who submit written proposals. If less than three written proposals are submitted, the Division of Administration may, nevertheless, hold discussions with those offerors, as well as with the current lessor, but without revealing information gleaned from competing proposals to other offerors. Such proposals shall be solicited by advertising as provided in R.S. 39:1594(C).

C. Evaluation of Proposals. If the Commissioner of Administration, or his designee, determines after evaluation of the proposals and discussions with the current lessor that to renew the present lease would be in the best interest of the State, an existing lease may be renewed. The Commissioner, or his designee, may enter into a lease with one of the other offerors if determined to be in the best interest of the State. In making such a determination, the Commissioner, or his designee, shall take into consideration, over the duration of the lease, rental rates, the amount of funds necessary to relocate, any geographical considerations particular to that state program, the amount of disruption to state business that may be incurred in moving to a new location, and any other relevant factors presented.

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, LR 26:1024 (May 2000).

§517. Revised Statutes and Louisiana Administrative Code

These regulations shall be read and interpreted jointly with Chapter 17 of Title 39 of the Revised Statutes and, when not in conflict, with the purchasing rules of the *Louisiana Administrative Code.*

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 Department in LR 10:902 (November 1984), amended LR 26:1024 (May 2000).

Roger Magendie
Director

0005#045

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll has adopted the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to further define, clarify, and establish parameters for vendor participation.

Whitman J. Kling
Deputy Undersecretary

Title 4
ADMINISTRATION
Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

*Administrative Contract*ℭ contractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manage a Flexible Benefits Plan.

*Agency Number*ℭ three digit identifier in the DOA statewide payroll system which serves as a key for processing and reporting. It may represent a single agency or a group of agencies.

*Applicant*ℭ any company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

*Application*ℭ the process through which a vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, and etc.

*Authorized Code*ℭ a unique identification code assigned by OSUP to each vendor which has been approved in the application process.

*Commissioner*ℭ as referenced herein shall be the Commissioner of Administration, Division of Administration.

*Coordinator*ℭ a vendor designated representative who provides the single authorized contact for communication between the vendor and the Division of Administration, Office of State Uniform Payroll, payroll systems outside of

the DOA statewide payroll system and any administrative contract(or).

Data File: the body of information documented by copies of correspondence between OSUP, SEGBP, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction: any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency: as referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof.

Division of Administration (DOA): the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

DOA Statewide Payroll System: the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Employee Deduction Code: the unique set of characters (representing vendor, product, product eligibility and Flexible Benefits Plan participation) used to record, deduct, remit, and track an employee's selection of available deduction.

Employee Payroll Benefits Committee (EPBC): the group designated in §103 to review current and prospective payroll deduction benefits.

Flexible Benefits Plan: the program initiated by the state under which employees may participate in tax reduction benefits offered under IRS Code Section 125.

Flexible Benefits Plan Year: the annual period of time designated for participation (e.g., July 1 through June 30).

General Insurance Vendors: those insurance companies which market, through payroll deduction, non-tax qualified life and health insurance products.

Governing Board: as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review (GFR): as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest: as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2) e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

IntraAgency Deduction: a deduction required by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IntraOffice Deduction: a deduction required by a particular office within a department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IRS: as referenced herein shall mean the Internal Revenue Service with emphasis directed to the rules and regulations issued relative to employee taxes and benefits.

Menu Item Provider: any vendor that provides a product which is included in the current year Flexible Benefits Plan.

New Application: the process through which a new provider submits a request to be approved as a vendor to offer a specific product, or a current vendor requests for authorization to offer an additional product, policy form, or service plan.

Non-Insurance Vendor: any vendor that offers a non-insurance product that is not provided under definition of a general insurance vendor.

Office of State Uniform Payroll (OSUP): the section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

Organization: as referenced herein shall be any charitable group qualified under Federal Code 501 (c) (3), credit unions formed for the primary purpose of serving state (or parish) employees, labor union councils, or other deduction "permitted" by state statute. Permitted deductions are allowed by state statute rather than mandated.

Payroll Reporting Number: the number used by the DOA statewide payroll system to identify a payroll reporting entity.

Policy Form: referenced herein shall mean any of the written instruments through which a contract of insurance is set forth (i.e. the policy, certificate, rider, endorsement, application, schedule page, etc.) which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due: the amount for which the client/employee would have been billed.

Product: referenced herein shall mean the specific insurance or service authorized through the annual application process as defined in §115. This may include multiple policy forms and service plans under the product.

Product Authorization: the term used to identify the annual process through which an additional product code is approved for a current vendor.

Product Code: the portion of the employee deduction code assigned to specific insurance policy forms or vendor service plans authorized through the new application process.

Provider: the individual or organization which renders service, provides goods, or guarantees delivery.

Reconciliation: referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

Review: the process whereby the EPBC evaluates products and requests for product authorization.

Section 125 Status: as referenced herein shall mean the eligibility, under Section 125 of the IRS Code, of the product to be included in a Flexible Benefits Plan menu.

SED-2: referenced herein shall be the standard form developed by the Division of Administration, Office of State Uniform Payroll used to process new applications and annual applications for deduction authority.

SED-4℄ as used herein shall mean the authorized deduction form published in this rule.

Service Plan℄ type of insurance or non-insurance coverage under which benefits rather than monetary reimbursements are provided to the covered individual.

Third Party℄ any agent for or representative of a provider.

Uniform Fee Schedule℄ the fees designated for service(s) provided by state payroll systems for vendors, applicants, and others outside state government established by rule promulgated by the Division of Administration under R.S. 42:458.

University℄ any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor℄ referenced herein shall be any company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

Vendor Representative℄ as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

Voluntary Deduction℄ any deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1026 (May 2000).

§103. Employee Payroll Benefits Committee (EPBC)

A committee comprised of 12 nominated and two ex-officio classified state employee members established by the commissioner prior to July 1, 1996 fulfills the requirement of §107-112 of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§105. EPBC Selection and Tenure

A. Initial members of the EPBC were selected by the UPS Payroll Steering Committee submitting a list of nominees for EPBC membership to the commissioner of administration for appointment of 12 members to serve staggered terms of one, two, and three years. Said list was submitted to the commissioner prior to November 30, 1995 and consisted of the following departmental membership:

1. one member, one-year term℄ DHH-Department of Health and Hospitals;
2. one member, two-year term℄ DOA-Division of Administration;
3. one member, three-year term℄ DOC-Department of Corrections;
4. one member, one-year term℄ DOL-Department of Labor;
5. one member, two-year term℄ DOTD-Department of Transportation;
6. one member, three-year term℄ DPS-Department of Public Safety;
7. one member, one-year term℄ DSS-Department of Social Services;
8. one member, two-year term℄ ED-Education (Schedule 19);
9. one member, three-year term℄ ELEC-Elected Officials;
10. one member, one-year term℄ LHCA-Louisiana Health Care Authority;
11. one member, two-year term℄ OTHER-other departments;
12. one member, three-year term℄ WLF-Department of Wildlife and Fisheries;
13. ex-officio members shall be: director or assistant director of OSUP; and a designee of the Commissioner of Insurance.

B. Successive committee appointments shall be for a period of three years beginning July 1 consisting of the above departmental representation.

C. Prior to April 1, annually, EPBC shall submit, to the commissioner, three nominees for each of the four vacancies which will occur each year maintaining representation indicated in §105.A.

D. The commissioner shall select four of the nominees to fill respective dept/agency vacancies for EPBC membership.

E. The commissioner shall return a list of appointees to OSUP prior to May 1 each year.

F. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more shall be filled by appointment by the commissioner.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the commissioner.
2. The commissioner shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§107. EPBC Product Evaluation (Requirements)

A. EPBC shall adopt and maintain basic Guidelines for Review (GFR), to follow in the conduct of the annual review of general insurance and non-insurance products.

B. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and Flexible Benefits Plan administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

1. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.
2. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

C. The EPBC shall conduct an annual review of products authorized for deduction and new applications and requests for changes to existing products. The EPBC shall utilize the data file to evaluate user satisfaction with products and providers and the Guidelines for Review to evaluate product quality.

D. The EPBC shall issue an opinion of the annual review of all authorized products and all products and services

requested on new applications, along with recommended actions to the commissioner.

E. OSUP shall provide the commissioner of administration information relative to vendor/product compliance with all other provisions of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§109. EPBC Product Evaluation (Annual Applications)

A. Annual applications shall be submitted to the Division of Administration, Office of State Uniform Payroll by all vendors participating in payroll deduction. Annual application forms and instructions shall be provided to all approved vendors to be submitted prior to January 31 annually.

B. OSUP shall complete the annual application process in compliance with the commissioner's actions from the EPBC annual review.

1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved. See §119.

2. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name and code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§111. EPBC Product Evaluation (New Applications)

A. New applications shall be submitted annually to the Division of Administration, Office of State Uniform Payroll for any company, corporation, or organization interested in a new payroll deduction for additional products, policy forms, or service plans.

1. Written notice of requests for a new payroll deduction for additional products, policy forms, or service plans should be sent to the Office of State Uniform Payroll prior to April 1, 2000 and December first annually thereafter, in order to receive an application form to submit.

2. On or before April 1, 2000 and January thereafter, OSUP will provide deduction application forms along with instructions for completion to each entity on file.

3. Applications must be completed and submitted to the Office of State Uniform Payroll by April 30, 2000 and January 31 annually thereafter.

B. The EPBC shall conduct an annual review of all products requested in the new application process.

1. OSUP shall provide copies of the current data file information to EPBC for the annual review.

2. EPBC shall utilize the data file to evaluate user need/employee need for products and evaluate products and vendors in accordance with the GFR.

C. EPBC shall issue an opinion of the results of the annual review of products and new applications, along with recommended actions.

D. EPBC shall issue a summary report of opinions resulting from the annual review along with recommended actions to the commissioner on or before October 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§112. Requests for Changes to Existing Products

A. Vendors are allowed to solicit for payroll deduction only those products submitted and approved in the annual renewal or application process. Any change to existing products must be submitted to the Office of State Uniform Payroll for review and approval.

1. Any changes to existing products, including across the board rate increases, co-payment changes, and benefit changes, must be submitted to the Office of State Uniform Payroll by October 1 annually.

2. The Office of State Uniform Payroll and the EPBC will review the request and notify vendor of acceptance or denial by December 1 annually.

a. If accepted, the Office of State Uniform Payroll will notify the vendor by December 1 and provide procedures for implementing the change.

b. If denied, the Office of State Uniform Payroll will notify the vendor and add the vendor to the file of vendors for new applications. (See §111 for new applications). Upon receipt of completed application, the product will be reviewed along with all other applicants in the annual review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000).

§113. Product Approval and Notification

A. On or before November 1 annually, the commissioner of administration shall advise OSUP whether EPBC recommendations relative to products and new applications have been accepted or denied.

B. OSUP will complete the new application process for products which have been approved and notify all applicants whether requests were approved or denied. See §119.

C. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name, DOA statewide payroll system vendor, product name and code and effective date. Deduction authorization for new products will be established on or before January 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§115. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of the product or recipient of monies and shall be signed by two

officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA'S, *Annuities*, or *noninsurance investment programs* are not permitted.

C. Any applicant requesting authority to implement a deduction through OSUP, shall submit a completed application form to the Division of Administration, Office of State Uniform Payroll, Post Office Box 94095, Baton Rouge, LA 70804. Companies requesting application for any state University shall submit the application to the Governing Board for that university. The application shall:

1. be submitted on a currently approved application (Form SED-2);

2. include certification (Form SED-3) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R.S. 42:455; that said deduction will not represent a duplication of a product of comparable value already provided by payroll deduction; that there is a recognized need for same; that a reasonable evaluation of the product was made by the department which substantiates the request; and that the applicant has been advised of the statute and the rule governing payroll deductions. Form SED-3 is submitted only with the completed application form SED-2;

3. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

4. include a written request for consideration for statewide authority (if current authority is limited) for next available deduction authorization;

5. designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees;

6. respond to all applicable items (designated in instructions) on the form (SED-2) for new and annual renewal applications;

7. respond to all additional questions as required by EPBC.

D. Intraagency and/or intraoffice deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certifies that collection of funds from employees is required by and is a benefit to the department/agency.

E. All vendors shall file an annual application with the Division of Administration, Office of State Uniform Payroll or Governing Board as scheduled by that office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000).

117. Applicant and Vendor Requirements

A. Any applicant for deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the commissioner within 30 days of approval an irrevocable Letter of Credit in the amount of $100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of $100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor;

5. have been recommended for consideration by the Employee Payroll Benefits Committee as an applicant from the annual review of active and prospective deductions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000).

§119. Notification, Implementation, and Transition

A.1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved.

2. The EPBC shall conduct a thorough review of all products and, on or before January 1 each year, the Division of Administration, Office of State Uniform Payroll, shall notify all vendors whether their annual application has been approved.

3. Vendors whose requests have not been approved by the EPBC shall be notified by the Division of Administration, Office of State Uniform Payroll, by December first annually.

4. On or before first of January, each year OSUP shall notify all DOA statewide payroll system agencies and other departments/agencies and university governing boards of any new products which have been approved for deduction; Governing Boards shall notify universities.

5. Payroll systems outside of the DOA statewide payroll system will advise vendors whether the deduction will be established.

B. The vendor shall enroll employees for semi-monthly deduction amounts only. Optional modes may be authorized by OSUP or Governing Board prior to implementation of the deduction. Vendors granted deduction authority on the DOA statewide payroll system must use only semi-monthly deduction amounts. Payroll systems outside of the DOA statewide payroll system which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary deductions on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process under the following conditions:

1. has a currently approved application on file, provided:

a. general insurance vendors have met the rating requirements set forth in R.S. 42:455 or equivalent;

b. noninsurance vendors shall have met the requirements set forth in this rule as required in R.S. 42:455 B;

c. individual product participation shall exceed 1000;

d. proper monthly reconciliation is being accomplished;

e. policy information and detail employee/client participation has been provided in response to requests for same from OSUP;

2. all other permitted deduction vendors have filed application for informational purposes.

D. Vendors currently participating in deductions which do not meet the minimum requirements set forth in R.S. 42:455 A.1) a-e, 2) a-e or are not in compliance with the requirements of this rule by December 31, 2000 will be denied deduction privileges.

E. Vendors will be allowed twelve months after initial approval to meet the minimum product participation requirements.

F. Companies, corporations, or organizations which have been placed on the annual listing of applicants (April 1, 1999-March 31, 2000) for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

1. New applications shall be processed for review by the EPBC in May 2000 and in February annually thereafter.

2. Results of the EPBC review shall be forwarded to the commissioner on or before October 1 annually.

3. The commissioner shall confirm or reject each recommendation and notify OSUP to establish, deny, and/or delete deduction authorization, and notify vendors and non-UPS agencies accordingly by December 30 each year.

4. OSUP shall notify vendors whether application requests have been approved or denied.

5. OSUP shall notify vendors and departments/ agencies of products approved for deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000).

§121. Deduction Authorization Form

A. Vendors not exempted in §121.F of this rule shall provide and use the standard deduction authorization format (Form SED-4) authorized by the Division of Administration.

1. The form provided by the vendor shall be no less than 8 1/2 inches in width nor 11 inches in length with a top margin (top of page to top of blocked area) of 1 1/8 inches.

2. Within a blocked area as illustrated herein the form shall include:

a. the employee name and Social Security Number;

b. the employer (department/agency) name and payroll reporting number or other appropriate I.D. (identification);

c. vendor name, authorized code (vendor) and product code;

d. product name, Section 125 eligibility, monthly premium amount, and semi-monthly premium amounts;

e. amount of deduction, frequency, and beginning date of the deduction;

f. employee signature and date of signature;

g. authorized agent/vendor representative signature.

3. The form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

B. The authorization must specify product name, Section 125 status, monthly premium or fee, the amount of deduction to be taken and the frequency of deduction as semi-monthly (24 annually). All "MS __ __ __ __" deductions in the DOA statewide payroll system must be semi-monthly only. Payroll systems outside of the DOA statewide payroll system which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction authorization (which may cover more than one product) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s). The form shall indicate:

1. a total monthly premium or fee amount, the total semi-monthly amount, individual product codes, and premium/fee amounts for each product code;

2. the pay period (date) in which the deduction was calculated to begin.

D. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification number to support monthly Reconciliation process.

F. State Employee Group Benefits, Louisiana Deferred Compensation, United Way, U.S. "EE" Savings Bond, and Flexible Benefits Plan enrollment forms may be used in lieu of standard deduction (Form SED-4).

G. An employee may discontinue any voluntary deduction amount that is not committed for participation in a current Flexible Benefits Plan Year by providing written notification of that intent to his or her payroll office.

H. A deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), amended LR 22:22 (January 1996), LR 26:1029 (May 2000).

§123. Solicitation of State Employees

A. Employees may be solicited for deduction only:

1. after notification to the vendor and state department/agencies from the Division of Administration, Office of State Uniform Payroll, or notification from the Governing Board for Universities, that the product has been approved;

2. upon written authorization from employer department and agency administrator; and

3. for participation in products currently authorized for deduction.

B. Solicitation of employees shall be conducted within the guidelines established by the department/agency.

C. The coordinator shall be responsible for obtaining solicitation authorization and department policy from the department/agency secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by OSUP.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000).

§125. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives.

B. Vendor coordinator shall act as liaison for the vendor with any administrative contract(or) and the state relative to Flexible Benefits Plan participation. The coordinator shall also be responsible for dissemination of information to vendor representatives.

C. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to facilitate the monthly reconciliation.

D. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due.

E. Monthly Reconciliation shall include total monthly premium due amount, each product amount and product code that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll reporting groups.

F. Monthly Reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number and shall be grouped within payroll agency numbers for DOA statewide payroll system agencies and similarly for payroll systems outside of the DOA statewide payroll system.

G. Vendors shall furnish evidence of reconciliation to the Division of Administration, Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems outside of the DOA statewide payroll system.

H. Monthly certification of reconciliation will not be required of vendors that provide participants or members with monthly or quarterly statements of activity and/or balances.

I. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Division of Administration, Office of State Uniform Payroll.

J. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

K. Vendors must identify each policy form for specific product provided on the SED-2 application form. Vendors must indicate whether the form SED-2 is an annual application (renewal) or a new application for a product or service not previously approved for deduction.

L. Vendors shall not submit deduction forms listing any product or service for which a product code has not been assigned through the new application process. Vendors shall submit deduction forms only for those policy forms or service plans which have been approved.

M. Vendors shall follow procedures established by the Division of Administration, Office of State Uniform Payroll or Governing Board when refunding payroll deducted and remitted premiums to employees, implementing across the board rate increases, or requesting changes to existing products. See §112.

N. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

O. Vendors must reconcile monthly remittances in total and at each product level as of January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000).

§127. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;

2. confirm with the vendor coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor coordinator;

3. provide vendor coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intraagency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

5. insure that intraoffice deductions such as flower, gift, and coffee funds are not permitted;

6. provide support for participation of selected EPBC members.

B. Departments/agencies shall provide OSUP a written report of acts of noncompliance by any vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of DOA statewide payroll system agencies may process refunds for amounts previously deducted from any vendors which receive consolidated remittance only as directed by OSUP. Payroll systems outside of the DOA statewide payroll system shall establish written policy for remittance and refund of deductions taken.

D. Department/agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4) from vendor representatives;

2. verify that the vendor name and the vendor and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization;

5. be responsible for maintaining compliance with employee flexible benefits plan year contract commitment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§129. Reporting

A. Vendors shall provide written notification within ten days of final approval of any change in the name, address, company status, principal officers, and designated coordinator to OSUP.

B. Vendors shall provide as required by OSUP data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing deduction.

C. Annual (renewal) applications shall list specific products/policy forms provided. No new products or services or changes to existing products or services shall be added to SED-4 forms or marketed without prior approval through the annual application process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate Governing Board or Boards.

E. Vendors shall provide written notification of the dismissal of any representative participating in state deduction to OSUP and/or appropriate Governing Board or Boards.

F. Vendors with deductions "permitted" by statute shall provide annual (renewal) applications (Form SED-2).

G. Each Governing Board shall provide OSUP an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:1031 (May 2000).

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the DOA statewide payroll system or other state payroll system shall be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§133. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state deduction for any vendor.

C. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455.

D. Deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§135. General

A. Deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state.

C. Group Benefits HMO and other Board Approved third party pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §125.J.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§137. Appeal Process

A. Any vendor participating in deduction debarred from participating for any reason by a department/agency or

university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective Governing Board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the commissioner of administration . Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

SED-3 {09/95}

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §115.C.2),

I,_____,_____, on behalf of the
NAME TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:
A.

_____
APPLICANT/VENDOR NAME

_____
ADDRESS

_____
CITY/STATE/ZIP

_____
AGENT/REPRESENTATIVE

_____
PHONE (Area/Number/Extension)

To offer:
B.(PRODUCT/

Section 125 Eligible
Yes [__] No [__]

_____
_____
_____
_____

I further certify that this request does not represent a duplication of a product or service of comparable value currently available in the payroll system; that a review and/or survey conducted by this department has indicated a need for this particular deduction; that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R. S. 42:455; and has knowledge of the requirements of the rule governing payroll deductions.

Department _____
Signature _____
Title _____
Date _____

SED-4 (9/95)

(VENDOR NAME HERE)

State of Louisiana Employee Payroll Deduction Authorization

Employee Name	Soc. Sec. No.	Payroll Reporting No.
Department/Agency/Section Name	Control No.	Authorized Codes MS@ a-? MS@ m-?

I hereby authorize my employer to deduct a total of $_____, monthly rate, from my salary until further notice and remit same to (VENDOR NAME HERE). A TOTAL Semi-Monthly Deduction in the amount of $_____ represents one half of the total monthly premium required for the coverage(s) detailed below. I, hereby waive on behalf of myself, my heirs, successors, agents, and assigns any and all rights of action against the State of Louisiana, its agents, and assigns, arising out of the deduction, failure to deduct, or any other handling of this request for payroll withholding.

DEDUCTION DETAIL (Product Codes, Premium Amts., 125 Elig.) MENU ELECTIONS

PRODUCT NAME	PLAN PART. CODE YES	NO	125 ELIG.	MO. PREM.	PAYROLL CODE	INELIGIBLE & NON-PART Semi-Mo.	ELIGIBLE PART Semi-Mo.
PRODUCT ONE ##	P		Y	$	MS@ P ?		$
Product one ##		N	Y	$	MS@ N ?	$	
PRODUCT TWO ##	P		Y	$	MS@ P ?		$
Product two ##		N	Y	$	MS@ N ?	$	
PRODUCT THREE ##	P		Y	$	MS@ P ?		$
Product three ##		N	Y	$	MS@ N ?	$	
SUB TOTALS MS@ Non-Part. - Part.						$_____	$_____
Other Product 1 ##		N	N	$	MS@ N ?	$	
Other Product 2 ##		N	N	$	MS@ N ?	$	
Other Product 3 ##		N	N	$	MS@ N ?	$	

_____
Begin/Change Date

_____
Date/Authorized

BY: _____
Employee Signature

Total Mo. Prem.	$		
Total Semi-Mo. Ineligible	MS@	$ _____	
Total Semi-Mo. Non-Part.	MS@	$ _____	
Total Semi-Mo Participating	MS@		$ _____

TOTAL SEMI-MONTHLY MS@ $ _____

(THIS FORM SUPERSEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)

Presentation and deduction authorization processed by: _____

MS@ Agent Phone

_____

Address

(@ = Vendor Code Letter ? = Product Code Letter ## = FBMC Product Type number)

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000).

Whitman Kling
Deputy Undersecretary

0005#035

RULE

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Commercial Seafood Inspection Program (Chapter IX)

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 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 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 year after the date they were prepared in the case of refrigerated products and for at least two 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 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.

David W. Hood
Secretary

0005#037

RULE

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Water Supplies (Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are deemed necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141). One of the main reasons for these amendments is to implement a rule which will provide the state health officer the authority to use an optional procedure for calculating penalties related to public water systems which serve greater than 10,000 individuals when they fail to comply with a provision of an administrative compliance order issued pursuant to R.S. 40:5.9. Also, the existing definition/term "public water supply" is deleted and reenacted as "public water system" to make it equivalent to the recently revised federal definition. In addition, several other items are also being amended/adopted to ensure that DHH-OPH clearly has state-level requirements equivalent to federal regulations. Sections 12:004-1 and 12:004-2 regarding turbidity monitoring are repealed in their entirety since they are out of date and no longer applicable. Turbidity monitoring is now required under the Louisiana Surface Water Treatment Rule (see LR 17:271, March 20, 1991).

The Louisiana Total Coliform Rule (see LR 17:670, July 20, 1991) which was adopted as an addendum to Chapter XII is now designated as "Appendix C" of Chapter XII. The Louisiana Surface Water Treatment Rule which was adopted in 1991 without notation to its location in the context of the various state regulations is proposed to be incorporated into Chapter XII as "Appendix D".

The revisions relative to the optional penalty calculation method and the new definition/term "public water system"

are specifically necessary due to a federal rule promulgated by USEPA in the Federal Register dated April 28, 1998 (Volume 63, Number 81, pages 23366 through 23368), which is entitled "Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996).

This rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accord with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a public water system serving greater than 10,000 individuals, are issued an administrative compliance order by the state health officer, violate one or more provisions of such order after the compliance deadline(s) specified therein expires, and the state health officer decides to impose a monetary penalty for such non-compliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule; therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

Authority and historical footnotes have been added beneath various sections in preparation for the eventual codification of Chapter XII (Water Supplies) in the *Louisiana Administrative Code*. Further work will be needed to be done in future revisions to complete footnoting of other sections in preparation for such codification.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is amended as follows:

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abandoned Well— a water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary Intake— any piping connection or other device whereby water may be secured from a source other than that normally used.

Backflow—

(1) a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source, or

(2) the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow Preventer— a device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back Siphonage— a form of backflow caused by negative or subatmospheric pressure within a water system.

Boil Notice— an official order authorized by the State Health Officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to directions, or otherwise disinfected prior to human consumption.

By-Pass— any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

Category— a group of parameters for which certification is offered.

Certification Fee— the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of Certification— the committee, created by LSA - R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water Supply— a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Contaminant— any physical, chemical, biological, or radiological substance or matter in water.

Cross Connection—

(1) a physical connection through which a supply of potable water could be contaminated or polluted, or

(2) a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Drain— any pipe which carries waste water or water-borne waste in a building drainage system.

Drainage System— (drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground Water— subsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

Interconnection— a physical connection between two water supply systems.

Laboratory Certification Manual— the reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification Program— a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting Certification: an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, And Standards: the November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of State Act 535 of 1972 (R.S. 38:3091 et seq.).

Maximum Contaminant Level (MCL): the highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water Regulations: regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1997 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

i.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75), and

ii.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144).

National Secondary Drinking Water Regulations: regulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water Supply: a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water Supply: a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator: the individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Permit: a written document issued by the State Health Officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable Water: water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water Supply: a source of potable water, and the appurtenances that make it available for use.

Private Water Supply: a potable water supply that does not meet the criteria for a public water supply.

Public Water Supply: "public water system".

Public Water System: a system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and,

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a "community water supply" or a "non-community water supply".

Reservoir: a natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well Seal: a suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service Connection: the pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water Supply: any well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface Water: derived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State Standards: the *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these Standards which the State Health Officer may establish in this Chapter.

* Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224

Transient Non-Community Water Supply: a non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique Requirement: a treatment process/standard which has been established in lieu of a maximum contaminant level when, in the State Health Officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum Breaker: a device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well): an artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

12:002-1 General Requirements

Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the State Health Officer determines is unsafe, shall be made to comply with the requirements of the Code.

12:002-2 Permit Requirements

No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the State Health Officer. No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the State Health Officer prior to the start of construction or modification. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the State Health Officer as set forth in this Chapter.

12:002-3 Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the State Health Officer.

12:002-4 Water supplied for potable purposes shall be:

(a) obtained from a source free from pollution; or

(b) obtained from a source adequately protected by natural agencies from the effects of pollution; or

(c) adequately protected by artificial treatment.

12:002-5 Water Quality Standards

Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D). The State Health Officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the State Health Officer.

Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act, P.L. 99-339. Upon receipt of a variance and/or exemption, the owners of the public water supply shall appraise their supply and submit within one hundred eighty (180) days compliance and implementation schedules to correct the noncompliance for which the variance and/or exemption was issued. Such compliance and implementation schedule when approved by the State Health Officer shall be executed in accord therewith.

12:002-7 [Blank].

12:003-1 Responsibility of Owner

It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Chapter of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Chapter of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

12:003-2 Plant Supervision and Control

All public water supplies shall be under the supervision and control of a competent operator. The operator of public water supplies serving more than 500 persons shall be certified as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (LSA - R. S. 40:1141-1151).

12:003-3 Records

Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the State Health Officer. Copies of these records shall be provided to the office designated by the State Health Officer within ten (10) days following the end of each calendar month.

12:003-4 Public Notification

If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), or the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the State Health Officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule (Appendix D) and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification. The water supply, within ten days subsequent to the completion of each public notification shall submit to the State Health Officer a representative copy

of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

12:003-5 Security

All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least six (6') feet high.

12:004-1 [Blank].

12:004-2 [Blank].

12:005 Reporting Changes in Public Water Supplies

No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the State Health Officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the State Health Officer. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the State Health Officer within 48 hours after learning of any violation.

12:006 Filtration

All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

12:007 Treatment Chemicals

Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U. S. Environmental Protection Agency.

12:008-1 Ground Water Supplies

All potable ground water supplies shall comply with the following requirements:

12:008-2 Exclusion of Surface Water From Site

The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of 12:008-3) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than fifty (50') feet for potable water supplies.

12:008-3 Distances to Sources of Contamination

Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the State Health Officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50[1]
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100[2]
Another water-well	25[3]
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50[4]

[1] This distance may be reduced to thirty (30') feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

[2] For a private water well this distance may be reduced to fifty (50') feet.

[3] This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

[4] Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a ten-year period.

12:008-4 Leakage From Toilets And Sewers

No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

12:008-5 Pits Near Water Supply

There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within fifty feet of such water supply, except properly constructed well, pump, or valve pits as covered under Section 12:009-5 of this Chapter.

12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum

The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

12:008-7 Minimum Depth of Casings and Curbings

All well and spring basin casings or curbings shall extend a safe distance below the ground surface. The minimum depth of casings or curbings shall not be less than fifty (50) feet in the case of public water supplies and not less than ten (10) feet in the case of private water supplies.

12:008-8 Height of Casings and Curbings

In wells with pipe casings, the casings shall project at least twelve inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least twelve inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least two inches over the walls or curbings of such wells. In flood-prone areas the top of the casing shall be at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface.

12:008-9 Grouting

The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of fifty (50') feet to the ground surface; and private supply wells shall be cemented from a minimum depth of ten (10') feet to the ground surface.

12:008-10 Cover or Floors

Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than four (4) inches thick.

12:008-11 Potable Water Well Seals and Covers

Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least one (1") inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

12:008-12 Potable Water Well Casing Vents

All potable water well casings shall be vented to atmosphere as provided in Section 12:008-13 of this Code, with the exception that no vent will be required when single-pipe jet pumps are used.

12:008-13 Potable Water Well Vents

All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than twenty-four (24") inches above the highest flood level which may have occurred in a ten year period, but in no case less than twenty-four (24") inches above the ground surface. Such vent openings and extensions thereof shall be not less than one-half (1/2") inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

12:008-14 Manholes

Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least two inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

12:008-15 Well Construction Standards

All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards*. Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under State Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

12:008-16 Sampling Tap

All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

12:008-17 Disinfection of Wells

All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in Section 12:020-2 of this Chapter.

12:009-1 Construction and Installation of Pumps

All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

12:009-2 Hand Pump Head and Base

Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least one inch above the bottom thereof and shall extend twelve (12") inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

12:009-3 Power Pump

Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into the base at least one inch above the bottom thereof, and at least one inch above the level of the foundation on which the pump rests. The well casing shall project at least twelve (12") inches above ground level or the top of the floor.

12:009-4 Where power pumps are not placed directly over the well, the well casing shall extend at least twelve inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

12:009-5 Well, Pump, Valve, and Pipe Pits

No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the State Health Officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

12:009-6 Pump House

All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

12:009-7 Lubrication of Pump Bearings

Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

12:009-8 Priming of Power Pumps

Power pumps requiring priming shall be primed only with potable water.

12:009-9 Priming of Hand Pumps

Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

12:009-10 Airlift Systems

The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the State Health Officer.

12:010 Well Abandonment

Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards.*

12:011-1 Reservoir Sanitation

The State Health Officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

12:011-2 No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

12:011-3 No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

12:011-4 Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the State Health Officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within one hundred feet of the water intake point of the public water supply.

12:011-5 Industrial Wastes

No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

12:012-1 Distribution

All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

12:012-2 All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead. Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8.0 per cent lead.

12:012-3 Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than fifteen (15) pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Chapter XIV of this Code.

12:012-4 All public water supplies shall be operated and maintained to provide a minimum positive pressure of fifteen (15) pounds per square inch gauge at all service connections at all times.

12:013-1 Storage

All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the State Health Officer. When located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

12:013-2 Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

12:013-3 Vent Openings

Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than two (2') feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

12:013-4 Coatings

Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Section. (The AWWA Standard can be obtained from the American Water

Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

12:014-1 Protection of Suction Pipes

All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

12:014-2 Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least six (6") inches above the floor if in a room or building, and at least twelve (12") inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

12:015 Separation of Water Mains and Sewer Mains

Sewer and water mains shall be laid in separate trenches not less than six (6') feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of eighteen (18") inches. In cases where it is not possible to maintain a six foot horizontal separation, the State Health Officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

12:016-1 Cross Connections

There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

12:016-2 Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two (2) times the pipe diameter or two (2) inches, whichever is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the State Health Officer.

12:017 Connection With Unsafe Water Sources Forbidden

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

12:018 Connections to Public Water Supply

All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The State Health Officer may grant permission to use water from some other source.

12:019 Protection During Construction

All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

12:020-1 Disinfection of Potable Water Supply Systems

Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the State Health Officer.

12:020-2 Disinfection of New Water Supplies

Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

12:020-3 Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

12:020-4 Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the State Health Officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following EPA approved procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Fourteenth Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in Section 12:020-2 above, and the chlorinated water thoroughly flushed from the system.

12:021-1 Mandatory Disinfection

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

This table does not apply to systems using chloramines.

All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

The effective date of mandatory disinfection for all public water supplies serving a population of 500 or less shall be July 1, 1996.

12:021-2 Minimum Disinfection Residuals

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

12:021-3 Other Methods of Disinfection

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

12:021-4 Variances to Mandatory Disinfection

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

12:021-4.1 Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

12:021-5 Revocation of Variance

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under 12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

12:021-6 Batch Disinfection

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

12:021-7 Records

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

12:022-1 Water Shall Be Provided

It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

12:022-2 In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within fifteen (15) days after due notice, he shall be in violation of the provisions of this Chapter.

12:022-3 Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the State Health Officer.

12:022-4 It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

12:022-5 Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the State Health Officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the State Health Officer. If the water supply for industrial or fire protection purposes is obtained entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

12:023-1 Public Drinking Fountains

All public drinking fountains shall be designed and constructed in accordance with the provisions of Chapter XIV of this Code. Drinking fountains and coolers shall be

constructed of lead free materials as specified in section 12:012-2.

12:023-2 Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

12:023-3 Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

12:023-4 The use of a common drinking cup is prohibited.

12:024 Potable Water Loading Stations

Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle

12:025 Issuance Of Emergency Boil Notices

An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the State Health Officer. Once implemented, said notice may be rescinded or cancelled only by the State Health Officer.

12:026 Adoption By Reference

The National Primary Drinking Water Regulations, as defined in Section 12:001, are hereby incorporated by reference into this Chapter of the Sanitary Code and shall have the same force and effect of State law as any other section of this Chapter just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the State's own rules and/or regulations applicable to public water systems conflict, the State's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

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Appendix A
Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by LSA - R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

II. General Provisions

2.1 Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five (5) days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

A. Use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

B. Transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgement, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgement of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgement of receipt of any facsimile transmissions which may be sent to the state health officer.

C. Use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

2.2 Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

2.3 When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

III. Calculation of Daily Penalties

3.1 LSA - R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to $3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

3.2 For purposes of implementation of LSA - R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

A. All violations for a given public water system shall be handled as a package (i.e., the statutory maximum daily penalty of $3000 per day per violation will be handled as a maximum daily penalty of $3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

B. In lieu of the requirements of Section 3.2(A) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than $1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

3.3 The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

A. When a penalty is calculated pursuant to Section 3.2(A) above, the maximum daily penalty shall be set at $1 dollar per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be $3,000 per day.

2. The maximum daily penalty for public water systems having less than 30 service connections shall be $30 per day.

B. When a penalty is calculated pursuant to Section 3.2(B) above, the maximum daily penalty shall be set at $1 dollar per service connection per day per violation based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be $3,000 per day per violation.

2. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be $2500 per day per violation.

3.4 Pursuant to Sections 3.2 and 3.3 above, the exact level of the daily penalty shall be based on the seriousness of the violation and culpability of the owner and/or operator as follows:

A. Using the maximum daily penalty specified in Section 3.3 above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

B. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B).

C. When the state health officer utilizes Section 3.2(B) as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than $1000 per day per violation after the provisions of Sections 3.4(A) and 3.4(B) are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

3.5 The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

A. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of

the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in Section 2.1(A) above.

B. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in Section 3.5(A) above, it then becomes incumbent upon the person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in Section 2.1(A), (B), or (C) above. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

C. The steps described in Section 3.5(A) or (B) above may continue for an indefinite period of time but shall end once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

IV. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

4.1 At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in Section 2.1(A) above or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

4.2 Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in Section 2.1(A), (B), or (C) above.

4.3 Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, i.e., upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in section 3.4(B) above shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from $1,000 up to $5,000, the state health officer shall not mitigate the penalty below $500. When the amount of the penalty imposed is less than $1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable 35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

(i) an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice, or

(ii) the state health officer specifies a different payment schedule within the disposition notice.

4.4 Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

4.5 When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

V. Court Appeals

5.1 A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of LSA - R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

Accompanying Guidelines to the Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B) are as follows:

A. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

B. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, *i.e.*, irrespective of whether 3.2 (A) or 3.2 (B) of the "Civil Penalty Assessment Rule" (Appendix A) was used.

II. Seriousness of Violation

2.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule (Appendix A), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications of violations described in Subpart 4 of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B):

A. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

III. Culpability of the Owner and/or Operator

3.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed:

A. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

D. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at zero percent of one-half of the maximum daily penalty amount, i.e., $ 0.

IV. Classification of Violations

4.1 The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows:

A. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

1. exceeding maximum contaminant levels for nitrate.
2. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.
3. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground water system which is under the direct influence of surface water.
4. any violation specified by the State Health Officer as posing an acute risk to human health.
5. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.
6. failure to give public notification of an acute violation (Tier 1 - Acute) within the time frames allowed by law or duly adopted rule.

B. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

1. exceeding the maximum contaminant level for total coliform.
2. failure to comply with a treatment technique requirement.
3. failure to comply with a variance or exemption schedule.
4. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor.
5. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant.
6. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or

duly adopted rule to be analyzed by an EPA or State-certified laboratory.

7. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or State-certified laboratory but the results of which are required to be reported to the State for compliance monitoring determinations.

8. failure to report the results of any test measurement or analysis to the State within the time frame allowed by law or duly adopted rule.

9. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer.

10. failure to give public notification of a non-acute (Tier 1 - Non-Acute) violation within the time frames allowed by law or duly adopted rule.

C. *Non-imminent* threat violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

1. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule.

2. failure to comply with an operational or maintenance requirement.

3. failure to comply with design and construction standards as required by law or duly adopted rule.

4. failure to submit plans and specifications as required by law or duly adopted rule.

5. failure to comply with an operator certification requirement.

6. failure to submit to the State, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media.

7. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses.

V. Mitigation Guidance

5.1 Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings:

A. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of zero percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A), the minimum mitigation limits specified therein shall apply.

Appendix C
Louisiana Total Coliform Rule

The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as an addendum to Chapter XII of the State Sanitary Code. In order to clarify the State's discretionary decisions allowed by the Federal requirements, the following is offered.

Coliform Routine Compliance Monitoring

Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by the EPA/DHH against the public water supply. Community systems must be routinely monitored in accordance with Table 1.

Table 1

Total Coliform Sampling Requirements According to Population Served

Population served	Minimum number of routine samples per month	Population served	Minimum number of routine samples per month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420

41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

Coliform Repeat Monitoring

If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2

Monitoring and Repeat Sample Frequency After a Total Coliform Positive Routine Sample

No. routine samples/month	No. repeat samples/positive	No. routine samples next month
1/month or fewer	4	5/month
2/month	3	5/month
3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

The repeat samples must be collected on the same day. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the State is aware of violation. If short term corrective actions are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

Whenever a system that normally collects less than 5 routine distribution system samples each month receives a positive coliform analysis, it must collect at least 5 routine distribution system samples the next month regardless of the results of repeat sampling.

If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

Invalidation of Total Coliform Results

Analysis results may be invalidated under specified conditions, including:

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.
2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.
3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

Total Coliform MCL

1. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.
2. If 40 or more distribution system samples are collected per month, no more than 5 percent of the monthly samples may be total coliform positive.
3. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation. If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the number each month does not exceed 5 percent of the total samples.

4. A violation is considered acute and is subject to more stringent public notification requirements when:
   a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or
   b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

Public Notification

Public notification requirements remain unchanged from the 1989 revisions as specified.

If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

In addition, public notification is required within 3 months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

Appendix D
Surface Water Treatment Rule

Section 1: General Requirements and Definitions

1.01. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water, this chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this chapter, the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH.

1.02. Definitions

A. Approved Surface Water. "Approved surface water" means a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

B. Best Available Technology. "Best available technology" for filtration of surface water means conventional treatment which conforms with all of the requirements of this chapter.

C. Certified Operator. "Certified operator" is defined as the individual, as examined by the Committee of Certification as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a water supply or sewerage system.

D. Coagulation. "Coagulation" means a process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

E. Conventional Filtration Treatment. "Conventional filtration treatment" means a series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

F. Diatomaceous Earth Filtration. "Diatomaceous Earth Filtration" means a process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter medial known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

G. Deep Bed Filtration. "Deep Bed Filtration" means a process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

H. Direct Filtration Treatment. "Direct filtration treatment" means a series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

I. Disinfectant Contact Time. "Disinfectant contact time" means the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement must be before the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

J. Disinfection. "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

K. Engineering Report. "Engineering report" means a water treatment technical report prepared by a qualified engineer.

L. Filtration. "Filtration" means a process for removing particulate matter from water by passage through porous media.

M. Flocculation. "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

N. Groundwater Under the Direct Influence of Surface Water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

O. Heterotrophic Plate Count. "HPC" means heterotrophic plate count analysis (#907) using instrumentation and methods as described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

P. Legionella. "*Legionella*" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Q. Multibarrier Treatment. "Multibarrier Treatment" means a series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

R. NTU (Nephelometric Turbidity Unit). "Nephelometric Turbidity Unit (NTU)" means a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and

methods described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

S. Operator. "Operator" is defined as the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

T. Pressure Filter. "Pressure filter" means a pressurized vessel containing properly sized and graded granular media.

U. Qualified Engineer. "Qualified engineer" shall mean any engineer who has been registered under the provisions of the State of Louisiana, Act 568 or 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

V. Residual Disinfectant Concentration. "Residual disinfectant concentration" means the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

W. Sedimentation. "Sedimentation" means a process for removal of settleable solids before filtration by gravity or separation.

X. Slow Sand Filtration. "Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

Y. Supplier. "Supplier", for the purpose of this chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

Z. Surface Water. "Surface water" means all water open to the atmosphere and subject to surface runoff.

AA. Turbidity Level. "Turbidity level" means the value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

BB. Virus. "Virus" means a virus which is infectious to humans by waterborne transmissions.

Section 2. Treatment Requirements and Performance Standards

2.01. Treatment Requirements

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection.

2. A total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection.

3. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of Sections 2.02 and 2.04 shall be deemed to be in compliance with the minimum reduction requirements specified in Section 2.01(A).

C. Section 2.03 presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

2.02. Filtration

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Section 4) and performance standards (Sections 2.02 and 2.04). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Section 4) and performance standard (Section 2.02 and 2.04). Slow sand filtration shall be deemed *Giardia* to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Table 1
Treatment Methods

Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	Giardia	Viruses	*Giardia*	Viruses
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. Demonstration that the total treatment train achieves

a. At least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU or

b. A 99.9 percent removal of particles in the size range of 5 to 15 µm.

2. HPC count in finished water is consistently less than 10/ml.

3. Demonstration of removal/inactivation of *Giardia* and viruses

4. Process steps elevating process water above pH 9.0 (not necessarily finished water)

5. Filter bed depth in excess of 48 inches

6. Oxidant effect of chemicals feed for alternate purposes (i.e. taste and odor)

If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, Section 2.02 B with the corresponding remaining disinfection required.

C. Conventional Filtration or Direct Filtration, shall comply with following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.

2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

Such a determination may based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

a. the adequacy of treatment prior to filtration.

b. the percent turbidity removal across the treatment train, and

c. level of disinfection.

Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. Filtered water turbidity may not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water must at not time exceed 5 NTU.

F. An alternative to the filtration technologies specified in Section 2.02(A) may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in Section 2.02(C). The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

2.03. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system must demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit must be met, under this condition, both fecal and total coliform results must be reported.

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the 16th edition of Standard Methods.

c. Minimum sampling frequencies:

Population	Samples/Week
=500	1
501-3300	2
3301-10,000	3
10,000-25,000	4
>25,000	5

Also, one coliform sample must be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water

temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in Section 2.04 B and C.

3. To avoid filtration, the disinfection system must be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

C maintain a watershed control program

C conduct a yearly on-site inspection

C determine that no waterborne disease outbreaks have occurred

C comply with the revised annual total coliform MCL

C comply with TTHM Regulations

1. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. Specify the duties of State agencies, local governmental entities and public water supply systems with respect to the development and implementation of The Program;

b. Determine the wellhead protection area (WHPA) for each wellhead as defined in subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. Identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

d. Describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants.

e. Present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. Consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system; and

g. Provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. Review the effectiveness of the watershed control program.

b. Review the physical condition and protection of the source intake.

c. Review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability.

d. Review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys.

e. Review the condition of disinfection equipment.

f. Review operating procedures.

g. Review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced.

h. Identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 5 years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. Review the condition of finished water storage facilities.

b. Determine that the distribution system has sufficient pressure throughout the year.

c. Verify that distribution system equipment has received regular maintenance.

d. Review cross connection prevention program, including annual testing of backflow prevention devices.

e. Review routine flushing program for effectiveness.

f. Evaluate the corrosion control program and its impact on distribution water quality.

g. Review the adequacy of the program for periodic storage reservoir flushing.

h. Review practices in repairing water main breaks to assure they include disinfection.

i. Review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection.

j. Review the operations to assure that any difficulties experienced during the year have been adequately addressed.

k. Review staffing to assure adequate numbers of properly trained and/or certified personnel are available.

l. Verify that a regular maintenance schedule is followed.

m. Audit systems records to verify that they are adequately maintained.

n. Review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using groundwater under the influence of surface water must not have been identified as a source of waterborne disease. if such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system must install filtration unless the system has upgraded, its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL. To avoid filtration, a system must comply with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous month unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

2.04 Disinfection

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Section 2.01.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in Section 2.02(B). The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the EPA SWTR Guidance Manual.

2.05. Design Standards

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

Section 3: Monitoring Requirements

3.01. Filtration

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in Section 2.02, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

3.02. Disinfection

A. To determine compliance with disinfection inactivation requirements specified in Section 2.02, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

1) temperature of the disinfected water,

2) pH(s) of the disinfected water if chlorine is used as a disinfectant,

3) the disinfectant contact time(s), and

4) the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in Section 2.02 or 2.04, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l, the supplier shall take a grab sample every

four hours until the residual concentrations is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
=500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

Section 4: Operation

4.01. Operating Criteria

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements:

1. Conventional and direct filtration plants shall be operated at flow rates not to exceed three gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed two gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

Section 5: Reporting

5.01. DHH Notification

The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

A. The turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time.

B. More than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU.

C. There is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours.

D. An event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

5.02. Monthly Report

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the 10th day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. All turbidity measurements taken during the month.

2. The number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in Section 2.02, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in Section 2.02.

3. The average daily turbidity level.

C. The report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in Section 2.02, 2.03 or 2.04 and operating criteria specified in Section 4.

Section 6: Public Notification

6.01. Consumer Notification

1. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in Section 2.01 or performance standards specified in Sections 2.02, 2.03 and 2.04. The notification shall be give in a manner approved by the DHH, and shall include the following mandatory language:

"The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Section 3, the notification shall be given in the manner approved by DHH.

The Department of Health and Hospitals will conduct a public hearing at 10:00 a.m. on Tuesday, March 28, 2000, in Room 118 of the Blanche Appleby Computer Complex Bldg., (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, March 31, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood
Secretary

0005#039

RULE

Department of Health and Hospitals
Office of the Secretary

Employee Drug Testing Policy (LAC 48:I.Chapter 39)

The Department of Health and Hospitals, Office of the Secretary, is adopting the following rule in accordance with R.S. 49:1015.

The employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

The State of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana legislature enacted laws (R.S. 49:1015) which provide for the creation and implementation of drug testing programs for public employees. Further, the Governor of the state of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001 et seq.

The Department of Health and Hospitals (DHH) fully supports these efforts and is committed to a drug-free workplace.

Title 48
HEALTH AND HOSPITALS
Part I. General Administration
Subpart 1. General
Chapter 39. Controlled Dangerous Substances
§3991. Applicability

A. To assure maintenance of a drug-free workforce, it shall be the policy of DHH to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below. This policy shall apply to all employees of DHH including appointees and all other persons having an employment relationship with this agency. Each prospective employee shall be required to submit to drug screening. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

B. Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. DHH reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1058 (May 2000).

§3993. Definitions

*Controlled Substance*ℭ a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

*Designer (Synthetic) Drugs*ℭ those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

*Employee*ℭ unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

*Illegal Drug*ℭ any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

*Reasonable Suspicion*ℭ belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous

presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position℄ a position determined by the Appointing Authority to contain duties of such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. A list of such positions within DHH is maintained by the DHH Human Resource Director. The list was determined with consideration of statutory law, jurisprudence, the practices of this agency and the examples of safety-sensitive and security-sensitive positions provided in the model policy document issued by the Division of Administration.

Under the Influence℄ for the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace℄ any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1059 (May 2000).

§3995. Policy Provisions

A. General Provisions. It shall be the policy of DHH to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for DHH with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. Conditions Requiring Drug Tests

1. DHH shall require drug testing under the following conditions. The Human Resource Director shall be involved in any determination that one of the above-named conditions requiring drug-testing exists.

a. Reasonable Suspicion. Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.

b. Post-accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident:

i. involves circumstances leading to a reasonable suspicion of the employee's drug use;

ii. results in a fatality; or

iii. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

c. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

d. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the DHH Security Coordinator, (the person within DHH responsible for administering the drug testing program) following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

e. Safety-Sensitive and Security-Sensitive Positions -Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion.

f. Safety-Sensitive and Security-Sensitive Positions - Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

C. Confidentiality. All information, interviews, reports, statements, memoranda, and/or test results received by DHH through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

D. Responsibility. The Secretary is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

E. Violations. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, may result in disciplinary actions up to and including

termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, LR 26:1059 (May 2000).

David W. Hood
Secretary

0005#042

RULE

Department of Natural Resources
Office of Mineral Resources

Geophysical and Geological Surveys; Operating Agreements; and Fees and Other Charges
(LAC 43:V.Chapters 1-3)

The Office of Mineral Resources, Department of Natural Resources, pursuant to R.S. 49:950, et seq., amends LAC 43, Part V. The rule change adds additional fees and charges to the fee schedule of the Office of Mineral Resources which historically have been and presently are being collected and recognized by the Legislative Fiscal Office as self-generated funds for said Office. Said fees and charges will add no new fees or charges to be collected from industry or the public, but the addition to the fee schedule merely recognizes said fees and charges which have been and are being presently collected from industry and the public as self-generated: a view historically held by the Legislative Fiscal office.

The addition of fees and charges to the schedule represent fees and charges already being collected and recognized by the Legislative Fiscal Office as self-generated funds.

In accordance with R.S. 49:950 et seq., the Department of Natural Resources, Office of Mineral Resources, has amended LAC 43:I, Part V, Chapter I as follows.

Title 43
NATURAL RESOURCES
Part V. Office of Mineral Resources
Chapter 1. Geophysical and Geological Surveys
§101. Geophysical and Geological Surveys

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Louisiana Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources. Applications for a permit for such exploration must be filed in quadruplicate with one copy addressed to the Secretary of the Department of Natural Resources and three copies addressed to the Deputy Assistant Secretary of the Office of Mineral Resources at least ten (10) days before the requested effective date of the permit and each such copy must be accompanied by supporting documents as follows.

1. If the permittee is a shooting company, i.e., a company whose primary business enterprise is the physical, "on-ground" acquisition of seismic and geophysical data and the transferal of said acquired data, in either raw or processed form, exclusively to one or more cost underwriting parties or by sale or licensing agreements on the open market, it shall give the name of the client(s) for whom the seismic is being shot under the permit or, if a speculative shoot, a statement to that effect. If permittee is not a shooting company, it shall give the name of the shooting company which will do the physical, "on-ground" acquisition of the seismic or geophysical data under the permit, including current mailing address and telephone number.

2. A statement of the type of work planned, such as gravity meter, magnetometer, reflection, refraction, 2-D, 3-D and/or any other recognized methods of acquiring seismic, geophysical or geological data. It is required that the official permit application available on request from the Office of Mineral Resources be used.

B. No permit issued hereunder shall cover, nor shall any project for which the permit is secured include, acreage covered by a valid state mineral lease in full force and effect at the time the permit is secured. However, if the permit applicant secures the appropriate consent from the state mineral Lessee to conduct the type of seismic operations contemplated under the permit application over the state mineral lease acreage included within the prospective project area, the permittee shall have the right under the applied for permit to conduct the type of seismic operations set forth in the permit application over the state mineral lease acreage without the necessity of securing an addendum thereto or an additional permit. Upon the expiration, lapse, or termination of any state mineral leases, the acreage of which falls within a project area delineated in a seismic permit issued hereunder, during the term in which the said seismic permit is in full force and effect, the respective permit for the project area which includes the expired, lapsed, or terminated state mineral lease acreage shall be deemed to cover, and the project area to include, said acreage without the necessity of any further permission from the State Mineral Board, and the seismic operations contemplated under the said permit may be conducted upon such acreage, but only for such time as the permit term remains in force and effect, and no longer. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

C. In order to accommodate proper administration of seismic permits issued hereunder and orderly operations conducted under said permits, the applicant shall submit to the Office of Mineral Resources ("OMR") notice of the date of commencement of any seismic operations authorized by the permit, a plat acceptable to the Staff of the OMR reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations under the permit, a supplemental plat showing details of any work done in addition to that set forth in the permit application; which plat shall reflect the locations of the lines or grids shot, all shot point and/or geophone locations, and the date of completion of said additional work. The permittee, may, but shall not be required to, voluntarily agree to make available to OMR, at permittee's or OMR's office at permittee's option, the fully migrated and processed data derived from the seismic project under the issued permit. All such plats and data secured by OMR shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of OMR staff only. For purposes of this section, date of commencement of operations is defined as the date upon

which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to the beginning of acquisition of data.

D. A permit to conduct seismic, geophysical and/or geological surveying of any kind upon State of Louisiana lands or water bottoms over which the State Mineral Board through OMR has jurisdiction shall be subject to the following terms:

1. the permit shall be valid for a period of one year from date of issuance;

2. the permit shall be valid for the entire State of Louisiana, but the exercise of operations under the permit shall be limited only to the project area set forth in the application;

3. any and all rights exercised under a valid seismic permit issued hereunder shall be exclusive only to the named permittee or, if the permittee is not a shooting company, the shooting company named in the permit application as the entity to actually do the physical, "on ground" seismic project;

4. no permit issued hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done, the project-including location plat, written description, and total acreage of state owned land and/or water bottom in the project area-covered by the permit, and the date of commencement of the permitted activity;

5. the permittee shall pay to OMR at the time of application for the seismic permit-by official bank check, certified funds, bank money order, or other certifiable funding method made payable to "Office of Mineral Resources"- an amount of money equal to $200 per mile for 2-D lines, $2 per acre multiplied by the total number of state owned lands and/or water bottoms located within the seismic project area as set forth in the application for other than 2-D or $1,000, whichever is greater. The OMR staff reserves the right to verify the total length to the nearest mile of the proposed 2-D seismic lines or the total amount of state owned lands and/or water bottoms within the project area and, if necessary, require additional funds from the permittee if the verified length or acreage exceeds the length or acreage set forth in the application.

E. Violation by the permittee of any of the terms specified in this schedule as promulgated, or which may be written on the permit form, shall be deemed to be a permit violation by OMR which may, at the sole discretion of OMR, subject permittee to the cancellation of his permit and forfeiture of his permit fee.

F. Pursuant to R.S. 30:124 any and all rights exercised by any permittee pursuant to a permit issued hereunder shall be in compliance with any and all applicable rules and regulations which have been promulgated, and which may be further promulgated from time to time, by the Department of Wildlife and Fisheries governing the conduct of seismic exploration on land and/or water for the protection of oysters, fish, and wildlife. Further, all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations, the mineral rights over which the Department of Wildlife and Fisheries exercises direct control, shall not be included in any project area covered by any permit issued hereunder unless written permission is secured from said agency.

G. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules which may be adopted by the State Mineral Board from time to time. The Board hereby declares that in the event any changes in the rules are effected, 30 days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1061 (May 2000).

§103. Exclusive Geophysical Agreements

A. Exclusive geophysical agreements authorized under Title 30, Chapter 3, Section 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board, through the Office of Mineral Resources.

B. There are three types of exclusive geophysical agreements which may be secured from the Office of Mineral Resources, namely: Exclusive Geophysical Agreement Type I, Exclusive Geophysical Agreement Type II, and Exclusive Geophysical Agreement Type III. The following shall apply to all exclusive geophysical agreements secured hereunder.

1. The area to be covered by the exclusive geophysical agreement shall be nominated just as a lease with the description set forth in X/Y Lambert coordinates.

2. The exclusive geophysical agreements are to be awarded by public bid, just as leases are, at the monthly Mineral Lease Sale.

3. The OMR staff will determine the minimum per acre seismic fee which must be bid to be acceptable to the State Mineral Board for the awarding of the exclusive geophysical agreement.

4. The nominated acreage will then be advertised on the same delay basis and in the same manner as lease nominations; which advertisement will state a property description of the geographical area over which the exclusive geophysical agreement is to be awarded, the type of exclusive geophysical agreement sought and the minimum per acre seismic fee acceptable to the State Mineral Board as a bid, and the day, date, time, place of the next State Mineral Lease Sale at which bids will be accepted

5. The term of the exclusive geophysical agreement shall be 18 months with an option for an additional 6 months, which option period shall be granted only upon written request by the bid winner made prior to the end of the original 18 month term and upon payment to the Office of Mineral Resources in the manner set forth as acceptable herein above of a sum of money equal to one-half of the original total fee bid and paid for the seismic agreement.

6. The exclusive geophysical agreement awarded shall be subject to, and shall not supersede, any existing seismic permits, leases, or other agreements of any kind with the State of Louisiana in the nominated area at the time awarded.

7. The Office of Mineral Resources will get copies (hard copies and digital tapes) of all fully processed and migrated 3-D seismic data and any other geophysical and geological data, including, but not limited to, 2-D seismic, gravity (air or surface), and magnetic (air or surface) acquired under the exclusive geophysical agreement. The Staff of the Office of Mineral Resources will by provided access to the seismic data, both processed and interpreted, at the facilities of the entity conducting the seismic operations under the exclusive geophysical agreement awarded during all phases of the seismic operations with interpreted data to be accessed no later than one year following the end of the primary term of the exclusive geophysical agreement, or the option term if activated.

8. The exclusive geophysical agreement shall be available for the primary purpose of conducting 3-D seismic operations only, although other types of geophysical data may be acquired in addition to 3-D seismic, unless otherwise agreed upon by the Office of Mineral Resources and the nominating party.

C. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type I:

1. The State Mineral Board shall not grant any new seismic agreements or permits in the nominated area during the initial term of the exclusive geophysical agreement, or the option term if activated, but does reserve the right to accept nominations for and grant new mineral leases within the nominated area of the exclusive geophysical agreement. Any new mineral leases granted within the nominated area of the exclusive geophysical agreement during its primary term, or option term if activated, shall be subject to the rights granted under the exclusive geophysical agreement and the grantee shall not be required to deal with the state mineral Lessee in order to conduct seismic operations over the new lease acreage.

D. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type II.

1. The State Mineral Board shall not grant any new seismic agreements or permits, or any new leases in the exclusive geophysical agreement area from the time it is nominated, during the initial term of the exclusive geophysical agreement, or the option term if activated. However, a buffer zone of one-half (1/2) mile will be established around existing leases within the area of the exclusive geophysical agreement and only the lessee of the existing lease or the successful exclusive geophysical agreement grantee shall have the right to nominate acreage for a state mineral lease within that buffer zone during the initial term of the exclusive geophysical agreement, or the option term if activated, which will then go up for public bid and the regular monthly state mineral lease sale.

2. The exclusive geophysical agreement grantee only shall have the right to nominate acreage within the exclusive geophysical agreement area for a state mineral lease during the primary term of the exclusive geophysical agreement, or the option term if activated, except as to the buffer zone around existing leases as provided for in 9. above, which lease nominations shall not exceed 1500 acres each and shall not in aggregate amount exceed one-third of the entire acreage of the exclusive geophysical agreement.

E. In addition to §103.B and D above, the following shall apply to the Exclusive Geophysical Agreement Type III.

1. The Staff of the Office of Mineral Resources shall, after examination of the area nominated for the Exclusive Geophysical Agreement Type III, set a minimum royalty and bonus price per acre which would be acceptable by the State Mineral Board for a state mineral lease granted within that nominated area, which minimums shall be advertised within the advertisement for the nominated area.

2. The exclusive geophysical agreement grantee only shall have the right, within the initial term of the exclusive geophysical agreement, or the option term if activated, to select for mineral leases tracts within the exclusive geophysical agreement area, not to exceed 1500 acres each or one-third in the aggregate of the entire acreage of the exclusive geophysical agreement area, and, upon payment to the Office of Mineral Resources of the amount of the per acre bonus as advertised and bid during the acquisition of the exclusive geophysical agreement type III multiplied times the acreage for each tract selected, plus an additional 10 percent administration fee, and have a state mineral lease issued by the Office of Mineral Resources on each selected tract which shall carry the royalty burden advertised and bid during the acquisition of the exclusive geophysical agreement.

F. The State Mineral Board, through the Office of Mineral Resources, agrees to hold all information, maps, data of any and all kinds provided to the state under R.S. 30:213 or as a result of the terms of the exclusive geophysical agreements confidential and same shall not be available for view or use except by certain members of the staff of the Office of Mineral Resources in connection with the administration of state owned lands and water bottoms, and the state mineral leases thereon unless ordered by a court of proper jurisdiction to do so. Said information shall be kept under lock and key, except during the course of actual examination by the staff of the Office of Mineral Resources. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge from employment in addition to the penalties provided under R. S. 30:216.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1062 (May 2000).

Chapter 2. Operating Agreements Upon Relating to State-Owned Lands and Water Bottoms

§201. Operating Agreements

A. Operating agreements under Title 30, Chapter 3, Sections 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board through the Office of Mineral Resources.

B. An operating agreement, as that term is used herein, shall refer to the contractual agreement by and between the State of Louisiana and an operator, under limited conditions and circumstances, and in lieu of a state mineral lease, to reestablish or attempt to establish production of liquid or gaseous hydrocarbons from an existing well, or wells,

located on state owned lands or water bottoms previously leased, but on which the lease has terminated, by reworking, deepening, sidetracking, or plugging back of said well(s) when it has been determined by the State Mineral Board that, due to equity, economics, and other factors, it is in the best interest of the State to assume a portion of the risk of establishing production in said existing wells by contracting with the operator to attempt said establishing of production on behalf of the State whereby the State shall be entitled to receive a graduated share of production, or its value, based on recoupment of the risked cost as monitored by the Office of Mineral Resources in administering the operating agreement.

C. Operating agreements shall only be granted by the State Mineral Board in those limited situations set forth and illustrated by R.S. 30:209 (4)(a)(i-iv) when it has been determined that the best interest of the State of Louisiana will not be served by the granting of a regular state mineral lease.

D. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster see ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1063 (May 2000).

Chapter 3. Fees and Other Charges

§301. Fees and Other Charges

A. The Department of Natural Resources, pursuant to the authority of Act 13 of the 1988 First Extraordinary Session of the Louisiana Legislature authorizing fees and other charges as self-generated funds, has adopted the following fees and charges commensurate with costs incurred in the application for and administration of state oil, gas or mineral leases, geophysical and geological permits and agreements, and operating agreements on state-owned lands and water bottoms. Fees are as follows:

1. Fee for new mineral leases equal to 10 percent of cash payment to be submitted no later than 10 days after acceptance of bid and awarding of lease.

2. Fee of $100 for processing docketed items, such as assignments, not including advertised docketed items.

3. Fee of $500 for processing advertised docketed items, such as unitization agreements.

4. $200 per mile for 2-D lines, $2 per acre times the total number of state owned acres included in the seismic project for other than 2-D seismic, or $1000, whichever is greater, for the issuance of a seismic permit.

5. Fee of the price per acre bid times the total number of state owned acres included in the seismic project for the granting and cost of administering an exclusive geophysical agreement.

6. Fee covering the cost of administering operating agreements authorized by statute on a cost risk basis which would equal to 25 percent of the value (as determined by the sale of said production) of that portion of production returned to the State under the said operating agreements.

7. A fee of $35 per hour for the number of staff hours required to process and verify requests from payers of royalties seeking reimbursements of overpayments of royalties.

8. Fee of $1 per page for all items faxed by the Office of Mineral Resources upon request by the public to cover actual cost of faxing the material.

9. Fee of twenty-five cents per page copied or printed by the Office of Mineral Resources upon request by the public to cover the actual cost of copying the material.

10. Fee of $120 per subscription for a person or entity, upon request, to receive, in advance of the sale, the monthly mineral notice book of tracts coming up each month for lease sale for a period of one year which covers the cost of compiling, binding and postage incurred by the Office of Mineral Resources.

11. Fee of $1 per page for certification that document copies requested by and furnished to the public are true and correct copies of the original documents located at the Office of Mineral Resources.

12. Fee for the administration of an in-kind royalty program, authorized by statute, although not collected last year due to the absence of an in-kind royalty program, which could amount to more than $1,000,000 if the program were implemented.

13. A base non-refundable fee of $200 per nomination to cover the cost of advertising; which fee shall be increased by the actual cost of advertisement per nomination, if any, and said increase levied and collected from the nominating party prior to the lease sale at which the tract appears for bid.

14. Fee for copies of G5 maps which amount to $10 for copies pertaining to area north of the thirty-first parallel (Township 1 North and above) and $20 for copies pertaining to area south of the thirty-first parallel (Township 1 South and below).

15. Fee of $20 charged for furnishing upon request a proof of publication for tracts advertised for lease sale.

16. Fee of $5 each for furnishing upon request proofs of execution of leases, no conflict or overlap of tracts and that tract is within the three mile line.

B. Other Charges:

1. Penalty charge of $100 per day up to a maximum of $1000 as statutorily imposed for assignments filed with the Office of Mineral Resources beyond a statutorily established time from the execution of the assignment to cover the cost of tracking, notifying assignor of and collecting said penalty.

2. For incorrectly filling out any form required by the Department of Natural Resources or the Office of Mineral Resources which accompanies the payment of any sum of money due the state, other than lease bonus, rental, or shut-in payments, unless the incorrectly filled out portion is corrected before the due date of the payment, a statutory penalty charge of 5 percent of the sum due, up to a maximum of $500 to cover the cost of having the corrections made after the fact.

3. For late payment of any sums due, other than bonus, rental, or shut-in payments, a statutory penalty charge of 10 percent of the sum due up to a maximum of $1000 to cover the cost of collecting the correct amount

4. Penalty charge of $100 per day for every day beyond 90 days from lease termination until a release of the terminated lease is recorded in all parishes in which the original lease was recorded.

5. Any liquidated damages specified as such in any contract by and between the State of Louisiana, through the staff of the State Mineral Board, the Office of Mineral Resources, including, but not limited to, leases, operating agreements, and unit agreements, and any person or business entity, the purpose of which is to facilitate the exploration and drilling for, and the establishment of production of any mineral from state owned land and water bottoms which shall, between the contracting parties, reflect the agreed upon amount of damage, including cost of recovery, incurred by the State for violation of the agreement.

6. Charge for production of gaseous or liquid hydrocarbons from unleased state acreage in the nature of damages for trespass, amounting to payment to the state of all revenue from sale of production allocated to the state acreage less the state's actual, reasonable allocated share of costs for drilling and production, as reimbursement for the cost of finding, tracking, compiling and collecting said damages.

7. Kinds and anticipated amounts of costs are:

Personal services	$3,413,308
Operating expenses	$613,155
Professional services	$1,020,000
Other charges	$7,672,888
Equipment	$4,889
Total	$12,724,240

8. This schedule of fees and charges, as amended, shall be re-promulgated, and the provisions hereof shall be in full force and effect, as of January 1, 2000 and shall continue in force until canceled by the Office of Mineral Resources, any other order by a duly authorized person or entity, or by order of a court of law of proper venue and authority.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:1064 (May 2000).

Robert D. Harper
Undersecretary

0005#006

RULE

Board of New Orleans and Baton Rouge Steamship Pilot Commission

Steamship Pilots (LAC 46:LXXVI.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby repeals the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgate re-enactment of those previous rules and/or promulgate rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission’s authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXVI. Steamship Pilots
Chapter 1. New Orleans and Baton Rouge Port Pilots
§101. Definitions

Association₢ shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners℄ (hereinafter used interchangeably as Board, Commission, or Examiners) shall mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner℄ shall mean those individuals appointed as per law.

Master License℄ shall mean the license issued by the United States Coast Guard.

Pilot℄ shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time℄ shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1064 (May 2000).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualifications;
3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative manda and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools; and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university;

5. applicant shall not have reached his or her forty-fifth birthday before being commissioned;

6. applicant must submit evidence of possessing a high school diploma or G.E.D.;

7. applicant must be a registered voter of the State of Louisiana for a minimum of one year;

8. applicant must submit evidence of good moral character;

9. applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards;

10. applicant must submit to and pass a drug screen test that is dated within 30 days of the application submission;

11. applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners;

12. applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application;

13. applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the Board of Pilot Commissioners. If after the one year extension apprenticeship period the applicant fails to meet the criteria and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

a. an applicant's recklessness and display of lack of judgment;

b. disregard of state rules, laws, and regulations;

c. disregard of Coast Guard rules and regulations;

d. unfit for the position and job of a river pilot;

e. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

D. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

E. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be 24 months in duration; this period shall be in 3 periods of 8 months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each 8 month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

F. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into

the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

2. be available for interview by the commission and furnish complete details of the casualty;

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000).

§113. Severability

It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000).

Martin W. Gould, Sr.
President

0005#073

RULE

Department of Public Safety and Corrections
Board of Private Security Examiners

Definitions, Organization, Board Membership; Company Licensure; Registration; Training; Criminal Background Checks; Disciplinary Action; Insignias; Markings; Restrictions; Licensee Suitability, Records, Investigations, and Registrant Violations; Administrative Penalties
(LAC 46:LIX.101-107, 201, 301, 401-409, 501, 601, 603, 701, 801-813, 901-907)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Private Security Examiners hereby adopts the following Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:101-107, 201, 301, 401-409, 501, 601, 603, 701, 801-813, 901-907, as follows.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIX. Private Security Examiners
Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

Date of Hire: date applicant begins performing the functions and duties of a security officer.

Dog Handler: an individual who is accompanied by a trained protection dog while performing the duties of a security officer as defined in R.S. 37:3272. He shall be considered unarmed unless he falls under the definition of an armed security officer.

Emergency Assignment: any unplanned or unexpected event not covered by a prior contractual agreement.

Weapon: any firearm or baton approved by the board.

In addition to the above definitions, terms outlined in these rules shall be found in R.S. 37:3272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997), LR 26:1067 (May 2000).

§103. Organization, Board Membership and General Provisions

A. The private security regulatory and licensing law (R.S. 37:3270, et seq.) shall be administered by the Board of Private Security Examiners, hereinafter referred to as the "board."

B. The official seal of the board consists of the Louisiana state seal with a pelican in the middle.

C. The board shall consist of nine members appointed by the governor for a term concurrent with the term of office of the appointing governor. No member of the board shall be employed by a person or company who employs any other member of the board.

D. The chairperson shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint members to committees as needed to fulfill the duties of the board, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

E. The vice-chairperson shall perform the duties of the chairperson in his absence or other duties assigned by the chairperson.

F. Standing committees of the board are:

1. general committee-duties to include special projects as authorized by the chairperson;

2. finance committee-duties to include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures requested by the executive secretary in excess of $500; and

3. ethics committee-duties to include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

G. Each board member shall have one vote on all motions. Proxy voting is not allowed.

H. The board shall appoint an executive secretary to serve as the chief administrative officer of the board. The executive secretary serves at the pleasure of the board and is a full-time employee of the board. He shall:

1. act as the board's recording and corresponding secretary and shall have custody of the records of the board;

2. cause written minutes of every meeting to be kept and open to inspection to the public;

3. keep the board's seal and affix it to such instruments and matters that require attest and approval of the board;

4. act as treasurer and receive and deposit all funds;

5. attest all itemized vouchers for payment of expenses of the board;

6. make such reports to the governor and legislature as provided for by law or as requested by same;

7. keep the records and books of account of the board's financial affairs;

8. give at least 15 calendar days prior notice to all persons who are to appear before the board;

9. sign off on Cease and Desist Orders; and

10. any other duties as directed by the board.

I. The executive secretary may spend up to $500 for board purchases without prior approval by the board or chairperson, and in accordance with the Division of Administration's rules governing purchases.

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), and the Open Meetings Law (R.S. 42:4.2 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 19:189 (February 1992), LR 23:587 (May 1997), LR 26:1068 (May 2000).

§105. Consumer Information

A. Minutes of all board meetings shall be made available to the public upon written request to the board. A monetary fee may be assessed in accordance with Division of Administration rules and regulations.

B. Complaints to the board shall be in writing, signed by the individual making the complaint, and include a means by which to contact the individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:190 (February 1992), LR 26:1068 (May 2000).

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. Licensing information packages may be obtained from the board by submitting, in writing, a request for such package. Request shall include the name, address, and phone number of the person requesting this information.

B. An applicant for licensure shall meet all of the qualifications and requirements specified in R.S. 37:3276 in addition to the rules herein.

C. Applicant must possess a high school diploma, GED, or equivalent work experience.

D. Applicant shall fill out and file with the board a notarized application form provided and approved by the board. If the applicant is a corporation, it shall be subscribed and sworn to by at least two principal corporate officers.

E. In addition to the completed application, the following documentation shall be submitted to the board:

1. one set of classifiable fingerprints of the applicant or qualifying agent and/or of each officer, partner or shareholder who owns a 25 percent or greater interest;

2. letters attesting to good moral character from three reputable individuals, not related by blood or marriage, who have known the applicant or qualifying agent for at least five years;

3. copy of applicant's or qualifying agent's DD-214 military discharge papers showing type of discharge, if applicable;

4. copy of company's badge and insignia;

5. copy of occupational license from each city or parish in which that company or branch has security operations, if applicable;

6. a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured;

7. articles of incorporation, if incorporated, and certificate of authority from the Louisiana secretary of state; and

8. $200 licensing fee, $20 application fee, $50 examination fee and $10 fingerprint processing fee.

F. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and continues to maintain that supervisory position on a regular, full-time basis.

G. All material changes of fact affecting a company licensee must be communicated to the board, in writing, within 10 calendar days. These changes of facts include the following:

1. change in any of the principal corporate officers or noncorporate owners who hold a 25 percent or greater interest in the company, or qualifying agent, or any partner in a partnership;

2. change of business name, address or telephone number; and

3. change of ownership if the business is a sole proprietorship.

H. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the secretary of state's office.

I. Branch Office. A branch office of a board licensed company may voluntarily register with the board by submitting the following documentation:

1. a letter from the licensee authorizing the board to register the branch office under the licensee. Letter shall also include the name of the designated branch manager, branch office address and phone number;

2. a current list of active security officers, and their social security numbers, who are to be registered with the designated branch officer; and

3. $100 annual licensing fee to cover administrative costs.

The board shall issue a license certificate to the branch office with an identifying branch office number.

J. Examination

1. All applicants who apply to the board for licensure are required to successfully pass a written examination administered by the board. The examination tests the applicant's knowledge of R.S. 37:3270 et seq., the board's rules and regulations and the security profession.

2. Applicants required to take the examination are those:

a. applying for an initial company license;

b. reinstating an expired license; and

c. applying as a new qualifying agent for an approved, licensed company.

3. The passing grade of the examination shall be 70 percent.

4. An applicant who does not successfully pass the examination may reapply to take the examination twice within a six-month period. If the applicant does not successfully pass the examination as required, the application shall be referred to the board for action.

K. Insurance Renewal. On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse in coverage.

L. License Renewal

1. A company license shall expire annually on the date of issuance. Date of issuance means the date application was submitted to the board.

2. To renew a company license, licensee must submit a $200 annual renewal fee to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a $20 application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1069 (May 2000).

§203. Application Procedure

A. Application must be made to the board on application forms obtained from the board. If the applicant is an individual, the application shall be subscribed and sworn to by such person. If the applicant is a partnership, the application shall be subscribed and sworn to by each partner. If the applicant is a corporation, it shall be subscribed and sworn to by at least two principal corporate officers. The application shall include the following information:

1. full name and business address of applicant; and if the applicant is a partnership, the name and address of each partner, or if a corporation, the name and address of the qualifying agent;

2. name under which the business is to operate;

3. address of the principal place of business and all branch offices of the applicant within this state, and the corporate headquarters of the business, if outside this state;

4. if the applicant is a corporation, the correct legal name, the state of incorporation, date of incorporation, date qualified to do business in Louisiana, along with a copy of the certificate of good standing, and the names of the two principal officers of the corporation, other than the qualifying agent, and the business address, residence address, and the office or position held by each within the company; further, if the qualifying agent is not a resident of Louisiana, the application shall also include the name and the address of the applicant's agent for service of process designated as required by law;

5. statement as to the general nature of the business;

6. if the applicant is to operate as a sole proprietor, he must furnish a copy of his occupational license with the application;

7. as to each individual applicant; or if the applicant is a partnership, as to each partner, or if the applicant is a corporation, as to the qualifying agent and two principal corporate officers, the following information:

a. full name;

b. age;

c. date and place of birth;

d. all residences during the immediate past five years;

e. all employment or occupations engaged in during the immediate past five years;

f. one set of classifiable fingerprints;

g. one recent photograph no larger than 2" x 2";

h. a general physical description;

i. letters attesting to good moral character from three reputable individuals, not related by blood or marriage, who have known the applicant(s) or qualifying agent for at least five years;

j. a list of all convictions and/or pending criminal charges in any jurisdiction for any felony, crime involving moral turpitude, or illegal use of a dangerous weapon, for which a full pardon or similar relief has not been granted;

8. one classifiable set of prints of the applicant, or of the manager, of each officer, partner or shareholder who owns a 25 percent or greater interest;

9. copy of DD-214 form, if applicable, showing type of discharge;

10. a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured;

11. copy of company's badge and insignia;

12. copy of occupational license from parish where company or branch has operations.

B. Verification of required experience shall be in the form of affidavits from clients, employers, copy of DD-214, and other types of information the board may reasonably deem sufficient.

C. An administrative fee of $25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

D. An administrative fee of $25 made payable to the board will be assessed on all fingerprint cards repeatedly rejected by the Department of Public Safety.

E. Company applications must be notarized; however, individual security officer applications need not be.

F. Out-of-State Company

1. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state, and shall have an agent for service of process designated as required by law.

2. Out-of-state companies wishing to do business in Louisiana, who satisfied all the licensing requirements outlined in the law, may do so without examination if the state under which it holds a valid license has comparable licensing requirements. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company is licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company must satisfy all the licensing requirements outlined in R.S. 37:3270 et seq.

3. Fees for out-of-state companies are the same as for instate companies except that an out-of-state company shall be required to pay the board of the cost of transportation, lodging, and meals at the state rate when an examination of records is performed if those records are kept outside of the state.

G. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and maintains that supervisory position on a regular, full-time basis.

H. Licenses issued by the board shall be valid for a one year period beginning from the date application was submitted to the board.

I. Renewal Provisions

1. A $200 annual renewal fee must be submitted to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a $20 application fee.

J. All material changes of facts affecting the licensee must be communicated to the board, in writing, within 10 calendar days. These changes of facts include the following:

1. change in any of the principal corporate officers or qualifying agent of a corporation, any partner in a partnership, or individual, noncorporate owners of a 25 percent or greater interest in the applicant;

2. termination of a branch manager;

3. change of business name;

4. change of business address;

5. change of business telephone number;

6. change of ownership if the business is a sole proprietorship.

K. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the secretary of states office.

L. A branch office of a board licensed company which desires to register with the board may do so on a voluntary basis at a fee of $100 per year. A letter requesting to register a branch office, along with a current list of active security officers, including social security numbers, should be submitted to the board along with a $100 check or money order made payable to the Louisiana State Board of Private Security Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:12 (January 1989), LR 15:847 (October 1989), LR 26:1070 (May 2000).

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. An applicant for security officer registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. An applicant for security officer registration shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, except:

1. the applicant may be a resident alien;

2. the applicant must be at least 18 years of age if registered unarmed, or if registered to carry a baton;

3. the applicant must be at least 21 years of age if registered armed.

C. Any person who performs the functions and duties of a security officer shall fill out and file with the board an application form provided and approved by the board. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

D. In addition to the completed application, the following documentation on the applicant shall be submitted to the board:

1. one set of classifiable fingerprints;

2. copy of DD-214 military discharge papers showing type of discharge, if applicable;

3. non-refundable application fee and fingerprint processing fee; and

4. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. Applicant must sign the application to certify that the information he is providing the board is correct.

F. Licensee shall review the application to insure that it has been properly completed and signed by the applicant. Licensee shall sign the application to certify that the applicant will be given the required training.

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board.

H. An applicant who will be registered to carry a weapon must be trained in that weapon prior to carrying such weapon on a job site and verification of training must be submitted by the licensee to the board at the time application is made. If the applicant has not been trained, then the licensee shall register the applicant as unarmed until such time as required training has been received and proof of training submitted to the board. If the applicant receives the required weapons training within 15 days from his date of hire, and submits proof of such training on a board training verification form, then the board will change the status of the applicant from unarmed and no fee will be required. If the training is received after 30 days, then a $10 status change fee must be submitted in accordance with the rule for status changes.

I. Licensee shall notify the board, in writing, within 10 calendar days of any change in an applicant's status, eligibility, address, or phone number.

J. Dual Registration

1. A security officer who works for more than one licensed security company must register with the board for each individual company.

2. Each company a security officer is employed with shall submit an application marked "dual registration" with the required application fee. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

3. Each company that a security officer is employed with is responsible for insuring that officer is trained in accordance with R.S. 37:3284 and the rules herein.

K. Registration Card

1. A registration card will not be issued until an investigation determines that the applicant meets the requirements to become registered and verification of training has been received by the board that the applicant has successfully completed required training.

2. A registration card is valid for two years based on date of hire. It shall be in the form of a pocket card and shall be issued to the registrant through the licensee with whom he is employed. Registrant must sign the back of the card immediately upon receipt.

3. A registration card is the property of the Louisiana State Board of Private Security Examiners and must be surrendered to the board upon request.

4. Registration card classifications are as follows:

a. revolver;
b. straight baton;
c. revolver and shotgun;
d. 9MM and shotgun;
e. revolver and baton;
f. shotgun;
g. shotgun and PR-24 baton;
h. shotgun and baton;
i. PR-24 baton;
j. revolver and PR-24 baton;
k. 9MM semiautomatic;
l. 9MM and baton;
m. unarmed;
n. unarmed only;
o. 9MM and PR-24 baton;
p. 40 caliber semiautomatic; and
q. 40 caliber semiautomatic and baton.

5. If a registration card is lost or mutilated, registrant is responsible. A $10 fee will be assessed to issue a replacement card and registrant shall submit, in writing, to the board his name, social security number, registration card number, and circumstances surrounding loss or mutilation of card.

6. Prior to or after issuance of any registration card, the board may require documented evidence verifying the applicant meets, or continues to meet, all requirements to be registered with the board.

L. Reinstatement

1. A registrant who terminates employment from a licensee and is rehired within 30 calendar days by the same licensee may be reinstated by licensee submitting, in writing, a request to have registrant reinstated, accompanied by a $10 reinstatement fee.

2. Written request must provide the security officer's name, social security number, date of termination, and date of reinstatement.

M. Renewal

1. The board will notify the licensee 60 days prior to the expiration date of the registration card of each registrant in their employ.

2. A renewal application and required renewal fee must be submitted to the board not less than 30 days prior to the expiration date of the registration card.

N. Emergency Assignment

1. Unarmed security officers may work emergency assignments a maximum of 20 calendar days within a six month consecutive period.

2. Registration requirements set forth in §301.D.4 apply.

3. Armed security officers must be registered with the board and have received all firearms training prior to working an armed post.

O. Status Change

1. A registrant's status may be changed from unarmed to armed, or vice versa, by submitting a letter to the board requesting a status change with a $10 status change fee.

2. Firearms training verification must be received by the board before the officer's status can be changed to armed.

P. Re-Employment

1. When a registrant is re-employed by one licensee from another, the new licensee is responsible for insuring that the officer is trained, or has been trained in accordance with R.S. 37:3284 and the rules herein, and that proper documentation is, or has been, received by the board.

2. If registrant terminates employment with one employer and is reemployed within 30 calendar days, the new employer, within 20 days of such reemployment, shall submit to the board a reapplication on a form prescribed by the board, together with a reapplication fee paid by the new employer. The board shall then issue a new registration card reflecting the name or license number, or both, of the new employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000).

Chapter 4. Training

§401. Training Programs

A. All board required training shall be administered by a licensed instructor. The board shall approve all training programs and shall develop training criteria outlining specific curriculum to be used in the instructing and training of all security officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:192 (February 1992), LR 26:1072 (May 2000).

§403. Classroom Training

A. Any security officer employed after September 1, 1985 shall complete, within 30 days from his date of hire, eight hours' classroom training under a board licensed classroom instructor.

B. Security officer shall have 60 days from date of first work assignment to complete an additional eight hours classroom training program which has been approved by the board.

C. Upon completion of each of the eight hour segments of the prescribed training, a 50 question examination shall be given to each security officer by the board licensed instructor. The first eight hour examination shall be different from the second eight hour examination, cover the required training topics, and be approved by the board prior to being administered. Minimum passing score is 70 percent.

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 15 calendar days from completion of training.

E. Security officers who have been registered in other states who have licensing requirements similar to Louisiana, and law enforcement officers identified in R.S. 37:3284 may attend a four hour modular training program administered by a board licensed instructor. Upon completion of the four hour modular training, the officer shall take a 50 question examination, and if the security officer successfully passes the examination, this modular training shall be considered the equivalent to the classroom training provided for in R.S. 37:3284 and rules herein. It the security officer does not successfully pass the examination, then he must go through the entire classroom training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1072 (May 2000).

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete firearms training and range qualifications by a board licensed firearms instructor, as prescribed by the board, prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 15 calendar days from completion of training.

B. Upon completion of the prescribed firearms training, a written examination will be given to each security officer by the board licensed firearms instructor. The examination shall cover the required training topics and be approved by the board. Minimum passing score is 70 percent.

C. Successful completion of firearms training also includes the security officer passing the board required firearms proficiency course by achieving a minimum marksmanship qualifying score of 75 percent.

D. Annual refresher firearms training, as outlined in paragraph F below, is due one year from the date of the last firearms training recorded at the board office. The anniversary date will not change if the training is taken within 30 days prior to said date.

E. Authorized Weapons. The following weapons are the only weapons authorized and approved by the board:

1. straight baton or PR-24 baton;

2. .357 caliber revolver, minimum four inch barrel with .357 or .38 caliber ammunition or .38 caliber revolver, minimum four inch barrel with .38 caliber ammunition only;

3. 9mm semiautomatic, minimum four inch barrel, double action;

4. shotgun and 40 caliber weapon, minimum four-inch barrel.

F. Handgun Proficiency Course. The handgun proficiency course shall have the following requirements:

1. a score of 80 percent required to qualify, 200 points out of 250 points;

2. an approved standard police or security firearms' target shall be used;

3. the caliber weapon trained with must be the same caliber weapon the security officer carries while on duty;

4. the handgun course of fire shall be:

a. at a distance of four yards:

i. 12 shots, unsupported, point shooting, without sights: 45 seconds:

(a). six shots, strong hand only;

(b). six shots, weak hand only;

b. at a distance of seven yards:

i. two shots, unsupported, two-handed with sights: 5 seconds (indexing these rounds);

ii. 12 shots, unsupported, two-handed with sights: 60 seconds;

iii. 12 shots, unsupported, two-handed point shooting: 60 seconds;

c. at a distance of 15 yards:

i. 12 shots, barricade, strong hand: 60 seconds;

ii. 12 shots, barricade, two handed with sights: 60 seconds:

(a). six shots, standing right barricade;

(b). six shots, standing left barricade.

G. Semiautomatic Handgun

1. Security officer must have successfully completed the board-required initial firearms training with a revolver prior to being trained with a semiautomatic handgun.

2. A board licensed semiautomatic firearms instructor must train the officer in the use of a semiautomatic handgun prior to him carrying such weapon on a job site. The board-licensed semiautomatic firearms instructor must meet the same qualifications of a firearms instructor as required by R.S. 37:3284.

3. Semiautomatic proficiency course used by the firearms instructor must be certified by the National Rifle Association, Department of Energy or P.O.S.T. and proof of such certification shall be submitted to the board for approval and verification.

H. Shotgun Proficiency Course. The shotgun proficiency course shall have the following requirements:

1. Training in use of shotgun is to be taught only if the security officer is required to carry a shotgun in the performance of his duties.

2. The shotgun course of fire shall be:

a. five rounds of buckshot (nine pellets only); 60 percent required to qualify out of 90 points possible on an NRA B-27 target. B-29 target may be used for 25 yards or 15 yards;

b. scoring: two points for each hit within the seven ring. One point for each hit outside the seven ring, in the black;

c. at a distance of 15 yards; two rounds, standing from the shoulder: 10 seconds;

d. at a distance of 25 yards; two rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser safe" position (chamber empty, magazine loaded, safety on): 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000).

§407. Baton Training

A. Security officers carrying a straight baton as a weapon must successfully complete a minimum of eight hours of an initial straight baton training course approved by the board and administered by a board licensed straight baton instructor prior to carrying such weapon on duty. Security officer must also successfully complete a four hour annual refresher straight baton training program approved by the board.

B. Security officers carrying a PR-24 baton as a weapon must successfully complete a minimum eight hours of a prebasic PR-24 baton training course approved by the board and administered by a board licensed PR-24 baton instructor prior to carrying such weapon on post. Security officer must also successfully complete a four hour annual refresher PR-24 baton training program approved by the board.

C. The board licensed baton instructor must meet the same qualifications of a classroom instructor as required by R.S. 37:3284 and must possess a board recognized law enforcement baton certification.

D. Annual baton refresher training is due one year from the date of the last baton training recorded at the board office.

E. Security officers trained in baton must successfully pass a written examination administered by a board licensed baton instructor and achieve a minimum passing score of 70 percent. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 15 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:193 (February 1992), amended LR 23:589 (May 1997), LR 26:1073 (May 2000).

§409. Instructor Requirements, Responsibilities and Liability

A. The board shall collect the following instructor fees pursuant to R.S. 37:3286:

1.	application fee	$20
2.	in-house/outside classroom license fee	$50
3.	in-house/outside firearms license fee	$75
4.	in-house/outside baton license fee	$50
5.	transfer application fee	$20
6.	in-house/outside classroom renewal license fee	$50
7.	in-house/outside firearms renewal license fee	$75
8.	in-house/outside baton renewal license fee	$50
9.	examination fee	$25
10.	reexamination fee	$15

B. An applicant applying for an instructor license who does not successfully pass the required examination may reapply to take the examination twice within a six month period. If the applicant does not successfully pass the examination as required, the application shall be referred to the board for action.

C. Instructor Responsibilities and Liability

1. An in-house instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers. If not covered under a company insurance policy, an instructor must provide a certificate of general public liability insurance in an amount as required by law, with the state of Louisiana named as an additional insured.

2. Licensed instructors are required to keep on file for three years records of training tests and any other documentation that verifies the test scores achieved by security officers they trained.

D. License Renewal

1. Instructor licenses issued by the board shall be valid for two years. Expiration date is based on the date the license is approved and issued.

2. To renew an instructor license, instructor shall submit to the board a renewal application form provided by the board and the required renewal fee 30 days prior to the expiration date of license.

E. Insurance Renewal. On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse of coverage.

F. License Classification. Instructor licenses are categorized as follows:

In-House: licensed with a security company and may only teach security officers employed with that company.

Outside: licensed to train anyone in the state of Louisiana.

Outside Limited: licensed to teach students at a training academy or educational institution. Instructor may only teach students of that particular institution

G. License Transfer

1. An instructor may transfer his license to another company by submitting to the board a transfer application, $20 transfer fee, and proof of general liability insurance coverage.

2. An in-house instructor who desires to become an outside instructor shall submit a new instructor application, $20 application fee, proof of general liability insurance and training program that will be used to teach the students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:194 (February 1992), amended LR 23:589 (May 1997), LR 26:1074 (May 2000).

Chapter 5. Criminal Background Checks

§501. Criminal Background Checks

A. Dispositions

1. If an applicant has been convicted of any crime that would prevent him from meeting the qualifications of a licensee or registrant as specified in R.S. 37:3276, it shall be incumbent upon the applicant to submit with his application documentation showing proof that he has been pardoned for that crime.

2. If an applicant possesses an arrest record as issued by the Louisiana State Police, Bureau of Identification, without the disposition thereof, it shall be incumbent upon the applicant, within 30 days, to provide the written disposition of his arrest from the district attorney's office or the criminal clerk of court's office from the judicial district in which the arrest occurred.

3. If the applicant does not provide the written disposition as required, the board shall have sufficient cause to deny the application.

B. Denial of Application Due to Conviction

1. If an applicant has a felony conviction, as evidenced by the background check run by the Louisiana State Police, Bureau of Identification, then his employment as a security officer must be terminated immediately unless he has provided the board with documentation showing proof that he has received a pardon or similar relief.

2. The board will notify the employer that the officer has been denied and it is incumbent upon the employer to submit to the board a termination notice within 10 calendar days after denial notification.

3. If the background check reveals a misdemeanor conviction that would disqualify the applicant under the provisions of R.S. 37:3270 through 3298 and the rules herein, he may continue to work pending the outcome of the appeal process.

4. It the applicant does not appeal the board's denial of his application due to his misdemeanor conviction, then the applicant must be terminated 30 days after receipt of written notice of denial from the board.

5. The board will notify the applicant and his employer if the application is denied and the reason therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:755 (December 1987), amended LR 15:13 (January 1989), LR 15:850 (October 1989), LR 18:194 (February 1992), LR 26:1074 (May 2000).

Chapter 6. Disciplinary Action

§601. Contested Proceedings

A. Before revoking or suspending a license or registration card, or imposing fines or costs over $500, the board will afford the applicant an opportunity for a hearing after reasonable notice of not less than 15 days, except in a

case of a failure to maintain the required insurance or when a registrant is found carrying an unauthorized weapon while performing the duties of a security officer.

B. All requests for a hearing must be submitted in writing to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:756 (December 1987), amended LR 18:194 (February 1992), LR 26:1074 (May 2000).

§603. Final Decision and Orders

A. All final decisions and orders of the board shall be in writing and signed by the executive secretary or chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), LR 26:1074 (May 2000).

Chapter 7. Insignias, Markings, Restrictions

§701. Restrictions

A. No badge or insignia with the initials "SP" or "SO" may be worn on the uniform of a registrant.

B. A licensee shall not display red or blue emergency lights on any vehicle used on a security assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:757 (December 1987), amended LR 18:195 (February 1992), LR 26:1074 (May 2000).

Chapter 8. Licensee Suitability, Records, Investigations, and Registrant Violations

§801. Licensee's Suitability and Business Relationships

A. The board may deny an application, suspend, revoke, or restrict a licensee upon the vote of four concurring members when it finds that the licensee or business entity is unsuitable for the purpose of its license or endangers the health, safety, or welfare of the citizens of this state.

B. In determining the suitability of an applicant or licensee or other persons or business entities, the board may consider the following:

1. general character, including honesty and integrity;
2. financial security and stability, competency, and business experience in the capacity of the relationship; and
3. refusal to provide records, information, equipment, or access to premises to any authorized representative of the board, or any law enforcement officer when such access is reasonably necessary to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 18:195 (February 1992), LR 26:1075 (May 2000).

§803. Employee Records Required to be Kept and Subject to Inspection

A. The licensee is required to keep on file the following documentation on each registrant in their employment up to three years from date of termination. Such documentation is subject to inspection as may reasonably be required by an authorized representative of the board during reasonable business hours:

1. current residence and phone number of all registrants;
2. copy of the application submitted to the board;
3. copy of training verification form submitted to the board and original training tests completed by any registrant trained by such company, and any other documented information on required training;
4. copy of registration card issued by the board; and
5. copy of termination notice.

B. An authorized representative of the board shall be defined as the executive secretary, investigator, or staff member of the board. Board members are not authorized to inspect employee records of licensees without the voting approval of the majority of the board at a public board meeting.

C. Licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

D. The board shall notify the company, in writing, 15 days prior to the conducting of a routine inspection of employee records.

E. A company will have no more than 30 days to comply with the board's written findings as a result of an inspection, in addition to paying any assessed administrative fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 18:195 (February 1992), LR 26:1075 (May 2000).

§805. Investigations

A. The board may investigate the actions of any licensee. The investigation shall be conducted for the purpose of determining whether a licensee is in compliance with R.S. 37:3270 through 3298 and the rules herein.

B. An investigation conducted by a duly authorized representative of the board is not to be construed as an inspection of files as described in §803.C hereof. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 18:195 (February 1992), LR 23:589 (May 1997), LR 26:1075 (May 2000).

§807. Violations by Registrants

A. In addition to violations specified in R.S. 37:3270 et seq. and the other parts of these rules, the following shall be considered violations by a registrant:

1. performing security duties for any other person other than the licensee with whom he is registered;
2. failure to sign registration card;
3. failure to affix a photograph of registrant, taken within the last six months, to registration card;
4. failure to timely surrender registration card when required to do so;

5. possession or use of any registration card which has been improperly altered;

6. defacing of a registration card; and

7. allowing improper use of a registration card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:852 (October 1989), LR 18:195 (February 1992), LR 23:589 (May 1997), LR 26:1075 (May 2000).

§809. Inspection of Records

A. Licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to ensure compliance with the Private Security Regulatory and Licensing Law and with these rules and regulations.

B. The board shall notify the company, in writing, 15 days prior to the conducting of a routine inspection of employee records.

C. The board shall notify the company, in writing, three days prior to conducting an inspection of their employee records brought on by a complaint.

D. A company will have no more than 30 days to comply with the board's written findings as a result of any inspection in addition to paying any fine assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 26:1075 (May 2000).

§811. Training Records

It is the responsibility of licensees and certified trainers to keep records of tests and firearms certification on training for each registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1076 (May 2000).

§813. Unlawful Act

A. No person shall engage in the business of providing contract security services except in accordance with Chapter 7 and the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:852 (October 1989), LR 26:1076 (May 2000).

Chapter 9. Administrative Penalties

§901. Administrative Penalties Pursuant to R.S. 37:3288

A. Any person who is determined by the board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 37:3270 et seq., or any rule herein, is subject to an administrative penalty of not more than $500 per violation; and/or denial, suspension, or revocation of a license or registration card; and/or imposition of probationary conditions or other restrictions including assessment of administrative costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 18:196 (February 1992), LR 26:1076 (May 2000).

§903. Administrative Penalties Pursuant to R.S. 37:3288(B)

A. Licensees and registrants who violate provisions of R.S. 37:3270 et seq. and the rules herein may be assessed administrative penalties by the executive secretary in lieu of, but not limited to, bringing licensee or registrant before the board at a hearing.

B. Assessed administrative fines may be appealed by submitting to the board a written request to appear before the board at the next scheduled board meeting.

C. In accordance with R.S. 37:3288(B), administrative penalty schedule is as follows:

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period. If the application, fingerprint card, and/or registration fees are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25
Licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline date is given. If the fingerprint card is not resubmitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25
Licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated. If termination is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25
Licensee or registrant's failure to submit information as requested by the board when a deadline date is given. If information is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit company license renewal fee prior to expiration date	$25/day up to $500
Licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date. If the renewal application and renewal fee are not submitted within 14 days after deadline date, administrative fine accumulates at a date rate, not to exceed $500	$25
Licensee's failure to have registrant in their employ trained within prescribed time period. If registrant is not trained within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25
Licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period. If training verification is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500	$25
Registrant's failure to carry on his person a temporary or permanent registration card while on duty	$25
Fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc.	$25
Registrant's performing security duties for any other person other than the licensee with whom he is registered	$25
Registrant's failure to sign registration card	$25
Registrant's failure to affix a photograph of registrant, taken within the last six months, to registration card	$25
Registrant's failure to timely surrender registration card when required to do so	$25
Registrant's possession or use of any registration card which has been improperly altered	$25
Registrant's defacing of a registration card	$25
Registrant's allowing improper use of a registration card	$25
Registrant carrying an unauthorized weapon while on duty	not less than $25 nor more than $100
Licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds	$25
Licensee allowing registrant to carry an unauthorized weapon while on duty	not less than $25 nor more than $100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 18:196 (February 1992), LR 26:1077 (May 2000).

§905. Request for Copies

A. Copies of these rules and regulations will be made available upon written request to the board, and a monetary fee will be assessed in accordance with the Division of Administration's rules governing public records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1077 (May 2000).

§907. Public Comments

A. Upon adoption of these rules and regulations, the board, if requested to do so by an interested person within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), LR 26:1077 (May 2000).

Wayne R. Rogillio
Executive Secretary

0005#018

RULE

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 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

Thomas M. Gattle, Jr.
Chairman

0005#020

RULE

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 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 60 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 14 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 26:1078 (May 2000).

James H. Jenkins, Jr.
Secretary

0005#052