

Rules

RULE

Department of Culture, Recreation and Tourism Atchafalaya Trace Commission

Atchafalaya Trace Heritage Area Development Zone (LAC 25:XI.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the Atchafalaya Trace Commission (R.S. 25:1221-1226.6), the Atchafalaya Trace Commission has adopted the initial Rules of the Atchafalaya Trace Heritage Area Development Zone Review Board. The commission was established by Act 1440 of 1997 which enacted R.S. 25:1221-1225. The board was added by Act 112 of the First Extraordinary Session of 2002 enacting R.S. 25:1226-1226.6. The commission and board are situated in the Department of Culture, Recreation and Tourism and are domiciled in Baton Rouge. These Rules implement the 2002 Act creating the Atchafalaya Trace Heritage Area Development Zone Program. The Atchafalaya Trace Heritage Area Development Zone Program establishes a system of tax exemptions and credits for heritage-based cottage industries in the Atchafalaya Trace Heritage Area.

The Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, in accordance with R.S. 25:1221-1226.6 and R.S. 49:950, et seq., has enacted Chapter 3 of Part XI of Title 25 of the *Louisiana Administrative Code*, Atchafalaya Trace Heritage Area Development Zone. Adoption of these Rules is in response to legislation creating the Atchafalaya Trace Heritage Area Zone and Review Board.

Title 25

CULTURAL RESOURCES

Part XI. Office of the Secretary

Chapter 3. Atchafalaya Trace Heritage Development Zone

§301. Statement of Policy

A. In accordance with Act 112 of the First Extraordinary Session of 2002 enacting the Atchafalaya Trace Heritage Area Development Zone and pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., the Atchafalaya Trace Commission adopted these Rules to provide for the application, review and recommendation process for heritage-based cottage industries in the Atchafalaya Trace Heritage Area to obtain tax credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§303. Purpose

A. The purpose and intent of this Chapter are:

1. to provide specific tax incentives for heritage-based cottage industries in the geographical area known as the Atchafalaya Trace Heritage Area; and

2. to assist individuals and businesses engaged in heritage-based commercial activities in obtaining capital and

tax incentives through existing programs administered by federal, state, and local agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§305. Definitions

Board—the Atchafalaya Trace Heritage Area Development Zone Review Board.

Commission—the Atchafalaya Trace Commission.

Cultural Heritage—those qualities that capture the traditions, customs, beliefs, history, folklore, ways of life, and material culture of the Atchafalaya Trace Heritage Area.

Department—the Department of Economic Development.

Development Zone—the Atchafalaya Trace Heritage Area Development Zone, which encompasses the territory of the following parishes in their entirety: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

Full-Time Employee—a person employed at the business for at least 32 hours per week.

Heritage-Based Cottage Industry—a small business with no more than 20 full or part-time employees or an individual that is sustainably harnessing the Atchafalaya Trace Heritage Area's cultural heritage and natural heritage resources for purposes which include interpreting, accessing, developing, promoting, or reinforcing the unique character and characteristics of the heritage area. *Heritage-based cottage industries* shall include lodging, including bed and breakfasts, camping, houseboats and recreational vehicle facilities; museums, including living museums and interpretive facilities; artists and craftsmakers of authentic or locally made products; authentic food packaging, production, and harvesting; music production and instrument making; historic homes, house museums, and historic sites; boat, canoe, kayak, and bicycle rentals; wild and scenic sites; hunting, fishing, and birding guide services; tour planning and cultural guide services; swamp tours, airboat tours, helicopter tours, plane tours, and balloon tours; retail facilities of authentic products, and agricultural tours. *Heritage-based cottage industry* shall not include hotels, motels, restaurants, gaming facilities, churches, and housing. A *heritage-based cottage industry* may be a new, existing, or expanding business. In order to qualify as a *heritage-based cottage industry* for purposes of this Part, the owner of the business must be a resident of the Heritage Area Development Zone.

Natural Heritage—one of those qualities that capture the environmental features of the Atchafalaya Trace Heritage Area, including man-made and natural resources and wildlife.

Part-Time Employee—a person employed at the business for at least 20 hours per week.

Qualifying Employee—a full-time or part-time employee whose job duties are either:

1. primarily related directly to sustainably harnessing the cultural heritage or natural heritage resources of the Atchafalaya Heritage Area; or
2. secondarily related by virtue of performing a support function regarding the business activities related to sustainably harvesting the cultural heritage or natural heritage resources of the Atchafalaya Heritage Area.

Review Board the Atchafalaya Trace Heritage Area Development Zone Review Board.

Small Business any person or legal entity engaged in any trade, occupation, profession, commercial, mercantile, or industrial activity with no more than 20 full-time or part-time employees.

Sustainably Harnessing utilizing a resource so as to not permanently deplete or damage that resource or permanently alter or damage the environment in which it occurs or grows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§307. Application for Tax Credit or Exemption

A. An applicant for tax credits or exemptions under R.S. 25:1226.4 shall provide the following:

1. name of business this shall be the complete legal name of the business;
2. parent company, if applicable;
3. physical address:
 - a. principal place of business;
 - b. each location where significant operations of the business occur;
4. ownership information this shall include all owners, either direct or through ownership of stock or partnership shares;
5. parish of residence for all owners listed in §307.A.4;
6. parish in which the principal place of business is located;
7. parish in which any significant operations of the business occur;
8. type of business entity;
9. contact information;
10. tax information:
 - a. federal tax identification number or social security number for all persons or entities listed in §307.A.4;
 - b. Louisiana Department of Revenue tax identification number;
 - c. Louisiana Unemployment Insurance identification number;
11. current employment information:
 - a. total number of employees:
 - i. full-time;
 - ii. part-time;
 - b. number of employees at each location listed in §307.A.3;
 - c. list of the names, job titles, and Social Security numbers of all employees;
12. description of business, including the business's use or access to cultural and natural heritage of the Atchafalaya Heritage Area;
13. gaming activities, if any, conducted by the business.

B. For each qualifying employee for which the new employee tax credit is claimed, provide the following:

1. name;
2. residence address;
3. parish of residence;
4. social security number;
5. hours worked per week at the business;
6. length of residence at address listed;
 - a. if length of residence is less than 30 days, provide previous residence address;
 - b. evidence of residence at listed address(es); examples include:
 - i. utility bills in employee's name at that address;
 - ii. voter registration card;
 - iii. driver's license;
 - iv. homestead exemption or property tax notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2010 (October 2003).

§309. Criteria for Reviewing Applications

A. The review board shall review the applications for tax credits and exemptions using the following criteria:

1. the specific cultural heritage resource or natural heritage resource being utilized;
2. the purpose for which the resource is utilized;
3. the relationship of that purpose or final product to the cultural heritage or natural heritage of the Atchafalaya Heritage Area;
4. the degree to which the purpose or final product relates to or expresses the unique character and characteristics of the Atchafalaya Heritage Area;
5. the location and ownership of the business;
6. the residence of the owner and each qualifying employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2010 (October 2003).

Phyllis Mayo
Executive Director

0310#017

RULE

**Department of Economic Development
Office of the Secretary**

Capital Companies Tax Credit Program
(LAC 10:XV.327)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 51:1929, has adopted the following additional Rules for the Louisiana Capital Companies Tax Credit Program, in order to provide direction to certified Louisiana capital companies who are seeking to invest certified capital in "Louisiana-based economic development infrastructure projects," as such term is used in R.S. 51:1923(12)(c) of the Louisiana Capital Companies Tax Credit Program (the "CAPCO Program"). The term "Louisiana-based economic development infrastructure

projects" is not defined in the CAPCO Program. These Rules are intended to provide a procedure for certified Louisiana capital companies seeking a designation of a "Louisiana-based economic development infrastructure project" for an intended investment in order to qualify for the tax credit under this program; and these Rules further provide criteria that a project must meet in order to qualify for such a designation.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§327. Louisiana-Based Economic Development Infrastructure Projects

A. An applicant seeking this designation for an intended investment shall provide to the secretary the following information along with the request for this designation:

1. a description of the project;
2. a description of all sources and uses of financing for the project;
3. a description of the proposed investment;
4. an analysis of how the investment in the project furthers economic development within Louisiana;
5. a calculation of the percentage of the certified Louisiana capital company's total certified capital and total certified capital under management which will be invested in the project;
6. an analysis of whether the entity in which the certified Louisiana capital company proposes to invest is a qualified Louisiana business;
7. an analysis of whether the proposed investment meets the criteria set forth in §303.A.*Investment*. b;
8. a statement as to whether the business in which the certified Louisiana capital company proposes to invest, intends to acquire any real estate for resale or whether any real estate in which the certified Louisiana capital company proposes to invest is intended to be resold;
9. the charter documents for the entity that owns the Louisiana-based economic development infrastructure project and each intervening entity through which the certified Louisiana capital company owns its interest in the Louisiana-based economic development infrastructure project; and

10. copies of all management, maintenance, operations and other agreements which the certified Louisiana capital company contemplates being executed with respect to the Louisiana-based economic development infrastructure project, or if no such agreements have yet been prepared, a description of all contemplated arrangements.

B. A Louisiana-based economic development infrastructure project shall be designated by the secretary for purposes of qualifying the investment under R.S. 1923(12)(c) if it meets the criteria set forth in each of Paragraphs 1 through 5 of this Subsection B, or if it meets other criteria determined by the secretary from time to time.

1. The information shall demonstrate that 100 percent of the funds invested by the certified Louisiana capital company shall be used directly or indirectly:

- a. for the acquisition, construction, modification, refurbishment or remodeling of physical facilities, other

immovable property improvements or movable property which becomes affixed to or a component part of immovable property, in each case, located in Louisiana; or

- b. as attendant expenses related to the investments, including without limitation, closing expenses, capital expenditure reserves, working capital, and reasonable fees and expenses relating to the management and operation of the facilities.

2. The facilities must accomplish at least two of the following, as determined by the secretary, or shall accomplish such other objectives as the secretary may determine from time to time:

- a. provide below-market rental environments for "disadvantaged businesses" as defined in R.S. 51:1923(7);

- b. provide attractive rental environment for the attraction of out-of-state companies in the targeted clusters identified in the state's Vision 2020 Plan to locate headquarters or operations in Louisiana;

- c. provide below-market rental environments for qualified Louisiana startup businesses as defined in R.S. 51:1923(14);

- d. provide attractive rental environments for qualified Louisiana technology-based businesses as defined in R.S. 51:1923(15); or

- e. provide below market cost services.

3. The investment by the certified Louisiana capital company in the Louisiana-based economic development infrastructure project shall be made either to acquire an equity interest in an entity that directly or indirectly owns or acquires an interest in a Louisiana-based economic development infrastructure project, to provide debt financing to an entity that owns or acquires an interest in the Louisiana-based economic development infrastructure project, or to provide a combination of these investment mechanisms.

4. The secretary shall review and approve of the percentage of the certified Louisiana capital company's certified capital and total certified capital under management that is invested in the proposed project or project entity, at his or her discretion.

5. The secretary may adopt additional criteria for his or her approval of Louisiana-based economic development infrastructure projects.

C. An investment approved by the secretary which is made by a certified Louisiana capital company in a Louisiana-based economic development infrastructure project or an entity that directly or indirectly owns an interest in a Louisiana-based economic development infrastructure project in accordance with this Rule shall be deemed to "further economic development within Louisiana" for purposes of R.S. 51:1923(12).

D. Following the secretary's designation of an investment by a certified Louisiana capital company as a qualified investment in a Louisiana-based economic development infrastructure project, the secretary shall issue a letter to the certified Louisiana capital company applicant confirming the designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:2011 (October 2003).

RULE

Board of Elementary and Secondary Education

Bulletin 104C Louisiana K-12
Educational Technology Standards
(LAC 28:LXXV.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 104C Louisiana K-12 Educational Technology Standards*. Bulletin 104 will be printed in codified format as Part LXXV of the *Louisiana Administrative Code*. The Louisiana K-12 Educational Technology Standards will be disseminated to local school districts following publication. The document was previously disseminated to districts as guidelines. The significance of the change to standards is the weight of required implementation. The change from guidelines to standards strengthen the implementation of educational technology initiatives throughout all schools and classrooms in the state.

Title 28

EDUCATION

Part LXXV. Bulletin 104C Louisiana K-12 Educational Technology Standards

Chapter 1. Purpose

Subchapter A. Educational Technology

§101. Mission Statement

A. This document provides a framework for the integration of technology across the curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§103. Philosophy

A. The Louisiana K-12 State Educational Technology Standards are based on the National Educational Technology Standards and the Louisiana State Content Standards. These technology standards support the beliefs set forth by the state educational technology goal: "All educators and learners will have access to technologies that are effective in improving student achievement."

B. The Louisiana K-12 State Educational Technology Standards parallel the foundation skills and core understandings embodied in the Louisiana Content Standards. Additionally, the standards are designed to reflect the conviction that technology is best understood and taught in a realistic and integrated setting in a variety of curriculum areas. The alignment of the technology standards with the foundation skills provides for such integration across all content areas. Consequently, these standards and the associated performance indicators are to be integrated in all aspects of the curriculum and not taught in isolation, utilizing fully the resources of the classroom, the school, and the community. The technology standards promote the development of technology/information literate students, including those with disabilities, to be self-directed learners, who individually and collaboratively use

technology/information responsibly to create quality products and to be productive citizens. The focus is on learning with information and technology rather than learning about technology. Integration of these standards will be varied and dynamic, reflecting the diversity of instructional and student needs in our schools and districts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§105. Definition

A. Technology consists of any electronic tool used for solving problems, communicating clearly, processing information, increasing productivity, accomplishing a task, making informed decisions, and enhancing the quality of life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

Subchapter B. Standards

§107. Technology Communication Tools

(Communication Foundation Skill)

A. Students use telecommunications to collaborate, publish, and interact with peers, experts and other audiences.

B. Students use a variety of media and formats to communicate and present information and ideas effectively to multiple audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§109. Technology Problem-Solving and Decision-Making Tools (Problem Solving Foundation Skill)

A. Students use appropriate technology resources for solving problems and making informed decisions.

B. Students employ technology for real world problem solving.

C. Students evaluate the technology selected, the process, and the final results through the use of informed decision-making skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§111. Technology Productivity Tools (Resource Access and Utilization Foundation Skill)

A. Students use technology tools to enhance learning, increase productivity, and promote creativity.

B. Students use productivity tools to work collaboratively in developing technology-rich, authentic, student-centered products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§113. Technology Research Tools (Linking and Generating Knowledge Foundation Skill)

A. Students use appropriate technology to locate, evaluate, and collect information from a variety of sources.

B. Students use technology tools to process data and report results.

C. Students evaluate and select new information resources and technological innovations based on the appropriateness to specific tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§115. Social, Ethical, and Human Issues (Citizenship Foundation Skill)

A. Students understand the ethical, cultural, and societal issues related to technology.

B. Students practice responsible use of technology systems, information, and software.

C. Students develop positive attitudes toward technology uses that support lifelong learning, collaboration, personal pursuits, and productivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§117. Basic Operations and Concepts

A. Students demonstrate a sound understanding of the nature and operation of technology systems.

B. Students are proficient in the use of technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§119. Technology Standards and State Foundation Skills

A. How do the Technology Standards align with the State Foundation Skills?

Foundation Skills	Technology Standards
Communication	Technology Communication Tools
Problem Solving	Technology Problem Solving and Decision-Making Tools
Resource Access and Utilization	Technology Productivity Tools
Linking and Generating Knowledge	Technology Research Tools
Citizenship	Social, Ethical, and Human Issues Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

Subchapter C. Performance Indicators

§121. Grades K-4

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify, explain, and effectively use input, output and storage devices of computers and other technologies (e.g., keyboard, mouse, scanner, adaptive devices, monitor, printer floppy disk, hard drive). (5,6)

2. Use accurate and developmentally appropriate terminology (e.g., cursor, software, hardware, pull down menu, window, disk drive, hard drive, CD-ROM, laser disc) when referring to technology. (6)

3. Discuss common uses of technology in daily life and the advantages and disadvantages those uses provide. (5,6)

4. Discuss basic issues related to responsible use of technology and information; and describe personal consequences of inappropriate use. (5)

5. Use a variety of developmentally appropriate resources and productivity tools (e.g., logical thinking programs, writing and graphic tools, digital cameras, graphing software) for communication, presentation, and illustration of thoughts, ideas, and stories (e.g., signs, posters, banners, charts, journals, newsletters, and multimedia presentation). (1,3,4)

6. Use technology tools (e.g., publishing, multimedia tools, and word processing software) for individual and for simple collaborative writing, communication, and publishing activities for a variety of audiences. (1,3)

7. Gather information and communicate with others using telecommunications (e.g., email, video conference, internet) with support from teachers, family members, or peers. (1,4,5,6)

8. Utilize search strategies employing keywords, phrases, and Boolean operators (and, or, not) to access and retrieve information. (4)

9. Evaluate electronic information for accuracy, relevance, appropriateness, comprehensiveness, and bias. (2,4,5)

10. Use technology resources to assist in problem-solving, self-directed learning, and extended learning activities. (2,4)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§123. Grades 5-8

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify and define computer and networking terms (e.g. modem, file server, client station, LAN, Internet/Intranet, data storage device). (6)

2. Understand and apply common troubleshooting techniques. (6)

3. Demonstrate the operations of a computer (e.g., touch-keyboarding skills, save, organize and back-up files) and other peripheral devices (scanner, digital and video cameras, VCR, laser disc player) at an intermediate level. (6)

4. Compose and edit a multi-page document with appropriate formatting using word-processing skills (e.g., menu, tool bars, dialog boxes, spell check, thesaurus, page layout, headers and footers, word count, margins, tabs, spacing, columns, page orientation). (1,3,6)

5. Use information, media, and technology in a responsible manner which includes following the school's acceptable use policy, adhering to copyright laws, respecting the rights of others, and employing proper etiquette in all forms of communication. (4,5)

6. Recognize the importance of information technology and its effect on the workplace and society. (5)

7. Use multimedia tools and desktop publishing to develop and present computer-generated projects for directed and independent learning activities. (1,3)

8. Use technology tools (e.g., multimedia authoring, writing tools, digital cameras, drawing tools, web tools) to gather information for problem solving, communication, collaborative writing and publishing to create products for various audiences. (1,3,4)

9. Demonstrate intermediate e-mail skills (e.g., sending attachments, organizing an address book, forwarding messages). (1,4)

10. Understand Internet concepts (e.g., website, hypertext link, bookmarks, URL addresses) and apply intermediate on-line searching techniques (e.g., employ keyword, phrases, and Boolean Operators). (1,4)

11. Use telecommunications and online resources efficiently and effectively to collaborate with peers, experts, and others to investigate curriculum-related problems, issues, and information and to develop solutions or products for various audiences. (1,2,3,4)

12. Communicate information using spreadsheets and databases to visually represent data and integrate into other documents (e.g., entering data, formatting using formulas, analyzing data, and sorting). (1,2,3,4)

13. Determine when technology is useful and select the appropriate tool(s) and technology resources to address a variety of tasks and problems. (2)

14. Research and evaluate the accuracy, relevance, appropriateness, comprehensiveness, and bias of electronic information. (2,4,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§125. Grades 9-12

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Apply strategies for identifying and solving routine hardware and software problems that occur during everyday use. (6)

2. Make informed choices among technology systems, resources, and services. (5,6)

3. Demonstrate knowledge and skills of Internet use and other resources consistent with acceptable use policies including the legal consequences of plagiarism and the need for authenticity in student work through an understanding of copyright issues. (5)

4. Demonstrate and advocate legal and ethical behaviors among peers, family, and community regarding the use of technology and information. (5)

5. Explain and use advanced terminology, tools, and concepts associated with software applications, telecommunications, and emerging technologies. (1,3)

6. Use technology tools and resources for managing and communicating personal/professional information (e.g., finances, schedules, addresses, purchases, correspondence). (1,3)

7. Refine knowledge and enhance skills in keyboarding, word processing, desktop publishing, spreadsheets, databases, multimedia, and telecommunications in preparing and presenting classroom projects. (3,6)

8. Collaborate (e.g., desktop conferencing, e-mail, on-line discussions) with peers, experts, and others to compile, synthesize, produce and disseminate information, models, and other creative works. (1,2,3,5)

9. Evaluate technology-based options for lifelong learning. (4)

10. Use appropriate technology to locate, retrieve, organize, analyze, evaluate, and communicate information for problem solving and decision making. (1,2,4)

11. Evaluate the usage of technology and the processes involved during and upon completion of individual and group projects. (2,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2014 (October 2003).

Weegie Peabody

Executive Director

0310#021

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for
School Administrators C Policy for Louisiana's
Public Education Accountability System
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in IR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes remove outdated information.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15); R.S. 17:7(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2014 (October 2003).

* * *

The Louisiana School and District Accountability System School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is 0.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools.

New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's shall have the option of using:

1. the district average for schools in the same category as the new school;
2. data from the prior year, if whole grade levels from an existing school or schools moved to the new school;

Any references to Supplemental Educational Services in this policy apply to Title I schools only.

Beginning in 2003, for schools that may be subject to choice and/or Supplemental Educational Services provisions, the LDE shall annually release preliminary School Performance Scores and Corrective Action status at least two weeks prior to the first day of the school year following the school year in which the assessment data was collected. Final School Performance Scores will be issued during the fall semester each year.

Formula for Calculating an SPS [K-6]			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

Criterion-Referenced Tests (CRT) Index Calculations	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments times 4 (number of subjects). For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

Option I students: those students failing the 8th grade LEAP 21 that have been

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Formula for Calculating a CRT Index for a K-8 School	
1)	Calculate the total number of points by multiplying the number of students at each performance level times by the points for those respective performance levels, for all content areas and summing those products.
2)	Add to the sum any Incentive Points and divide by the product of the total number of students eligible to be tested times the number of content area tests.
3)	Zero shall be the lowest CRT Index score reported for accountability calculations.

Norm-Referenced Tests (NRT) Index Calculations [K-8]
 For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores					
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's composite standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$

Formula for Calculating a School's NRT Index [K-8]	
1.	Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
2.	Sum the total number of NRT Index points for all grades in the school.
3.	Divide the sum of the NRT Index points by the total number of students eligible to be tested.
Zero shall be the lowest NRT Index score reported for School Performance Score calculations.	

Attendance Index Calculations [K-8]	
An Attendance Index score for each school shall be calculated using the prior two years' average attendance rates as compared to the State's goals.	

Grades K-8	10-Year Goal	20-Year Goal
	95%	98%
Attendance Index Formula Grades K-8		
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score	
Zero shall be the lowest Attendance Index score reported for accountability calculations.	

Dropout Index Calculations		
A Dropout Index score for each school shall be calculated using the prior two years' average dropout rates as compared to the State's goals.		
Grades 7 & 8	10-Year Goal	20-Year Goal
	4%	2%

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.
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Dropout Index Formulas	
Non-Dropout Rate (NDO) = $100 - \text{Dropout Rate (DO)}$ (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$

Lowest Dropout Index Score	
Zero shall be the lowest Dropout Index score reported for accountability calculations.	

Formula for Calculating an SPS [K-8]			
The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, $[(71.2 * 60\%) + (76.1 * 30\%) + (87.7 * 5\%) + (90.4 * 5\%)] = 74.4$			
Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
SPS = 74.4			

School Performance Scores for 9-12

Formula for Calculating an SPS for 9-12 and Combination Schools.

The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is $SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index}) + (.05 * Attendance \text{ Index})$

All intermediate results and the final result shall be rounded to the nearest tenth. The following is an example of how this calculation shall be made:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
			SPS = 69.0

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score equals the sum of the student totals divided by the number of tests those students were eligible to take. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	50 points
Unsatisfactory	0 points

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged to get a high school's NRT Index score.

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55th	263
20-Year Goal	75th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's composite standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index 9th grade} = (2.083 * SS) - 447.8$$

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA)

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- 1) Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- 2) Divide the sum by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
- 3) Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate + .07, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates + .07, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates + .07. Any Option II student who passes a previously failed portion of the CRT earns 50 Incentive Points for his/her high school. Add any Option II Incentive points to the NRT value after multiplying to adjust for dropouts. This operation shall yield the Adjusted Achievement Index.
- 4) Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is: NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1-\text{DO Gr 9} + .07) * (1-\text{DO Gr 10} + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1-\text{DO Gr 9} + .07) * (1-\text{DO Gr 10} + .07) * (1-\text{DO Gr 11} + .07)$$

<p>Example 1 – Grade 9:</p> <ul style="list-style-type: none"> Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$. The number of points earned on the NRT is 5000. The raw achievement index is $5000/45 = 111.1$. The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$. <p>Example 2 – Grade 10:</p> <ul style="list-style-type: none"> Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$. The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$. The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12		
An Attendance Index score for each high school shall be calculated using the prior two years' average attendance rates as compared to the State's goals.		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%
Attendance Index Formula for Grades 9-12		
If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows: Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0.		
Example: If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.		
Zero shall be the lowest Attendance Index score reported for accountability calculations.		

Dropout Index Calculations for Grades 9-12		
A Dropout Index score for each high school shall be calculated using the prior two years' average dropout rates as compared to the State's goals.		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
Dropout Index Formula for Grades 9-12		
Dropout Index = 187.5 – (12.5 X dropout rate)		
Example: If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.		
Zero shall be the lowest Dropout Index score reported for accountability calculations.		

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

School Performance Scores for Combination Schools
Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

The formula for calculating an SPS for Combination Schools is defined in the High School calculations.

Formula for Calculating a CRT Index for a Combination School
<ol style="list-style-type: none"> Calculate the CRT Index score for the K-8 portion of the school as instructed above in the K-8 directions. Calculate the CRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions. Multiply the K-8 CRT Index by the number of students eligible to take the K-8 CRT times 4 (number of subjects). Multiply the 9-12 CRT Adjusted Index by the number of tests 9-12 students were eligible to take. Sum the two products in step 3. Divide the sum in step 4 by the sum of tests all students (K-12) were eligible to take. <p>$[(K-8 \text{ CRT Index} * \text{number students eligible to test} * 4) + (9-12 \text{ CRT Adjusted Index} * \text{number of tests students were eligible to take}) / \text{Total of tests K-12 students were eligible to take}.$</p>

Formula for Calculating a NRT Index for a Combination School
<ol style="list-style-type: none"> Calculate the NRT Index score for the K-8 portion of the school as instructed above in the K-8 directions. Calculate the NRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions. Multiply the K-8 NRT Index by the number of students eligible to take the K-8 NRT. Multiply the 9-12 NRT Adjusted Index by the number of 9-12 students eligible to take the NRT. Sum the two products. Divide the sum by the number of K-12 students eligible to take the NRT. <p>$[(K-8 \text{ NRT Index} * \text{number students eligible to test}) + (9-12 \text{ NRT Adjusted Index} * \text{number of students eligible to test}) / \text{Total K-12 students eligible to test}.$</p>

Formula for Calculating an Attendance Index for a Combination School

1. Calculate the Attendance Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Attendance Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Attendance Index by the K-8 enrollment total. Multiply the 9-12 Attendance Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of K-12 students enrolled in the school.

$[(K-8 \text{ Attendance Index} * \text{number of K-8 students}) + (9-12 \text{ Attendance Index} * \text{number of 9-12 students})] / \text{Total K-12 enrollment.}$

Formula for Calculating a Dropout Index for a Combination School

1. Calculate the Dropout Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Dropout Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Dropout Index by the 7-8 enrollment total. Multiply the 9-12 Dropout Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of 7-12 students enrolled in the school.

$[(K-8 \text{ Dropout Index} * \text{number of 7-8 students}) + (9-12 \text{ Dropout Index} * \text{number of 9-12 students})] / \text{Total 7-12 enrollment.}$

2.006.05 Growth Targets. Each school shall receive a Growth Target that represents the amount of progress it must

make every two years to reach the state's 10- and 20-year goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$ or 5 points, whichever is greater

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1 - PropSE. PropRE is the proportion of students not in special education.

PropLEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$, or 5 points, whichever is greater.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$, or 5 points, whichever is greater.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100 - 50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points $[(100 - 50)/5]$.

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when

it meets or surpasses its Growth Target and when it shows growth in the performance of its subgroups

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive a SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this

requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This pairing means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

If a school is not paired/shared at the beginning of a cycle, it shall not be paired/shared at the end of a cycle.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (80 CRT and 20 NRT) (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

Weegie Peabody
Executive Director

0310#020

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Validity, Reinstatement, Renewal, and Extension of Certificates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy adds language for the new Level 1, Level 2, and Level 3 certificates; and it provides specificity to the six semester hours of coursework required for reinstatement of lapsed certificates.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975) LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:763-765 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 29:2021 (October 2003).

* * *

Validity, Reinstatement, Renewal, and Extension of Certificates

Type C and Level 1 certificates for beginning teachers in Louisiana shall be valid for three years. Teachers who have had the required academic preparation and the necessary number of years of successful teaching experience in their properly certified field and have successfully completed the Louisiana Teacher Assistance and Assessment Program may have Type C certificates converted into Type B or Type A certificates, or may have Level 1 certificates converted into Level 2 or Level 3 certificates, with validation subject to the terms and conditions hereinafter set forth.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and

renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. Type B, Type A, Level 2, and Level 3 certificates shall lapse for disuse if the holder thereof shall allow a period of five consecutive calendar years to pass in which he or she is not a regularly employed teacher for at least one semester (90 consecutive days).

Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by Certification and Higher Education or a Louisiana dean of education for the first period of five consecutive years of disuse.

It is the responsibility of the parish employing authority to notify Certification and Higher Education when the employing authority desires to employ a teacher whose Type C, B, or A certificate or whose Level 1, 2, or 3 certificate has expired.

Upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such a teacher, the holder of a lapsed Type C or Level 1 certificate may have the certificate renewed once for an additional period of three years, subject to the approval of Certification and Higher Education or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such hours shall be resident, extension, or correspondence credit from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. However, if the holder of a Type C or Level 1 certificate has not been employed regularly as a teacher for at least one 90-day semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of six semester hours of credit directly related to area(s) of certification. The coursework may be resident, extension, or correspondence credits earned from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. The six semester hours of resident, extension, or correspondence credit required to reinstate a certificate must be earned during the five-year period immediately preceding the reinstatement of the certificate. Type of approved coursework for grade levels of certification and for special education areas is as follows.

Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
(Diagnostic & Prescriptive Reading)	X	X	X	X	X	
Reading in the Content Area	X	X	X	X	X	
Other Content in Reading	X	X	X	X	X	X
Early Numeracy Concepts of Mathematics	X	X	X		X	

Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
Other Content in Mathematics	X	X	X		X	
Content in English/ Language Arts	X	X	X		X	
Content in Science	X	X	X		X	
Content in Social Studies	X	X	X		X	
Content Specific to Subject Area of Certification			X	X	X	X
Classroom and/ or Behavior Management	X	X	X	X	X	X
Technology in the Classroom	X	X	X	X	X	X
Teaching in an Inclusive Setting	X	X	X	X	X	X
Vocational and Transition Services for Students					X	

Notes:

1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
2. Coursework must be reflected on a transcript from a regionally accredited institution.
3. Coursework must be gained within the five-year period immediately preceding reinstatement of the certificate.
4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

Weegie Peabody
Executive Director

0310#019

RULE

Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs
Policies of Operation
(LAC 28:XLIX.Chapters 1-35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of federal and state policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 1. Administration

§107. Local Level

A. - A.1. ...

B. School Food Service Director and/or Supervisor

1. This person is responsible to the superintendent or the sponsor's representative. As a member of the administrative staff, the director and/or supervisor has overall responsibility for the CNP. This individual shall act as advisor for the other staff members, school principals and faculties, food service managers, students and parents in developing, administering and supervising the programs. It is his/her responsibility to exercise guidance and leadership while maintaining necessary controls over accounting and reporting, personnel, facilities and equipment. Each

school/site shall be monitored by a director/supervisor in accordance with federal and state regulations. (Refer to forms and guidance materials.) The significance of improved food habits and educational experiences makes it imperative that a CNP be based upon professional concepts. Each school system shall employ a certified supervisor or director. (Refer to §1103)

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001), amended LR 29:2022 (October 2003).

§111. Permanent Agreement between Sponsor and Louisiana Department of Education

A. ...

B. Reimbursement payments may be made only to schools operating under an agreement between the sponsor and LDOE. The agreement shall be signed by the sponsor's designated authorized representative. The agreement will be considered permanent unless the state agency is notified of a change in the School Food Authority (SFA) authorized representative. The agreement may be terminated by either party or may be canceled at any time by the state agency upon evidence that terms of the agreement have not been fully met.

1. - 2.a. ...

3. Competitive Foods/Extra Sales

a. Each school shall abide by the state policy regarding the operation of competitive food services. The competitive foods policy and penalties for policy violations are discussed in §741. Selling of extra items shall be in compliance with state policy (refer to §737).

4. - 7.a. ...

8. Meal Charges

a. Meal charges including student, adult, and at-cost shall be posted in a prominent location in each school food service dining room. All persons consuming meals who are not eligible for free meals shall pay directly to the sponsor

the cost posted. No student shall be requested to pay more than the actual cost of the lunch, breakfast, and/or snack, less the amount of reimbursement paid to the sponsor from federal funds. The minimum charge to eligible adults shall comply with federal and state regulations. (Refer to §729.)

9. - 24.a. ...

25. Contract Meals

a. The sponsor agrees to submit annually, with the free and reduced documents, a copy of the contract when contract meals are provided (refer to §729).

26. - 26.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2102 (December 2001), amended LR 29:2022 (October 2003).

Chapter 3. Financial Management and Accounting

§313. Special Functions/Catering

A. - A.2.b. ...

c. Separate accounting records must be maintained for catered events. These records shall document all purchases and expenditures. All accounting practices must follow guidelines outlined in *Bulletin 1929 Louisiana Accounting and Uniform Governmental Handbook*. (For more information and requirements, refer to Chapter 7, §731 and §733.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2106 (December 2001), amended LR 29:2023 (October 2003).

§317. Allowable/Unallowable Program Expenses

A. - B.2.a. ...

b. If food is stolen, a police report must be maintained on file for audit purposes. Expenses for food stolen are considered allowable costs only when a police report has been made.

3. - 3.c. ...

d. Initial equipment is the equipment that a sponsor is required to have to begin a school food service program. The replacement of worn-out initial equipment or the purchase of additional equipment is an allowable expense. (Refer to Chapter 13 for guidance on required initial equipment.)

3.e. - 28.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2107 (December 2001), amended LR 29:2023 (October 2003).

§323. Property Management Requirements

A. - D.1.a.ii. ...

- iii. green beans, frozen, cut, 2# box; and
- iv. green beans, frozen, cut, 20# box.

b. - e. ...

2. To maintain a computerized noncosted perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

E. - E.2.e. ...

3. To maintain a computerized costed perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received and price per unit into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

F. Cost of Food Used

1. The cost of food used each month is calculated from the value of costed inventories for all schools. The SFA has the option of costing either the physical or the perpetual inventories in order to determine the dollar value of the ending inventories.

2. At the end of the month, the cost of food used at each school for the month is calculated from the value of the beginning inventory plus the value of foods received, plus/minus any inventory adjustments and/or transfers, minus the ending inventory. The cost of food used is then adjusted to reflect the value of the inventory error from the previous month, if applicable. The state agency provides a copy of the Cost of Food Used Worksheet. At the end of each fiscal year, the cost of food used for all schools is consolidated and reported on the District Income and Expense Report.

3. If the Cost of Food Used Worksheet is computer generated, it should capture all of the information that is on the Cost of Food Used Worksheet provided by the state agency.

G. Property Management of Equipment

1. Adequate maintenance procedures shall be implemented to keep equipment in good condition.

2. Property records shall be maintained accurately. Records for each item of equipment with a unit acquisition cost of \$1,000 or more, with a useful life of one year or more, and purchased in whole or in part with school food service funds shall include the items listed below:

- a. a description of the equipment including manufacturer's serial number;
- b. an identification number, such as a school food service tag number or the manufacturer's serial number;
- c. the acquisition date and unit acquisition cost;
- d. the source of funding;

e. the location, use, and condition of the equipment, and the date the information was reported; and

f. all pertinent information on the ultimate transfer, replacement or disposal, including disposal date and sale price.

3. Every year a physical inventory of school food service equipment with a unit acquisition cost of \$1,000 or more with a useful life of one year or more shall be conducted and the results reconciled with the property records to verify the existence, utilization, and continued need. Any discrepancies between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

4. Adequate safeguards to prevent loss, damage, or theft of equipment shall be used. Any loss, damage, or theft of equipment shall be investigated and fully documented. The state agency may require a report of the circumstances.

H. Disposition of Equipment

1. The SFA may trade in existing equipment when acquiring replacement equipment.

2. Equipment that is antiquated or not useable shall be disposed of in the following manner. (This procedure may also be used when a SFA ceases to participate in the NSLP or SBP.)

a. The SFA shall actively seek to recover the highest possible return on equipment that is in good operating condition. Selling procedures shall be established to provide for adequate competition and for the highest possible return. To ensure maximum competition, the SFA shall publicly advertise and sell them to the highest bidder. All income shall be deposited in the school food service account.

b. If the SFA is unable to sell used equipment, efforts should be made to transfer the equipment to:

i. projects or programs supported by other federal grants or assistance agreements; or

ii. other programs that provide meals to children.

c. When unable to sell or transfer inoperable or used equipment, the SFA should attempt to sell the equipment to buyers of scrap materials following procedures that will provide maximum competition and result in the highest possible return to the school food service program.

d. If efforts to sell or transfer used equipment fail, the SFA may use school food service funds to have the equipment removed from school food service facilities and transported to the nearest legal disposal site.

3. For the disposal of equipment during bankruptcy proceedings, the SFA shall contact the Division of Nutrition Assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2111 (December 2001), amended LR 29:2023 (October 2003).

§335. Computing Average Meal Cost

A. - B.1.c. ...

d. If the school system sold extra food items, calculate the meal equivalents allowed for extra sales by dividing the total income from extra sales for the year by the meal equivalent factor. (Refer to §339, Meal Equivalent Factor.)

B.1.e. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:2024 (October 2003).

§337. Establishing Meal/Snack Charges and Extra Sales Prices

A. - A.1.h. ...

i. Under-collections for the sale of meals and snacks will necessitate an audit exception; furthermore, any under-collection must be recovered from other sources and deposited in the school food service account. Although non sufficient funds (NSF) checks given to cover the cost of student meals are considered a part of the total cost of producing meals, each SFA must establish a policy regarding the handling of NSF checks. The system should limit the number of NSF checks a household may issue before requiring payment by cash or money order. When the bank returns an NSF check, the household should be required to pay, in cash, the amount of the check and the bank handling charge. When a tuition fee in nonpublic schools includes the costs of school lunch, breakfast, snack or milk, these funds shall be collected and deposited to the school food service account as received.

i - i.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:2024 (October 2003).

§339. Meal Equivalent Factor

A. - B. ...

C. The meal equivalent factor is established annually and is reported at the end of each fiscal year on the District Income and Expense Report. The meal equivalent factor will be used to convert the revenue received from extra items sold into meal equivalents. To calculate meal equivalents for the year, divide the total income from extra sales for the year by the meal equivalent factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001), amended LR 29:2024 (October 2003).

§341. Claim for Reimbursement

A. ...

B. Reimbursement Procedures

1. Federal Reimbursement for meals served to eligible students shall be paid at the current assigned rates and shall be paid only for lunches, breakfasts, and snacks meeting requirements. Reimbursement shall be made for only one lunch, breakfast, and snack served per child per day and cannot be made for any meals served to adults.

B.2. - I.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001), amended LR 29:2024 (October 2003).

§349. Recordkeeping for RCCIs and Boarding Schools

A. - B.10.a. ...

11. Internal Control

a. Effective control over and accountability for all program funds, and for real and personal property assets shall be maintained. RCCIs and boarding schools shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes. (Refer to §331 for more information.)

12. - 12.a. ...

b. If a participating RCCI or boarding school has federal expenditures of less than \$300,000 in a fiscal year, it shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

c. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if an RCCI or boarding school is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

13. - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001), amended LR 28:1737 (August 2002), LR 29:2024 (October 2003).

Chapter 5. Free and Reduced Price Meals

§501. Purpose

A. School Food Authorities (SFA) participating in the National School Lunch and School Breakfast Programs and utilizing commodities are required to serve free and reduced price meals to students determined eligible by the current income eligibility guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001), amended LR 29:2025 (October 2003).

§503. Policy Statement

A. - A.1.a. ...

b. Income eligibility guidelines for the current school year and other documents or provisions that contain the eligibility criteria for free and reduced price benefits;

c. the free/reduced price meal application form with instructions (single or multi-child application);

d. the letter to households regarding application for benefits;

e. - f. ...

g. the collection procedure and accountability statement;

h. ...

i. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. - v. ...

vi. Repealed.

1.j. - 2.k.i. ...

ii. If no other income is listed, a multi-child application that lists a valid food stamp/FITAP case number should be approved free for all students listed on the application. If a higher income is listed that would change the eligibility status of the other children, then the SFA must investigate before making an eligibility determination for

those children. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s).

A.2.k.iii. - B.2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001), amended LR 29:2025 (October 2003).

§505. Application Process

A. - B.3.a. ...

C. Application Approval Deadline

1. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, applications should be reviewed and parents notified of the eligibility determination as soon as possible, but no later than 10 operating days after receipt of the application.

D. - D.3.f.i. ...

ii. SFAs should review eligibility determinations made under these crisis procedures every 30 days to evaluate the household's circumstances.

D.3.g. - Q.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2124 (December 2001), amended LR 29:2025 (October 2003).

§513. Verification Process for School Meals

A. - D.1. ...

a. Focused Sampling. The focused sampling method requires the verification of the lesser of one percent or 1,000 of the total approved applications (both income and categorical), selected from the approved applications with income information, plus the lesser of 0.005 percent or 500 of approved categorically eligible applications with food stamp/FITAP case numbers reported.

D.1.b. - F.2.b. ...

3. Income Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

i. For applications that provide income information, the sample size is 1 percent of total approved applications on file or 1,000 applications, whichever is less: e.g., total applications x 0.01.

ii. From the group that reported income information, SFAs should select those applications with monthly incomes within \$100, or annual income within \$1,200, of the income eligibility limits. Zero income applications should be included.

(a). If there are more applications with monthly income reported within \$100 (\$1,200 yearly) of the eligibility levels than needed to meet the minimum sample size, SFAs should select the income application sample using any method that is equitable and that ensures that the same households will not be selected year after year.

(b). If there are not enough applications with monthly income reported within \$100/\$1,200 (yearly) of the eligibility levels to meet the required minimum sample size, SFAs should select from those applications with monthly incomes closest to the eligibility levels.

(c). If there are not enough applications containing income information to meet the required minimum sample size, SFAs should verify all the applications approved on the basis of income information

(d). Zero income applications may be verified for focused sampling in addition to the required number to be verified.

4. Categorically Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

i. They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by 0.005. The sample size is the lesser of 500 or 0.005 percent of all applications approved on the basis of food stamp or FITAP case numbers.

ii. From the categorically eligible group, SFAs should select the sample using the method that is equitable and should ensure that the same household is not selected each year.

G Random Sample Selection Process

1. The random sample size is three percent of all approved applications on file on October 31 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by 0.03. At least one application must be verified.

2. SFAs should randomly select the required number of applications. Using the random sample method, SFAs should ensure that each application must have an equal chance of being selected, including all categorical and income applications.

H. Household Notification

1. When a household is selected for verification and is required to submit documents or other forms of evidence to verify eligibility, the household must be sent a notice/letter informing it of its selection and the types of information acceptable. The letter/notice to the household should include:

- a. the notice of selection for verification;
- b. notification of the types of acceptable information that can be provided to confirm income include such documents as pay stubs, award letters from welfare Food Stamp and FITAP departments and social security offices, and support payment decrees from courts;
- c. a request for proof that the child is a member of a currently certified food stamp household or FITAP assistance unit may be provided instead of income information;
- d. a request for social security numbers must be provided for all adult household members of families whose eligibility is based on the submission of income information;
- e. notification that information must be provided, and failure to do so will result in termination of benefits;
- f. the name and telephone number of a school official who can answer questions and provide assistance; and
- g. notification that the household is required to submit the requested information by a specified date, as determined by the SFA.

2. When the SFA uses agency records to verify eligibility, the letter/notice of selection is not required, since

the household will not have to provide documents and household cooperation will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2130 (December 2001), amended LR 29:2025 (October 2003).

§517. Confirmation of Eligibility Based on Income Eligibility

A. - A.1. ...

2. The household must submit the social security numbers of all adult household members and written evidence of current income. (Refer to §523, Appendix B.) Review the income document(s) for the name, date and amounts stated to determine whether the information provided is sufficient to determine total current income.

A.3. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001), amended LR 29:2026 (October 2003).

§521. Completion of Verification

A. - B.1.c. ...

d. Termination of Benefits. Households that do not cooperate with verification efforts or whose current income does not support eligibility for either free or reduced price meals must be changed as outlined in §521.C, Notification of Adverse Action, below.

B.2. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001), amended LR 29:2026 (October 2003).

Chapter 7. Meal Planning and Service

§701. General

A. ...

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B and C of this Chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the recommendations of the 1990 Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2135 (December 2001), amended LR 29:2026 (October 2003).

§703. Nutrient Standard

A. - B.8. ...

C. Required and Optional Nutrient Standards are included in §755, Appendices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001), amended LR 29:2027 (October 2003).

§709. Required Documents for Meal Planning Options

A. - A.2.b.xiv. ...

c. Additional nutrients or components may be given and can be included in the nutrient analysis. A sample is in the Supplement.

2.d. - 3.b.iv. ...

c. The CN label should not be confused with nutrition facts labels, nutrient analyses, or product formulation statements. A sample of a CN label can be found in §755.E.

3.d. - 4.b. ...

c. A product formulation statement may be used in lieu of a CN label but, unlike the CN label, it does not carry a USDA warranty against losing reimbursement should there be an error. Therefore, SFAs must carefully review the statement to determine the accuracy of the information given prior to purchasing the product. Should a federal or state review find that the product did not meet meal requirements, an audit exception may be taken. (Refer to the guidance for Reviewing Product Formulation Statement in §755.F., and the sample form in §755.G.)

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001), amended LR 29:2027 (October 2003).

§711. Menu Planning Options

A. - C. ...

D. Repealed.

E. - E.1.e. ...

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §755. H. and I. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by age/grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, a school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). - (a).(i). ...

(ii). The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served in a main dish or in a main dish and

only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required and the items should be merchandised together and served as a single item: for example, a soup and sandwich combo may be offered as a menu combination. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §755.H. and I, for quantity requirements by age/grade groups.)

(a).(iii). - (b).(iii). ...

(iv). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the fruit/vegetable contribution. In situations when neither is the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c). - (c).(iii). ...

(iv). Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §755.J. for specific food item and serving size requirements.)

(v). Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to §711.E.1.e.(i).(a).(viii).[1], Meat/Meat Alternate, Enriched Macaroni With Fortified Protein.)

(vi). The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to §755.J, Grains/Breads for Food Based Menu Planning chart.)

[1]. - [2]. ...

[3]. The item must be provided in quantities specified in the regulations and in minimum serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in §755.J.

(d). Milk

(i). Schools are required to offer fluid milk at breakfast and lunch. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more than 3 grams of fat per 8 fluid ounce serving.

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

(a). Lunch

(i). Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Traditional School Lunch Pattern chart in §755.H. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii). - (vi). ...

(b). Breakfast

(i). Students must be offered all four-food items as listed in the Traditional School Breakfast Pattern chart in §755.I. SFAs are allowed, but not required, to implement offer versus serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing offer versus serve, a student must take full portions of all food items offered.

1.f.ii.(b).(ii). - 2.d. ...

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §755.K and . Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). - (a).(i). ...

(ii). The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served either in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required, and the items should be merchandised together and served as a single item. For example, a soup and sandwich combo may be offered as a menu combination. (For quantity requirements by age/grade groups, refer to §755.K and L: Enhanced School Lunch/Breakfast Pattern Charts.)

(a).(iii). - (c).(iii). ...

(iv). Up to one grains/bread serving per day may be a dessert for grades K-12; dessert type items may not be counted as a grains/breads serving for preschool students. Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §755.J for specific food item and serving size requirements.)

(v). Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to §711.E.1.e.i(a)(viii.)[1]:Meat/Meat Alternate, Enriched Macaroni with Fortified Protein.)

e.i.(c).(vi). - f.ii.(b).(vi). ...

g. Nutrient Standards and Analysis Requirements

i. SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the nutrient standards as required by program regulations. The

state agency shall conduct a nutrient analysis of menus for one school week to determine whether the nutrient standards have been met. (Refer to § 755.B., Required Nutrient Standards for Enhanced Food Based Menu Planning.) If the SFA chooses to conduct its own analysis, the state agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §705, Computerized Nutrient Analysis for Additional Information.)

2.h. - 3.f.i.(c).(iii). ...

(d). Other Menu Items

(i). The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (A sample is in the Supplement.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

3.g. - 4. ...

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities, such as other SFAs, the state agency, or a consultant, to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the nutrient standards. These menus, recipes, etc. must be followed precisely. The SFA must have state agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the state agency. (For specific requirements, refer to §711.E.3, Nutrient Standard Menu Planning.)

5. - 5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2137 (December 2001), amended LR 29:2027 (October 2003).

§713. Infant Meal Patterns

A. Infants under one year of age shall be served an infant breakfast and/or lunch as specified in §755.M. Foods within the infant meal patterns shall be of the texture and consistency appropriate for the particular age group being served and shall be served to the infant during a span of time consistent with the infant's eating habits.

B. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2148 (December 2001), amended LR 29:2028 (October 2003).

§727. Meal Substitutions for Medical or Dietary Reasons

A. ...

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required

information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (A sample is in the supplement.) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. - C.1.d.iv. ...

e. Generally, children with food allergies or intolerance do not have a disability as defined by federal Regulations. However, it is possible that such food allergies or intolerance will limit a major life activity. When faced with a request for special meals for such children, the food service personnel must abide by the determination of the physician.

1.f. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2149 (December 2001, amended LR 29:2028 (October 2003).

§729. Nonstudent Meals

A. - A.2.a. ...

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (A sample is in the supplement.) Copies of new and renewed contracts must be submitted to the state agency. Contracts will become part of the SFAs permanent agreement with the state agency. (Refer to §337.A.1.f, Costing of Contract Meals, for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2150 (December 2001), amended LR 29:2029 (October 2003).

§735. Second Servings

A. ...

B. Students who receive a complete meal in the form of second servings are required to pay the at cost price of the meal. A complete meal is defined as the number of meal components that constitutes a reimbursable meal. Second servings cannot be claimed for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§737. Extra Sales

A. ...

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §337.A.1.i., Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§741. Competitive Foods

A. - B.4. ...

a. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

5. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. All complaints received by state DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

7. Monitoring of competitive foods/concessions shall be conducted in the following manner.

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The state or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

8. State DNA personnel will monitor competitive foods operations at local school systems on all state reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§747. Donations of Leftover Food/Food Recovery

Activities

A. - A.4.h. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2152 (December 2001), amended LR 29:2029 (October 2003).

§751. Removal/Transfer of Equipment, Food and Supplies

A. Only authorized personnel may transfer equipment, food and supplies between schools. No foods, including leftovers, shall be removed from the school food service department by any employee of the school system. Legal action could result. Local policies that outline disciplinary action for unauthorized removal of equipment, food or supplies must be in place. (Refer to §2307, Food Taken from

Appendix L. Enhanced Food-Based Menu Plan for Breakfast				
Enhanced Food-Based Menu Planning Approach-Meal Pattern For Breakfasts				
Food Components And Food Items	Required For			Option For
	Ages 1-2	Preschool	Grades K-12	Grades 7-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces
Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	1/4 cup	1/2 cup	1/2 cup	1/2 cup
Select one serving from each of the following components, two from one component or an equivalent combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products 1 Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) 2 Yogurt, plain or flavored, unsweetened or sweetened	1/2 slice 1/2 serving 1/4 cup or 1/3 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1 slice 1 serving 3/4 cup or 1 ounce 1 ounce 1 ounce 1 ounce 1/2 4 tablesp oons 2 tablespoons 1 ounce 4 ounces or 1/2 cup	1 slice 1 serving 3/4 cup or 1 ounce ³ 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 4 ounces or 1/2 cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast

³ Plus an additional serving of one of the Grains/Breads on the above chart.

Appendix M. Infant Breakfast Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and
Fruit and/or Vegetable ⁴			1-4 Tablespoons

Infant Lunch Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and/or 1-4 Tablespoons Meat/Alternate* and
Fruit And/Or Vegetable ⁴		0-3 Tablespoons (Optional)	1-4 Tablespoons

¹ Infant formula and dry infant cereal shall be iron-fortified.

² It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

³ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

⁴ A serving of this component is required only when the infant is developmentally ready to accept it.

* One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2-2 ounces cheese or 1-4 tablespoons cottage cheese, cheese food, or cheese spread.

Appendix N. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2153 (December 2001), amended LR 29:2030 (October 2003).

Chapter 9. Afterschool Care Program

§901. General

A. ...

B. The Afterschool Care Program must be administered by a school food authority (SFA) participating in the National School Lunch Program (NSLP) or by a public or private nonprofit organization participating through the Child and Adult Care Food Program (CACFP). Eligible organizations must enter into an agreement with the state agency, thereby, assuming full responsibility for meeting all program requirements mandated by federal and state laws.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2160 (December 2001), amended LR 29:2031 (October 2003).

§911. Content of Meals

A. ...

B. Participants must be given two different components of the four components specified in the snack meal pattern in order to claim a meal for reimbursement. Unlike NSLP and SBP, there is no offer versus serve option in the Afterschool Care Program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001), amended LR 29:2031 (October 2003).

Chapter 11. Personnel

§1115. Description of Louisiana School Food Service Training Program

A. ...

B. Phase I is designed for all food service technicians/employees. Phase I consists of basic information in the areas of safety, sanitation, equipment, food production, food handling, working with others, and nutrition. While Phase I is not mandated, anyone whom the

SFA wants to become a manager must pass the Phase I Manager exam. The only prospective school food servicemanagers exempt from this requirement are those persons with an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management.

C. Phases II and III are designed for food service manager applicants. Phase II consists of areas of personnel, public relations, safety, sanitation, nutrition, food production, and property management.

D. - D.3. ...

E. Phase III is a training course that includes, but is not limited to, policies and history of child nutrition programs, forms, food distribution. To be registered for Phase III, the applicant shall have passed the Phase II examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001), amended LR 29:2031 (October 2003).

§1131. Staffing for Individual Programs

A. A staffing formula using "meals per labor hour" (MPLH) is an excellent tool to assist in determining the number of labor hours needed at an individual site or to determine the productivity rate of each site. The productivity rate or meals per labor hour (MPLH) is the number of meal equivalents (all lunches, 1/2 all breakfasts, 1/5 of all snacks, extra sales meal equivalents) produced and served per hour of labor used. (Refer to Chapter 3, §339 and §335 for additional information on converting breakfast, lunch, snacks, and extra sales into meal equivalents.) The MPLH may vary depending on the following factors:

1. type of food production system (on-site, central kitchen, bulk satellite, pre-plated satellite, etc.);
2. level of service (self-serve, plated on serving line vending, etc.);
3. menu choices (scratch cooking versus convenience items);
4. kitchen layout and design;
5. facility size;
6. skill level of employees, etc.

B. The following steps may be used to develop a target MPLH:

1. determine a feasible target MPLH for each site; the determination can be based on industry standards or on data provided from the previous year's staffing decisions with necessary adjustments.

$$\text{Number of Meal Equivalents (Output)} \div \text{Productivity Rate or Meals per Number of Labor Hours (Input) Labor Hour (MPLH)}$$

2. calculate the MPLH for each site; an example is given below.

Site: School 444	No. Labor Hours Assigned: 36	Target MPLH: 15
Meals Served	Meal Equivalents	
ADP Lunch	335	335
ADP Breakfast	190	95
ADP Snack	76	15
Extra Sales Equivalents*		8
Total Meal Equivalents		453

MPLH = 453 meal equivalents ÷ 36 hours assigned labor/day = 14 Hours Over/Under: +1

Meal Equivalents:
 1 lunch = 1 meal equivalent
 2 breakfasts = 1 meal equivalent
 5 snacks = 1 meal equivalent

Extra sales income totaling the average cost of a meal from the previous school year = 1 meal equivalent

* Extra sales income from previous year ÷ meal equivalent factor/number of serving days = \$3,066.50 ÷ 2.26 ÷ 180 = 8

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001), amended LR 29:2032 (October 2003).

Chapter 15. Procurement

§1501. Purchasing Guidelines

A. ...

B. An organized and efficient procurement procedure, which is an important aspect of food service, is essential for good management of the food service program. The SFS supervisor or manager should be responsible for determining the quality, quantity, performance, and usage of each product purchased. SFAs must have a written procurement plan that contains the code of conduct and describes procurement procedures.

C. Procurement procedures must ensure that all federal and state laws and regulations governing procurement are followed when purchasing materials and supplies utilized in the SFS program. These procedures include equipment, vehicles, and other movable property, food items and other supplies used in food service. It is not allowable to use school food service funds to purchase initial equipment for a school food service program. (Refer to Equipment Chapter §1303.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), amended LR 29:2032 (October 2003).

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$15,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$15,000, but the total invoices during the two-month period are over \$10,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$15,000 must be documented for review and audit purposes.

3. - 6.a. ...

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (All contracts > \$100,000 See §1517);

c. Certification Regarding Lobbying (All contracts > \$100,000 See §1517);

A.6.d. - B.1. ...

a. the aggregate amount does not exceed \$15,000.00; and/or

b. ...

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$15,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$15,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the federal fiscal year to which they pertain.

3.a. - 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), amended LR 29:2032 (October 2003).

§1509. Other Procurement Methods

A. - D.a.

E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$15,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$15,000. If the aggregate amount of a purchase exceeds \$15,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or state bid contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

E.2 - G.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2186 (December 2001), amended LR 29:2033 (October 2003).

§1511. Diversion of Commodities for Processing

A. Federal and state procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$15,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$15,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2187 (December 2001), amended LR 29:2033 (October 2003).

§1533. Instructions to Vendor

A. - B.1. ...

2. When a public SFA desires to purchase technical equipment, apparatus, machinery, materials, or supplies of a certain type and such purchases are clearly in the public interest, the SFA may specify a particular brand, make, or manufacturer in the specifications let out for public bid. If a particular brand, make or manufacturer is specified, the model or catalog number shall be specified. The brand name or equal description may be used as a means of defining a quality standard. Wherever in specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable. Specifications must state clearly when and where deliveries are to be made.

C. - M.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001), amended LR 29:2033 (October 2003).

Chapter 17. Commodities

§1709. Care and Storage of Commodities

A. - A.1.d.i. ...

ii. and properly dispose of the out of condition food;

iii. any shortages found during the delivery check should be noted on the receiving documents. The receiving documents must be signed by the driver to confirm the differences due to shortages or out-of-condition foods.

2. - 2.a. ...

b. Physical inventory of all USDA commodities on hand must be taken on the last working day of the month and submitted to LDAF by the 10th of each month.

c. Perpetual inventories must be reconciled with physical inventory monthly.

d. Food should be ordered in quantities that can be properly stored and utilized without waste. An inventory of no more than a six-month supply of commodities should be maintained except in unusual circumstances.

3. - 3.a.-b. ...

4. Cooler/Freezer Checks

a. Cooler and freezer temperatures must be checked at least every other day, even during vacation and holiday periods. The only allowable exception is when it is not possible to monitor on weekends, in which case temperature checks should be made late Friday afternoon and early Monday morning. Automated alarm systems may be used if they produce written records of temperatures and dates upon request. Documentation is required each time the acceptable range is exceeded.

4.b. - 5.a. ...

6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2193 (December 2001), amended LR 29:2034 (October 2003).

Chapter 19. Sanitation

§1911. Cooking

A. - E. ...

F. Cutting boards, knives, and other food contact surfaces shall be washed, rinsed, and sanitized after each contact with a potentially hazardous food. It is recommended that cutting boards of different colors be used for different foods. For example, red for meat, blue for poultry, and green for fresh vegetables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001), amended LR 29:2034 (October 2003).

Chapter 21. Civil Rights C Handling Complaints

§2101. Responsibilities of the SFA

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

2. Parents or guardians of children, as well as local minority and grassroots organizations, must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing requirements that pertain to program eligibility and benefits. This dissemination of the information may be accomplished through the news release, letters to parents, the income scale, and the application form.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2197 (December 2001), amended LR 29:2034 (October 2003).

Chapter 25. Summer Food Service Program

§2523. Audit Requirements for the Summer Food Service Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsoring institution is a recipient or a sub-recipient of federal funds is compliance with federal program

requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003).

Chapter 29. Child and Adult Care Food Program

§2911. Audit Requirements for the Child and Adult Care Food Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsoring institution is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003).

Chapter 31. Disaster Feeding

§3115. Procedures to Follow after the Shelter Class

A. Complete and submit the commodity forms to Food Distribution Division within 24 hours after site closure.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:2034 (October 2003).

§3119. Food Salvage at School Sites

A. ...

B. In case of floods, destroy all foods that may have come into direct contact with flood-waters. Unless exposed to floodwaters (through seepage into freezer), solid frozen foods are usually safe. Intact (not dented or bulging) canned foods can be salvaged by removing labels and scrubbing the surfaces with hot soapy water. Rinse cans with clean water and soak in chlorine solution for 90 seconds. Mark the can with its content name and expiration date.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:2034 (October 2003).

§3121. Power Outages

A. Refer to Chapter 19, Sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:2035 (October 2003).

Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3313. Audit/Review

A. - A. 1. ...

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than \$300,000 in a fiscal year, that sponsor shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

a. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsor is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

b. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:1738 (August 2002), LR 29:2035 (October 2003).

Chapter 34. Louisiana Child Nutrition Programs Appeals Procedures

§3401. Purpose

A. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as state agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003).

§3403. Service

A. The service of the notice of proposed action, request for appeal and decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

B. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

C. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal

service, the U.S. mail, all postage prepaid, facsimile or email. Refer to the glossary for specific definition of notices.

1. For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003).

§3405. Notice of Proposed Action

A. The state agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;
2. the specific amount of the fiscal sanction assessed against the institution, if any;
3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;
4. a statement of the time lines related to the proposed action;
5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a request for appeal;
6. a statement of the institution's right to appeal the proposed action;
7. the name, address and telephone number of the hearing officer.

B. A notice of proposed action suspending or terminating an institution's Child and Adult Care Food Program (CACFP) participation shall be sent to the institution's executive director, the chairman of the board of directors, identified responsible principals and responsible individuals and shall also include further suspension proceedings as required in the CACFP regulations.

C. If the proposed suspension is due to the institution's submission of a false or fraudulent claim for reimbursement, the notice of proposed action shall also state:

1. that the effective date of suspension will be 10 days after the institution's receipt of the suspension notice;
2. the institution's written request for a suspension review must be received by the hearing officer within 10 days of the institution's receipt of the notice of proposed action along with written documentation opposing the proposed suspension.

D. The institution must also send a copy of the request for a suspension review to the state agency.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003).

§3407. Request for Appeal

A. Institutions wishing to appeal proposed actions (except suspension of CACFP participation) shall serve a

written request for appeal upon the state agency not later than 15 calendar days after the date of receipt of the notice of proposed action.

B. The request for appeal shall contain the following information:

1. a listing of what specific violations set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal an institution seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. Appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the institution seeks from the appeal.

C. The state agency must acknowledge receipt of the request for appeal within 10 calendar days of its receipt of the request.

D. Institutions wishing to have a review of the state agency's proposed suspension of their CACFP participation must submit a written request for a review directly to the hearing officer at the same time.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003).

§3409. Appeals on the Record; Submissions

A. Institutions and responsible principals and responsible individuals opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer not later than 30 calendar days after receipt of the notice of proposed action.

B. The state agency shall submit all documents and written information it wishes to have considered to the hearing officer not later than 30 calendar days after the institution's receipt of the notice of proposed action.

C. Any information on which the state agency's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of the state agency's receipt of the request for appeal.

D. The hearing officer must conduct a hearing in addition to, or in lieu of, a review of the record only if the institution or the responsible principals and responsible individuals request a hearing in the written request for appeal.

E. The hearing officer must immediately notify the state agency that an institution has contested the proposed suspension.

1. The state agency must immediately submit to the hearing officer a copy of the notice of proposed action suspending the institution's CACFP participation and all supporting documents.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3410. Notice and Time of Hearing

A. If a hearing (not suspension review) is requested in writing, the hearing officer shall schedule the hearing date to allow rendering of the decision within 60 days from the date of receipt of the request for appeal by the state agency. The hearing officer shall notify the institution and the state agency in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

B. A representative of the state agency must be allowed to attend the hearing to respond to the testimony of the institution and the responsible principals and responsible individuals and to answer questions posed by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002), amended LR 29:2036 (October 2003).

§3411. Effect of Appeal upon Agency Actions

A. The notice of proposed action issued to the institution shall remain in effect until the decision is rendered in the appeal.

B. The state agency must assess interest on overpayments in the notice of proposed action, through the appeal period, unless the hearing officer's decision overturns the state agency's action establishing the overpayment.

C. During the appeal period, the state agency must continue its efforts to recover any advances that are in excess of the claim for reimbursement for the applicable period.

D. Participating institutions may continue to operate and receive reimbursement for which they are eligible under the program during an appeal of a proposed action, unless the state agency's action suspends the participation of an institution. Federal CACFP regulations specify reasons for state agency suspension such as an imminent threat to the health or welfare of the public caused by the institution or to the participants at an institution, or the institution has knowingly submitted a false or fraudulent claim for reimbursement. The basis for the suspension must be stated in the notice of proposed action.

1. The state agency is prohibited from paying any claims for reimbursement received from a suspended institution unless the hearing officer's decision overturns the state agency's action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3413. Default

A. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

B. If the institution's representative, or the responsible principals or responsible individuals or their representative fail to appear at a scheduled hearing, they waive the right to a personal appearance before the hearing officer, unless the hearing officer agrees to reschedule the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3419. Decision, Judicial Review, Records

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision (except for suspension reviews) shall be rendered within 60 days of the receipt of the request for appeal by the state agency. The decision on the state agency's proposed participation suspension shall be rendered within ten days of the hearing officer's receipt of the institution's documentation opposing the proposed suspension. The decision shall be served to the institution and the state agency by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its notice of proposed action and the decision thereon.

C. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

D. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003).

Chapter 35. Glossary

§3501. Definitions/Abbreviations

Accrual Basis Accounting that revenue is reported in which the service (or sale) occurs regardless of when the payment is received. Liabilities are reported in the period in which they are incurred regardless of when the payment is made.

Adopted Child a child for whom a household has accepted legal responsibility and who is considered to be a member of the household.

Allowable Costs authorized expenditures, both operating and administrative, that are necessary and reasonable for

proper and efficient administration of the child nutrition program.

Competitive Sealed Bids the procurement method, commonly called formal bid procedure, required by federal regulations whenever the aggregate purchase amount exceeds \$15,000. Purchase by competitive sealed bids requires:

1. a public advertisement of the invitation to bid;
 2. bid solicitations from an adequate number of known suppliers;
 3. a clear description of the items or services needed;
- and
4. the public opening of bids.

Formal Bid a common name for the purchase method of using competitive sealed bids. A formal bid, or competitive sealed bid, is required by federal and state regulations when the aggregate purchase amount exceeds \$15,000.

Institution a public or private (nonprofit, proprietary Title XIX, proprietary Title XX, or other as allowed by the United States Department of Agriculture) organization that holds an approved agreement with the state agency to administer a child nutrition program(s) in accordance with all applicable federal and state regulations.

Noncompetitive Negotiation a procurement method that may be used when no price quotes can be obtained. It may be used when the item is available from a sole source; when a public emergency exists and the urgency for the item will not permit a delay for competitive solicitation; or when, after solicitation from a number of sources, competition is determined to be inadequate. If the cost of the item is more than \$15,000, state agency authorization must be secured.

Notice a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, state agency or the United States Department of Agriculture, Food and Nutrition Service with regard to an institution's Program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

Responsible Principal or Responsible Individual

1. a principal, whether compensated or uncompensated, who the state agency or the United States Department of Agriculture, Food and Nutrition Service (FNS) determines to be responsible for an institution's serious deficiency;
2. any other individual employed by, or under contract with, an institution or sponsored center, who the state agency or FNS determines to be responsible for an institution's serious deficiency; or

3. an uncompensated individual who the state agency or FNS determines to be responsible for an institution's serious deficiency.

*Small Purchase Procedure*Ca type of procurement method that may be utilized whenever:

1. the aggregate purchase amount of food does not exceed \$15,000 (exception: milk and milk products);
2. the purchases are for highly perishable materials (for example, fresh produce); or
3. the purchase is for materials, equipment and/or supplies under \$15,000. Equipment and supplies costing less than \$15,000, must have no fewer than three telephone, facsimile or written quotations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-1999; R.S. 1792.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001), amended LR: 29:2037 (October 2003).

5. Will the proposed Rule effect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit comments until 4:30 p.m., August 9, 2003, to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

0310#018

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) has amended Rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2).

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

**Title 28
EDUCATION**

**Part VI. Student Financial AssistanceC Higher
Education Savings**

**Chapter 3. Education Savings Account
Subchapter A. Student Tuition Trust Authority**

§315. Miscellaneous Provisions

A. - B.6. ...

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Earnings Enhancements Fund earned an interest rate of 5.91 percent.

C. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003).

George Badge Eldredge
General Counsel

0310#044

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Definition of Building Enclosure
(LAC 33:III.2156)(AQ232)

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 Air regulations, LAC 33:III.2156 (Log #AQ232).

LAC 33:III.Chapter 21, Subchapter N, provides capture efficiency test procedures for temporary or permanent enclosures. The definition of building enclosure (BE), as used in these regulations, is being amended to correct the federal reference cited in the definition. The basis and rationale for this Rule are to clarify the federal citation in the definition of building enclosure (BE), as used in the regulation.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 21. Control of Emission of Organic
Compounds**

**Subchapter N. Method 43C Capture Efficiency Test
Procedures**

§2156. Definitions

A. For purposes of this regulation, the following definitions and abbreviations apply.

*BEC*a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in 40 CFR, Part 51, Appendix M, Method 204 must be met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1223 (August 2001), LR 29:2038 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#049

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Public Notification of Contamination
(LAC 33:I.101, 103, 105, 107, and 109)(OS042)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.101, 103, 105, 107, and 109 (Log #OS042).

This Rule will establish procedures for notifying persons who are likely to be adversely affected by a release. The Rule applies to releases that exceed the applicable federal or state health and safety standard and that pose a risk of adverse human health effects. This action is required to comply with Executive Order No. MJF 2001-46, which required that all agencies affected by the Order adopt Rules to notify persons who may be exposed to environmental contamination. The basis and rationale for this Rule are to comply with the Governor's Executive Order.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

TITLE 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish procedures for notifying those members of the public whom the department determines are likely to be adversely affected by a release that poses a significant risk of adverse health effects. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in *Louisiana Administrative Code*, Title 33. Furthermore, nothing in this Chapter shall prevent the responsible party, or the department, from providing additional means for public information and participation consistent with the provisions of this Chapter or any other Chapter of the *Louisiana Administrative Code*, Title 33.

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 29:2039 (October 2003).

§103. Applicability

A. This Chapter applies to releases that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse human health effects.

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 29:2039 (October 2003).

§105. Effective Date

A. These regulations shall become effective on October 20, 2003. These regulations are only applicable to releases that occur on or after October 20, 2003.

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 29:2039 (October 2003).

§107. Definitions

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

Applicable Federal or State Health and Safety Standard Cthose health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

1. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;
2. Louisiana primary ambient air quality standards (LAC 33:III.709); and
3. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action Cactivities conducted to protect human health and the environment.

Department Cthe Department of Environmental Quality.

Off-Site Careas beyond the property boundary of the release site.

Person Cany individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release Cthe accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

Release Site Carea within the property boundary of the site where the release has occurred.

Responsible Party Cany person required by law or regulation to undertake corrective action at a site.

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 29:2039 (October 2003).

§109. Notification Requirements

A. The department shall provide notification to the public for sites within the department's regulatory jurisdiction, as reasonably determined by the department to be appropriate in accordance with the considerations identified in this Chapter.

B. The department shall issue notice of a release that poses a significant risk of adverse health effects to persons whom the department reasonably determines are likely to be adversely affected by the release.

C. The department may prioritize sites for provision of notice, as appropriate, according to the factors identified in this Section, although notice should in all events be given as soon as reasonably practicable.

D. The following chart provides the content and time frame for providing notification.

	Public Notice No. 1	Public Notice No. 2
Triggering Event	When the department becomes aware of information and determines that a release is likely to have off-site impacts that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse health effects	When the department confirms off-site impact that exceeds the applicable federal or state health and safety standard and the department determines that the off-site impact poses a significant risk of adverse health effects
When to Provide Public Notice	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.
Contents of Public Notice	1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Name, phone number, and address of contact person for both the responsible party and the department. 5. Other information the department determines is necessary to protect human health and the environment.	1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Any potential adverse health effects. 5. Name, phone number, and address of contact person for both the responsible party and the department. 6. Other information the department determines is necessary to protect human health and the environment.

E. Procedure for Providing Notice to the Public

1. The public notice required by this Chapter must be:
 - a. communicated in plain language;
 - b. printed and formatted in a manner that promotes the purpose of the notice when the notice is printed or posted;
 - c. free of language that nullifies the purpose of the notice;
 - d. displayed in a conspicuous way when printed or posted; and
 - e. sized 3 inches x 5 inches, at a minimum, in newspapers, parish journals, etc., when published in such publications.

2. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and may include, but not be limited to:

- a. public notice in local newspapers;
- b. block advertisements;
- c. public service announcements;
- d. direct mailings;
- e. personal contacts;
- f. press releases;
- g. press conferences; and
- h. posting on the department's website.

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 29:2040 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#050

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Removal of Interim Fee Amounts for FY02-03
(LAC 33:I.1409, 4707; III.223; V.5111, 5119, 5120, 5123, 5125, 5135, 5137, 5139, 5141, 5143, 5145; VII.525, 527, 529; IX.1309, 1507; XI.307, 1305; and XV.579 and Chapter 25)(OS049)

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 Environmental Quality fee regulations, LAC 33:I.1409, 4707; III.223; V.5111, 5119, 5120, 5123, 5125, 5135, 5137, 5139, 5141, 5143, 5145; VII.525, 527, 529; IX.1309, 1507; XI.307, 1305; and XV.579 and Chapter 25, Appendix A (Log #OS049).

No fee changes are being made in this Rule. It is merely a housekeeping measure to remove obsolete language. The Rule will remove from the regulations the fee amounts that were effective for July 1, 2002 - June 30, 2003. The remaining fee amounts are the fees that are effective beginning July 1, 2003. Act 134 of the 2002 Extraordinary Session of the Louisiana Legislature provided for a 20 percent increase in fees effective for FY02-03 and a 10 percent increase in fees above that, to be effective beginning in FY03-04. Fee increases for both fiscal years were promulgated in rule OS041 in the May 20, 2003, issue of the *Louisiana Register*. This Rule removes from the regulations the text that set forth the fee amounts that were effective only during FY02-03, and leaves the text that sets forth the fee amounts that are effective July 1, 2003. The basis and rationale for this Rule are to clarify the fee regulations by removing the fee amounts that are no longer in effect.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family

formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 14. Groundwater Fees

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Hazardous Waste Facilities	\$10,395
Solid Waste Facilities	\$6,930
Nonregulated Facilities	\$3,465

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to cleanup groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$13,860
Solid Waste Facilities	\$10,395
Nonregulated Facilities	\$3,465

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Hazardous Waste Facilities	\$1,386
Solid Waste Facilities	\$346

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Each well	\$660
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E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$6,600.

Each well	\$330
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F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Hazardous Waste Facilities	\$1,320
With sampling	\$9,900
Solid Waste Facilities	\$660
With sampling	\$1,980

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$132 each well
Casing reamed out	\$264 each well
Casing left in place	\$660 each well

H. Maximum Total Fee Per Facility. The maximum fee that can be assessed a facility under these regulations is \$41,580.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:671 (May 2003), LR 29:2041 (October 2003).

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4707. Fees

A. - C. ...

D. The following basic fee structure will be used in determining the initial or annual fees due to the department.

Accreditation application fee payable every three years	\$660
Per major test category payable every year	\$330
Minor conventional category payable every year	\$264
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$330
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:672 (May 2003), LR 29:2041 (October 2003).

Part III. Air
Chapter 2. Rules and Regulations for the Fee System
of the Air Quality Control Programs

§223. Fee Schedule Listing

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	52.80	264.00	158.00	52.00
0020	Bituminous Coal and Lignite Mining	1211	756.00	3,780.00	2,270.00	756.00
0030	Coal Preparation	1211	1,892.00	9,455.00	5,673.00	1,892.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	90.00	449.00	269.00	90.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	150.00	756.00	454.00	151.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	467.00	2,335.00	1,400.00	467.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	777.00	3,113.00	2,335.00	777.00
0050	Natural Gas Liquids Per Unit	1321	379.00	1,892.00	1,134.00	379.00
0060	Construction Sand and Gravel	1442	150.00	756.00	454.00	151.00
0070	Industrial Sand	1446	150.00	756.00	454.00	151.00
0080	Salt Mining	1476	1,892.00	9,455.00	5,673.00	1,892.00
0090	Sulfur Mining	1477	1,892.00	9,455.00	5,673.00	1,892.00
0100	Commercial Rice Milling	2044	756.00	3,780.00	2,270.00	756.00
0110	Animal Feed Preparation	2048	756.00	3,780.00	2,270.00	756.00
0120	Cane Sugar, Except Refining Only	2061	1,892.00	9,455.00	5,673.00	1,892.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0140	Cottonseed Oil Mill	2074	379.00	1,892.00	1,134.00	379.00
0150	Soybean Oil Mill	2075	265.00	1,324.00	795.00	265.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	906.00	4,538.00	2,722.00	906.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	454.00	2,270.00	1,362.00	454.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	187.00	946.00	566.00	187.00
0190	Malt Beverages	2082	187.00	946.00	566.00	187.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	150.48 359.00 9,495.00	756.36 1,795.00 47,480.00	452.76 1,077.00 28,488.00	150.48 359.00 9,495.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	379.00	1,892.00	1,134.00	379.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,134.00	5,673.00	3,404.00	1,134.00
0230 *Note 9*	Hardwood Mill	2426	680.00	3,404.00	2,042.00	680.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	680.00	3,404.00	2,042.00	680.00
0250	Millwork with 10 Employees or More	2431	680.00	3,404.00	2,042.00	680.00
0260	Hardwood Veneer and Plywood	2435	1,513.00	7,564.00	4,538.00	1,513.00
0270	Softwood Veneer and Plywood	2436	1,513.00	7,564.00	4,538.00	1,513.00
0280	Wood Preserving	2491	379.00	1,892.00	1,134.00	379.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,513.00	7,564.00	4,538.00	1,513.00
0300	Hardboard Manufacture	2499	1,134.00	5,673.00	3,404.00	1,134.00
0310	Furniture and Fixtures: A) 100 or More Employees	2511	478.00	2,394.00	1,436.00	478.00
0320	Furniture and Fixtures: B) More than 10 and Less than 100 Employees	2511	227.00	1,134.00	680.00	227.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0360	Paper Coating	2641	227.00	1,134.00	680.00	227.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0365	Paper Bag Manufacture	2643	288.00	1,436.00	862.00	288.00
0370	Insulation Manufacture	2649	379.00	1,892.00	1,134.00	379.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	379.00 1,866.00	1,892.00 9,340.00	1,134.00 5,603.00	379.00 1,866.00
0380	Corrugated Boxes: Converters (with Boilers)	2653	566.00	2,835.00	1,703.00	566.00
0381	Corrugated Boxes: Sheet Plant	2653	239.00	1,197.00	718.00	239.00
0390	Building Board and Tile	2661	1,892.00	9,455.00	5,673.00	1,892.00
0400	Commercial Printing: Black and White Per Press	2752 MIN.	226.00 1,089.00	1,134.00 5,448.00	680.00 3,268.00	226.00 1,089.00
0410	Commercial Printing: Color Per Press	2752 MIN.	378.00 1,866.00	1,890.00 9,340.00	1,135.00 5,603.00	378.00 1,866.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	3.79 1,866.00	18.92 9,340.00	11.34 5,603.00	3.79 1,866.00
0440	Industrial Gases	2813	756.00	3,780.00	2,270.00	756.00
0450	Inorganic Pigments	2816	756.00	3,780.00	2,270.00	756.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	7.54 1,556.00	37.80 7,783.00	22.68 4,670.00	7.54 1,556.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,892.00	9,455.00	5,673.00	1,892.00
0490	Fluosilicates	2819	1,134.00	5,673.00	3,404.00	1,134.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0585	Paint Manufacturing and Blending	2851	704.00	3,518.00	2,111.00	704.00
0590	Charcoal Per Oven	2861	379.00	1,892.00	1,134.00	379.00
0600	Gum and Wood Chemicals Per Unit	2861	1,134.00	5,673.00	3,404.00	1,134.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	11.34 1,866.00	56.73 9,340.00	34.04 5,603.00	11.34 1,866.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.78 1,866.00	18.92 9,340.00	11.34 5,603.00	3.78 1,866.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.78 1,089.00	18.92 5,448.00	11.34 3,268.00	3.78 1,089.00
0670	Pesticides Mfg. Per Train	2879	1,513.00	7,564.00	4,538.00	1,513.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	22.68 1,866.00	113.44 9,340.00	68.09 5,603.00	22.68 1,866.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	18.92 1,556.00	94.55 7,783.00	56.73 4,670.00	18.92 1,556.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	1,077.00	5,388.00	3,233.00	1,077.00
0700	Drilling Mud-Storage and Distribution	2899	379.00	1,892.00	1,134.00	379.00
0710	Drilling Mud-Grinding	2899	1,513.00	7,564.00	4,538.00	1,513.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.30 467.00	1.54 2,335.00	0.92 1,400.00	0.30 467.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	94.55 1,866.00	472.77 9,340.00	284.00 5,603.00	95.55 1,866.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.85 777.00	14.22 3,891.00	8.53 2,335.00	2.85 777.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,134.00	5,673.00	3,404.00	1,134.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,134.00	5,673.00	3,404.00	1,134.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0773	Fiberglass Swimming Pools	N/A	265.00	1,324.00	795.00	265.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	379.00	1,892.00	1,134.00	379.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	566.00	2,835.00	1,703.00	566.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	11.34 1,556.00	56.73 7,783.00	34.04 4,670.00	11.34 1,556.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,134.00	5,673.00	3,404.00	1,134.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.65 777.00	28.35 3,891.00	17.03 2,335.00	5.65 777.00
0815	Concrete Products	3272	383.00	1,915.00	1,148.00	383.00
0820 *Note 12*	Ready-Mix Concrete	3273	946.00	2,874.00	1,892.00	946.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,270.00	11,347.00	6,809.00	2,270.00
0860	Clay Kiln	3295	454.00	2,271.00	1,362.00	454.00
0870	Rock Crusher	3295	416.00	2,080.00	1,249.00	416.00
0880	Gray Iron and Steel Foundries: A) 3,500 or More Ton/Yr Production	3321	606.00	3,024.00	1,815.00	606.00
0890	Gray Iron and Steel Foundries: B) Less than 3,500 Ton/Yr Production	3321	301.00	1,513.00	906.00	301.00
0900	Malleable Iron Foundries: A) 3,500 or More Ton/Yr Production	3322	606.00	3,024.00	1,815.00	606.00
0910	Malleable Iron Foundries: B) Less than 3,500 Ton/Yr Production	3322	301.00	1,513.00	906.00	301.00
0920	Steel Investment Foundries: A) 3,500 or More Ton/Yr Production	3324	606.00	3,024.00	1,815.00	606.00
0930	Steel Investment Foundries: B) Less than 3,500 Ton/Yr Production	3324	301.00	1,513.00	906.00	301.00
0940	Steel Foundries N.E.C.: A) 3,500 or More Ton/Yr Production	3325	606.00	3,024.00	1,815.00	606.00
0950	Steel Foundries N.E.C.: B) Less than 3,500 Ton/Yr Production	3325	301.00	1,513.00	906.00	301.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0970	Aluminum Production Per Pot	3334 MIN.	37.80 1,866.00	189.12 9,340.00	113.00 5,603.00	37.80 1,866.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,866.00	0.36 9,340.00	0.21 5,603.00	0.04 1,866.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,134.00 2,335.00	5,673.00 11,675.00	3,404.00 7,005.00	1,134.00 2,335.00
1000	Wire Manufacture	3357	756.00	3,780.00	2,270.00	756.00
1010	Aluminum Foundries (Castings) Per Unit	3361	301.00	1,513.00	906.00	301.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	379.00	1,892.00	1,134.00	379.00
1030	Metal Heat Treating Including Shotpeening	3398	227.00	1,134.00	680.00	227.00
1040	Metal Can Manufacture	3411	757.00	3,780.00	2,270.00	756.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,134.00	5,673.00	3,404.00	1,134.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	756.00	3,780.00	2,270.00	756.00
1060	Fabricated Plate Work with 5 or More Welders	3443	957.00	4,789.00	2,874.00	957.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	227.00	1,134.00	680.00	227.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,134.00	5,673.00	3,404.00	1,134.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	566.00	2,835.00	1,703.00	566.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	416.00	2,080.00	1,249.00	416.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	227.00	1,134.00	680.00	227.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	454.00	2,270.00	1,362.00	454.00
1130	Painting Topcoat Per Line	3479	379.00	1,892.00	1,134.00	379.00
1140	Potting Per Line	3479	227.00	1,134.00	680.00	227.00
1150	Soldering Per Line	3479	227.00	1,134.00	680.00	227.00
1160	Wire Coating Per Line	3479	756.00	3,780.00	2,270.00	756.00
1170	Oil Field Machinery and Equipment	3533	379.00	1,892.00	1,134.00	379.00
1180	Power Chain Saw Manufacture Per Line	3546	566.00	2,835.00	1,703.00	566.00
1190	Commercial Grain Dryer	3559	454.00	2,270.00	1,362.00	454.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	566.00	2,835.00	1,703.00	566.00
1195	Electric Transformers Per 1,000 Units/Year	3612	175.92	879.56	527.74	175.92
		MIN.	478.00	2,394.00	1,436.00	478.00
1200	Electrode Manufacture Per Line	3624	529.00	2,645.00	1,588.00	529.00
1210	Telephone Manufacture Per Line	3661	1,324.00	6,618.00	3,971.00	1,324.00
1220	Electrical Connector Manufacture Per Line	3678	680.00	3,404.00	2,042.00	680.00
1230	Battery Manufacture Per Line	3691	756.00	3,780.00	2,270.00	756.00
1240	Electrical Equipment Per Line	3694	454.00	2,270.00	1,362.00	454.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711	189.12	945.50	567.30	189.12
		MIN.	1,197.00	5,998.00	3,592.00	1,197.00
		MAX.	37,829.00	189,145.00	113,487.00	37,829.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,673.00	28,365.00	17,020.00	5,673.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,780.00	18,912.00	11,347.00	3,780.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,892.00	9,455.00	5,673.00	1,892.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,134.00	5,673.00	3,404.00	1,134.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	379.00	1,892.00	1,134.00	379.00
1300	Playground Equipment Manufacture Per Line	3949	566.00	2,835.00	1,703.00	566.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,208.00	6,050.00	3,630.00	1,208.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	606.00	3,025.00	1,815.00	606.00
1330	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	11,347.00	56,732.00	34,040.00	11,347.00
Note 6						
1340	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000- 3,000,000 BBL Capacity)	4226	7,564.00	37,821.00	22,692.00	7,564.00
Note 6						
1350	C) Petroleum, Chemical Bulk Storage and Terminal (500,001- 1,000,000 BBL Capacity)	4226	3,780.00	18,912.00	11,347.00	3,780.00
Note 6						
1360	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,892.00	9,455.00	5,673.00	1,892.00
Note 6						
1361	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463	0.77	3.79	2.24	0.77
Note 8		MIN.	1,866.00	9,340.00	5,603.00	1,866.00
1362	Crude Oil Pipeline: Facility with Less than 100,000 BBL Storage Capacity	4612	838.00	4,191.00	2,515.00	838.00
1363	Crude Oil Pipeline: Facility with 100,000 to 500,000 BBL Storage Capacity	4612	1,197.00	5,988.00	3,592.00	1,197.00
1364	Crude Oil Pipeline: Facility with Over 500,000 BBL Storage Capacity	4612	1,676.00	8,382.00	5,029.00	1,676.00
1366	Refined Oil Pipeline: Facility with Less than 100,000 BBL Storage Capacity	4613	718.00	3,592.00	2,154.00	718.00
1367	Refined Oil Pipeline: Facility with 100,000 to 500,000 BBL Storage Capacity	4613	957.00	4,789.00	2,874.00	957.00
1368	Refined Oil Pipeline: Facility with Over 500,000 BBL Storage Capacity	4613	1,436.00	7,185.00	4,310.00	1,436.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	379.00	1,892.00	1,134.00	379.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,892.00	9,455.00	5,673.00	1,892.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,134.00	5,673.00	3,404.00	1,134.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1400	A) Electric Power Gen. Per MW (Over 0.7 Percent S in Fuel)	4911 MIN.	17.57 3,580.00	87.94 17,902.00	52.76 10,741.00	17.57 3,580.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 Percent S or Less in Fuel)	4911 MIN.	10.53 1,712.00	52.76 8,562.00	31.65 5,137.00	10.53 1,712.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	5.29 1,245.00	26.39 6,226.00	15.83 3,736.00	5.29 1,245.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	7.54	37.80	22.68	7.54
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	34.06	170.21	102.12	34.06
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	37.80	189.12	113.44	37.80
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	45.38	226.92	136.12	45.38
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	52.96	264.71	158.84	52.96
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	56.73	283.65	170.21	56.73
1490 *Note 11*	Recip. Nat Gas Comp: F) Less than 1,000 H.P.	4922	756.00	1,892.00	756.00	756.00
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	7.54 1,197.00 60,558.00	37.80 5,988.00 302,788.00	22.68 3,592.00 181,672.00	7.54 1,197.00 60,558.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	7.54 1,197.00 37,829.00	37.80 5,988.00 189,145.00	22.68 3,592.00 113,487.00	7.54 1,197.00 37,829.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	478.00	2,394.00	1,436.00	478.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	154.00	777.00	467.00	154.00
1525	Sanitary Landfill Per Million Mg of Planned Capacity	4953 MIN.	132.00 264.00	660.00 1,320.00	396.00 792.00	132.00 264.00
1530	Municipal Incinerators	4953	3,780.00	18,912.00	11,347.00	3,780.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	217.95 4,789.00	1,089.73 23,950.00	653.84 14,370.00	217.95 4,789.00
1533	Noncommercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	108.97 3,113.00	545.61 15,567.00	326.91 9,340.00	108.97 3,113.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	31,135.00	155,676.00	93,405.00	31,135.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	6,226.00	31,135.00	18,681.00	6,226.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	108.97 3,113.00 15,567.00	544.86 15,567.00 77,838.00	326.91 9,340.00 46,702.00	108.97 3,113.00 15,567.00
1540	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.87 310.00	9.46 1,556.00	5.65 933.00	1.87 310.00
1550	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Fuels with 0.7 Percent S or Less	4961 MIN.	3.79 777.00	18.92 3,891.00	11.34 2,335.00	3.79 777.00
1560	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Fuels with More than 0.7 Percent S	4961 MIN.	5.65 1,089.00	28.35 5,448.00	17.03 3,268.00	5.65 1,089.00
1570	Cement (Bulk Distribution)	5052	1,513.00	7,564.00	4,538.00	1,513.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.36 1,089.00	1.87 5,448.00	1.11 3,268.00	0.36 1,089.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	15.56 777.00 37,829.00	77.83 3,891.00 189,145.00	46.70 2,335.00 113,487.00	15.56 777.00 37,829.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,780.00	18,912.00	11,347.00	3,780.00
1610 *Note 14a*	Bulk Loader: Less Than or Equal to 100,000 and More Than 25,000 Ton/Yr Throughput	5153	1,892.00	9,455.00	5,673.00	1,829.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	1,077.00	5,388.00	3,233.00	1,077.00
1612 *Note 14a*	Bulk Loader: No Grain or Dusty Materials Transfer	5153	718.00	3,592.00	2,154.00	718.00
1620	Grain Elevators-Terminal Per 10,000 BU/Yr Throughput	5153 MIN.	0.36 1,712.00	1.87 8,562.00	1.11 5,137.00	0.36 1,712.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	946.00	3,780.00	2,835.00	946.00
1640	Petroleum Bulk Plants	5171	77.00	379.00	227.00	77.00
1650	Petroleum Bulk Terminal	5171	756.00	3,780.00	2,270.00	756.00
1660	Petroleum Bulk Station	5171	77.00	379.00	227.00	77.00

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1670	Storage Tank	5171	0.00	756.00	379.00	379.00
1680	Crude Oil Distribution	5172	1,134.00	5,673.00	3,404.00	1,134.00
1690	Tire Recapping Plant	7534	154.00	777.00	467.00	154.00
1700	Chemical Waste Disposal Facility for Nonhazardous Waste	9998	3,518.00	17,592.00	10,555.00	3,518.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	143.00	713.00	428.00	143.00
1722	Small Source Permit	N/A	143.00	713.00	428.00	143.00

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	150.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	300.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	143.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	66.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	396.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	66.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	99.00
2080	Duplicate Certificate	33.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	396.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	594.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis: Class I Pollutants Class II Pollutants Class III Pollutants	142.56 71.28 35.64
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	12.83/ton
2400	An application approval fee for Stage II Vapor Recovery An annual facility inspection fee for Stage II Vapor Recovery	132.00 198.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	264.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	528.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,300.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	66.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	66.00
2900 *Note 19*	Lead Contractor License Evaluation Fee	500.00
2901 *Note 19*	Lead Project Supervisor Accreditation Fee	250.00
2902 *Note 19*	Lead Project Designer Accreditation Fee	500.00

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2903 *Note 19*	Risk Assessor Accreditation Fee	250.00
2904 *Note 19*	Lead Inspector Accreditation Fee	150.00
2905 *Note 19*	Lead Worker Accreditation Fee	50.00
2906 *Note 19*	Accreditation Fee for Louisiana Lead Training Organizations, Application Processing Fee	500.00
2907 *Note 19*	Accreditation Fee for Louisiana Lead Training Organizations, Processing Fee Per Instructor	50.00
2908 *Note 19*	Accreditation Fee for Out of State Training Organizations, Application Processing Fee	750.00
2909 *Note 19*	Accreditation Fee for Out of State Training Organizations, Processing Fee Per Instructor	100.00
2910 *Note 19*	Lead Abatement Project Notification Fee, 2000 Square Feet and Under	200.00
2911 *Note 19*	Lead Abatement Project Notification Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof	100.00
2912 *Note 19*	Revisions to Lead Abatement Project Notification Fee	50.00
2913 *Note 19*	Soil Lead Abatement Project Notification Fee, Half Acre or Less	200.00
2914 *Note 19*	Soil Lead Abatement Project Notification Fee, Each Additional Half Acre or Portion Thereof	100.00

Explanatory Notes for Fee Schedule

Notes 1. – 10. ...

Note 11. The maximum annual maintenance fee for categories 1430 - 1490 is not to exceed \$37,829 total for any one gas transmission company.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,711.

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$132.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$132.

Notes 14a. – 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. ...

B. Application Fee Schedule

Item	Fee
Site analysis—per acre site size	\$ 330 ¹
Process and plan analysis	\$ 1,320
Facility analysis—per facility ²	\$ 660
Management/financial analysis	\$ 1,320

[Note: Fee equals total of the four items.]

¹ Up to 100 acres, no additional fee thereafter.

² Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003).

§5119. Calculation of Annual Maintenance Fees

A. Fee per Site

Off-Site Disposer (Commercial)	\$105,336
Reclaimer (compensated for waste removed)	\$ 46,200
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$ 33,000
Off-Site Disposer (Noncommercial)	\$ 26,400
On-Site Disposer	\$ 13,200

[NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).]

B. Fee per Hazardous Waste Facility Type

Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$ 4,320
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$ 6,956
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$10,916

C. Fee Based on Volume

Less than 1,000 tons	\$ 2,577
Less than 10,000 tons	\$ 6,473
Less than 100,000 tons	\$10,370
Less than 1,000,000 tons	\$14,267
More than 1,000,000 tons	\$18,163

D. - E. ...

F. Land Disposal Prohibitions Fee. Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	\$1,320
Off-Site Noncommercial	\$2,640
Reclaimer	\$3,300
Off-Site Commercial	\$6,600

G. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003).

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	\$13,200
Exemption	\$59,400
Extension	\$6,600
No-Alternatives Determinations:	
Original Petition	\$13,200
Renewal Petition/Request	\$13,200
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,320

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Initial Fee	\$12.50
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5125. Annual Monitoring and Maintenance Fee

A. Fee will annually be \$375, plus the prohibited waste fee.

B. Annual prohibited waste fee is \$132 for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996).

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5135. Transporter Fee

A. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$264 per year to the department. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2050 (October 2003).

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$66 per year to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Hazardous Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Class 1 and 2	\$264 each
Class 3	\$990 each
Solid Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Major	\$660 each
Minor	\$264 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$132 each
Casing reamed out	\$264 each
Casing left in place	\$660 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations.

Each Well	\$660
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D. Groundwater Monitoring Systems Inspection Fee (Annual). This fee covers the cost of inspecting monitoring systems for units subject to permitting under these regulations, to ensure that they are functioning properly and continue to maintain their integrity.

Each Well	\$330
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AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. ...

1. This fee will be \$660 for each day of the test burn or trial burn.

2. ...

B. Annual Monitoring and Maintenance Fee for Incinerators, Boilers, Industrial Furnaces, and Commercial Recycling Furnaces. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat \$1,320.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5143. Annual Landfill Inspection and Monitoring Fee

A. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$132.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003).

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection and random sampling and laboratory analysis of the zone of incorporation.

ZOI soil samples	\$1,320 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,300 each monitor

B. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring. Included are the semiannual soil core sample analyses and the quarterly soil-pore liquid quality analyses from below the treatment zone. Also included are soil moisture tensiometer readings of the ZOI.

Hazardous Waste Facilities	\$1,320 each report
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C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Initial Permit	\$6,600 each
Permit Modifications:	
Class 1	\$264 each
Class 2 or 3	\$990 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§525. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.709.E.1 will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$330 permit-modification review fee. The fee shall accompany each modification submitted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003).

§527. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, IA, II, and II-A facilities shall pay a \$660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$165 closure-plan modification review fee. The fee shall accompany each modification submitted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003).

§529. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula:

Initial fee per notification + Fee based on each vehicle owned by the transporter = Notification fee

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$132
Fee Per Vehicle	\$ 33

B. - B.1. ...

a. \$7,920 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);

b. \$1,980 for Type II facilities; and

c. \$660 for Type IA, II-A, III, and beneficial-use facilities.

2. ...

a. for industrial wastes (Type I facilities, except surface impoundments), \$0.79/ton;

b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.20/ton for amounts exceeding 75,000 tons;

c. - e. ...

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is \$105,600. The maximum fee per facility for Type II facilities is \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003).

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

- A. - M. ...
- N. Other Fees

Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$ 322
Gen-LAG33-Coastal	\$2,640
Gen-LAG47-Auto Repair/Dealers	\$ 264
Gen-LAG119-Concrete/Asphalt (SW)	\$ 387
Gen-LAG78-C&D Landfills	\$ 660
Gen-LAG89-Type D Truck Maintenance	\$ 660
Gen-LAG75-Exterior Vehicle Wash	\$ 264
Gen-LAG-Animal Waste	\$ 300
Gen-LAR-Baseline	\$ 99
Gen-LAG87-Bulk Terminals	\$ 322
Gen-LAR10-Construction	\$ 264
Gen-LAG67-Hydrostatic Test	\$ 300
Gen-LAG48-Light Commercial	\$ 345
Gen-LAR05-Multi-Sector	\$ 99
Gen-LAG38-Potable Water	\$ 345
Gen-LAG949-GW Remediation (SW)	\$ 990
Gen-LAG49-Sand and Gravel	\$ 660
Gen-LAG26-Territorial Seas	\$2,640
Gen-LAG30-UST Dewatering	\$ 99
Gen-LAG94-GW Remediation	\$ 990
Gen-LAG679-Hydrostatic Test (SW)	\$ 792
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$ 317
Gen-LAG83- Petroleum UST Remediation	\$ 990
Gen-LAG839-Petroleum UST (SW)	\$2,640
Gen-LAG14-RR Classified Yards	\$ 322
Gen-LAG53-Sanitary Class I	\$ 99
Gen-LAG54-Sanitary Class II	\$ 264
Gen-LAG56-Sanitary Class III	\$ 495
Gen-LAG57-Sanitary Class IV	\$ 594
Gen-LAG309-UST Dewatering (SW)	\$ 851
Gen-LAG98-Vermilion Basin Sanitary	\$ 323

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003).

Chapter 15. Water Quality Certification Procedures
§1507. Procedures for Issuance of Water Quality Certification

- A. - A.2. ...
 - a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Noncommercial Activities	\$33/application
Commercial Activities	\$350/application

A.2.b. - H.2. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003).

Part XI. Underground Storage Tanks
Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

- A. - B. ...
 1. Fees are assessed according to the following schedule.

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$660
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$158
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$158
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

B.2. - D. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003).

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems
§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

- A. - C. ...
 - D. Fees. The following fees are hereby established for certification and renewal:
 1. examination fee for individual certification, \$132; and

2. certification renewal fee, \$132.

E. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003).

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services,

Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$26 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. - E.2. ...

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 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:691 (May 2003), LR 2053 (October 2003).

Chapter 25. Fee Schedule

Appendix A

Appendix A Radiation Protection Program Fee Schedule			Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing				
A. Medical licenses:				
1. Therapy:				
	a. Teletherapy		733	733
	b. Brachytherapy		733	733
	2. Nuclear medicine diagnostic only		904	904
	3. Nuclear medicine diagnostic/therapy		970	970
	4. Nuclear pacemaker implantation		363	363
	5. Eye applicators		363	363
	6. In-vitro studies or radioimmunoassays or calibration sources		363	363
	7. Processing or manufacturing and distribution of radiopharmaceuticals		1,426	1,214
	8. Mobile nuclear medicine services		1,426	1,214
	9. "Broad scope" medical licenses		1,426	1,214
	10. Manufacturing of medical devices/sources		1,663	1,386
	11. Distribution of medical devices/sources		1,247	1,036
	12. All other medical licenses		403	403
B. Source material licenses:				
	1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material		7,207	7,207
	2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)		3,604	3,604
	3. For the concentration of uranium from or in phosphoric acid		1,802	1,802
	4. All other specific "source material" licenses		363	363
C. Special nuclear material (SNM) licenses:				
	1. For use of SNM in sealed sources contained in devices used in measuring systems		554	554
	2. SNM used as calibration or reference sources		363	363
	3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2		363	363
D. Industrial radioactive material licenses:				
	1. For processing or manufacturing for commercial distribution		7,128	5,366
	2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license		1,214	957
	3. For industrial radiography operations performed at temporary jobsite(s) of the licensee		3,577	2,693
	4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies		1,802	904
	5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield		3,577	1,789
	6. For distribution of items containing radioactive material		1,802	1,802

Appendix A Radiation Protection Program Fee Schedule			
		Application Fee	Annual Maintenance Fee
7.	Well-logging and subsurface tracer studies:		
	a. Collar markers, nails, etc. for orientation	363	363
equal to 500 mCi	b. Sealed sources less than 10 Curies and/or tracers less than or	1,076	1,076
than 500 mCi but less than 5 Curies	c. Sealed sources of 10 Curies or greater and/or tracers greater	1,802	1,802
Curies	d. Field flood studies and/or tracers equal to or greater than 5	2,706	2,706
8.	Operation of a nuclear laundry	7,141	3,577
9.	Industrial research and development of radioactive materials or products	904	904
containing radioactive materials			
10.	Academic research and/or instruction	733	733
11.	Licenses of broad scope:		
equal to or greater than 1 Curie	a. Academic, industrial, research and development, total activity	1,802	1,802
less than 1 Curie	b. Academic, industrial, research and development, total activity	1,076	1,076
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory	363	363
devices			
13.	Calibration sources equal to or less than 1 Curie per source	363	363
14.	Level or density gauges	554	554
15.	Pipe wall thickness gauges	733	733
16.	Soil moisture and density gauges	554	554
17.	NORM decontamination/maintenance:		
license	a. at permanently designated areas at the location(s) listed in the	4,158	3,465
	b. at temporary jobsite(s) of the licensee	4,158	4,158
18.	Commercial NORM storage	3,465	3,465
19.	All other specific industrial licenses except as otherwise noted	733	733
20.	Commercial NORM treatment	16,632	13,860
E.	Radioactive waste disposal licenses:		
1.	Commercial waste disposal involving burial	935,550	935,550
liquid scintillation fluids	2. Commercial waste disposal involving incineration of vials containing	7,128	3,577
transfer	3. All other commercial waste disposal involving storage, packaging and/or	3,577	3,577
F.	Civil defense licenses	436	363
G.	Teletherapy service company license	1,802	1,802
H.	Consultant licenses:		
1.	No calibration sources	178	103
2.	Possession of calibration sources equal to or less than 500 mCi each	264	178
3.	Possession of calibration sources greater than 500 mCi	363	264
4.	Installation and/or servicing of medical afterloaders	482	416
II. Electronic Product Registration			
1.	Medical diagnostic X-ray (per registration)	117	117
2.	Medical therapeutic X-ray (per registration):		
	a. below 500 kVp	277	277
	b. 500 kVp to 1 MeV (including accelerator and Van deGraaf)	554	554
	c. 1 MeV to 10 MeV	832	832
	d. 10 MeV or greater	1,109	1,109
3.	Dental X-ray (per registration)	104	96
4.	Veterinary X-ray (per registration)	104	104
5.	Educational institution X-ray (teaching unit, per registration)	172	104
generators)	6. Industrial accelerator (includes Van de Graaf machines and neutron	554	554
7.	Industrial radiography (per registration)	277	277
8.	All other X-ray (per registration) except as otherwise noted	125	125
III. General Licenses			
A.	NORM (Wellhead fee per field shall not exceed \$2,079 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	139	139
2.	6-20 contaminated wellheads	693	693
3.	>20 contaminated wellheads	2,079	2,079
4.	Stripper wells-contaminated (\$693 maximum for strippers per field):	139	139
	a. 1 to 5 contaminated stripper wells	139	139
	b. > 5 contaminated stripper wells	693	693

Appendix A Radiation Protection Program Fee Schedule			Application Fee	Annual Maintenance Fee
5.	NORM locations (other than fields):			
	a. gas plants, pipeyards, chemical plant, refinery	416	416	416
	b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	416	416	416
6.	Interim container storage per NORM Waste Management Plan of an approved location			1,386
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	139		139
B.	Tritium sign	99		0
C.	All other general licenses which require registration	139		139
IV. Reciprocal Recognition				
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.				
V. Shielding Evaluation (per room)				
A.	Diagnostic	139		*
B.	Therapeutic (below 500 kVp)	209		*
C.	Therapeutic (500 kVp to 1 MeV)	343		*
D.	Therapeutic (1 MeV to 10 MeV)	482		*
E.	Therapeutic (10 MeV or greater)	1,043		*
F.	Industrial and industrial radiography	482		*
VI. Device, Product, or Sealed Source Evaluation				
A.	Device evaluation (each)	970		*
B.	Sealed source design evaluation (each)	627		*
C.	Update sheet	209		*
VII. Testing				
	Testing to determine qualifications of employees, per test administered	178		*
VIII. Nuclear Electric Generating Station				
	Located in Louisiana			393,360
	Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)			285,120
	Uranium Enrichment Facility			69,300
IX. La. Radiation Protection Program Laboratory Analysis Fees				
	Sample Type	Analysis	Unit Price	
A.	Air filters:			
	1. Particulate	Gross beta		77
	2. Charcoal cartridge	Gamma		218
		Gamma/I-131		218
B.	Milk	Gamma		231
		I-131		250
C.	Water	Gamma		250
		I-131		250
		H-3		92
D.	Sediment	Gamma		264
E.	Vegetation	Gamma		250
F.	Fish	Gamma		264
G.	Leak test	Gamma		218
		H-3		92
H.	NORM sample:			
	1. Soil	Gamma		231
	2. Produced water	Gamma		250
* Fees are charged one time				

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:691 (May 2003), LR 29:2053 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#052

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Risk Evaluation/Corrective Action Program (RECAP) (LAC 33:I.1305 and 1307)(OS044)

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 had amended the Office of the Secretary regulations, LAC 33:I.1305 and 1307 and the RECAP document (Log #OS044).

The Rule will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) regulations that are being revised as part of this rulemaking package. The revisions will provide clarification, reorganization, and corrections to text, tables, figures, and appendices of the RECAP regulations that were promulgated in December 1998 and revised in June 2000. Clarifications of text enhance the reader's understanding of the content of the regulations. Correction to errors in the regulations and reorganization of text will improve the RECAP regulations and help the regulated community in understanding of the regulations. Some of these changes include: text omission due to redundancy and text rearranged or added for clarification purposes; soil intervals redefined; conveyance notification requirements clarified; additional guidance on Area of Investigation (AOI) identification and estimation of the AOI constituent concentration; additional guidance on identification of groundwater Point of Compliance (POC) and Point of Exposure (POE); change in procedures for establishing a site-specific background concentration; new section on identification of toxicity values and demonstrating compliance with Screening Standards (SS) and RECAP Standards (RS); added land owner notification requirements; added air RS under Management Option 2 (MO-2) and Management Option 3 (MO-3) for comparison to air data; revision of SS and MO-1 RS based on updated toxicity values and default exposure parameters; revised figures to be consistent with text; added guidance on indoor air sampling; additional guidance on groundwater monitoring requirements; addition of Texas Natural Resource Conservation Commission (TNRCC) Method 1005 for Total Petroleum Hydrocarbon-Gasoline Range Organics (TPH-GRO), Total Petroleum Hydrocarbon-Diesel Range Organics (TPH-DRO), and Total Petroleum Hydrocarbon-Oil Range Organics (TPH-ORO); addition of TNRCC Method 1006 for TPH fractions; additional guidance on additivity for TPH; added list of target organs for TPH; added table of critical effects/target organs for the Constituent-of-Concern (COC) listed in Tables I-3; added Management Option 1 (MO-1), Management Option 2 (MO-2), and Management Option 3 (MO-3) guidance on development and application of RS; and added guidance for development of RS for air, sediment, surface water, and biota. The RECAP revisions will help ensure that a consistent method based on sound scientific principles is used for addressing site contamination and will continue to serve as a standard tool to assess impacts to soil, ground

water, surface water, and air. The basis and rationale for this Rule are to clarify, reorganize, and correct the current RECAP regulations. The RECAP revisions will serve to establish uniformity for submitters in the program to minimize the time and money necessary to identify corrective action levels for constituents of concern at a contaminated site. This should encourage voluntary and expeditious remediation.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 13. Risk Evaluation/Corrective Action Program

§1305. Applicability

A. - B. ...

C. This Chapter shall not apply to:

1. current spills that:
 - a. do not require notification under LAC 33:I.Chapter 39;
 - b. are remediated as soon as practicable, but not more than 30 days, after learning of the discharge; and
 - c. are remediated in a manner that will ensure protection of human health and the environment;
2. spills that create emergency conditions, as defined in LAC 33:I.3905, but do not exceed a reportable quantity, provided conditions specified in Subparagraphs C.1.b-c of this Section are met;
3. spills solely to air; and
4. current spills over the reportable quantity that require notification under LAC 33:I.Chapter 39, that are remediated promptly in a manner protective of human health and the environment, provided that:
 - a. the spill is remediated as soon as practicable, but not more than 30 days, after learning of the discharge;
 - b. notification is made in accordance with LAC 33:I.Chapter 39; and
 - c. the written report required by LAC 33:I.Chapter 39, or a subsequent follow-up report, documents that the material has been removed to a level that will ensure protection of human health and the environment.
 - i. Such documentation may include confirmatory sampling, use of organic vapor monitoring devices or, where appropriate (such as where the spill is of a dark material and/or is very small), visual confirmation.
 - ii. Upon review of the reported cleanup documentation, the department may require a complete RECAP evaluation if the department determines that the actions taken do not adequately ensure protection of human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 29:2056 (October 2003).

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#051

RULE

**Office of the Governor
Associated Branch Pilots Board of Examiners
of Bar Pilots for the Port of New Orleans**

Retirement and Drug and Alcohol Policy
(LAC 46:LXXVI.Chapters 11-16)

In accordance with the Administrative Procedure Act, R.S. 49:953, and R.S. 34:941, the Board of Examiners of Bar Pilots for the Port of New Orleans, has amended its existing Rules respecting its drug and alcohol policy. The board further intends to add a provision requiring compulsory retirement at age 68.

The Louisiana Legislature formed the Board of Examiners of Bar Pilots for the Port of New Orleans for the purpose of establishing rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots; to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the state of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico; to establish procedures in conformity with the requirements of the Administrative Procedure Act for investigating and conducting hearings relative to incidents and/or complaints of pilot misconduct; to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots; to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the

Associated Branch Pilots for the Port of New Orleans; and to insure compliance by the Board of Examiners with the Public Meetings Law. These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this Board of Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXVI. Steamship Pilots

Subpart 3. Bar Pilots of the Port of New Orleans

Chapter 11. General Provisions

§1101. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued by the Board of Examiners of Bar Pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003), amended LR 29:2057 (October 2003).

§1102. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the State of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003), amended LR 29:2057 (October 2003).

§1103. Definitions

A. The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act Cthe Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Application Cthe written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

Board of Examiners or *Board* Cthe Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* Ca bar pilot for the Port of New Orleans as designated in R.S. 34:943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2057 (October 2003).

§1104. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1105. Effective Date

A. These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1106. Qualifications of Pilots

A. No person shall be recommended to the governor for appointment as a Pilot unless the applicant:

1. is a qualified elector of the state of Louisiana;
2. has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans;
3. has successfully passed the examination given by the Board of Examiners, as required by R.S. 34:948;
4. owns or has made a binding legal agreement to acquired as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:930;
5. is a high school graduate or, in lieu thereof, holds a third mate's license;
6. has served at least 1 year at sea on a sea-going vessel of not less than 1,600 gross tons in the deck department;
7. has successfully passed a physical examination which in the judgment of the Board of Examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot;
8. is of good moral character; and
9. shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than 9 months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1107. Minimum Requirements

A. The Board of Examiners shall review, and if found satisfactory, approve the apprenticeship program of the applicant, the minimum requirements of which shall be as

follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

B. The Board of Examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the Board of Examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

C. The Board of Examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1108. Bond

A. No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1109. Compulsory Retirement

A. A state commissioned bar pilot for the Port of New Orleans shall be required to retire on or before the date of his/her 68th birthday. It shall be the pilot's responsibility to insure that his/her pension begins in a timely fashion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:2058 (October 2003).

Chapter 13. Pilots

Subchapter A. General Provisions

§1301. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1302. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots;

2. to provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §1101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1303. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Bar Pilot or *Pilot* a bar pilot for the Port of New Orleans, as designated in RS. 34:943.

Board of Examiners or *Board* the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Services of a Bar Pilot any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Waterways the entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1304. Investigations and Enforcement

A. All complaints reported to the board shall be considered for investigation. A complaint under the provisions of §1304.A-F is defined as:

1. any written complaint involving a bar pilot commissioned for the Port of New Orleans;

2. any reported incident involving a bar pilot commissioned for the Port of New Orleans while piloting a vessel; or

3. any other event involving a bar pilot commissioned for the Port of New Orleans that, in the discretion of any member of the board, justifies further investigation.

B. The board may appoint an investigating officer to investigate the complaint and report to the board.

C. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

D. Once authorized under §1304.C, the investigating officer, who may be an active or retired member of the Associated Branch Pilots of the Port of New Orleans, Louisiana, and who may be a member of the board, shall make a full and complete investigation of the complaint. He shall be assisted by an attorney, named as independent prosecutor by the board. In the event that the investigating officer, as contemplated by either §1304.B or §1304.C, is an active member of the board, he shall be recused from any participation in the decision of the case.

E. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

F. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the respondent, by registered mail, of the facts or conduct on which the complaint is based, and offer the respondent an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the respondent is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

G. If the respondent is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

H. The administrative complaint shall name the accused bar pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent;

3. the statutory or regulatory provisions alleged to have been violated by respondent.

I. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel engaged by the board to present the case at the evidentiary hearing before the board.

J. The board may either accept or reject the administrative complaint.

K. If it rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

L. If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or

appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a bar pilot for the port of New Orleans has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

M. A written notice of the administrative complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return receipt requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the administrative complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

N. The case shall be prosecuted by the independent prosecutor, also referred to administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

O. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

P. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the state of Louisiana. Upon receipt of service of an administrative complaint pursuant to these rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

Q. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

1. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case

as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

2. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

R. Motions for continuance of hearing, for dismissal of the proceeding and all other pre-hearing motions shall be filed not later than 30 days following service of the administrative complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

S.1. A motion for continuance of hearing shall be filed within the delay prescribed by §1304.R of these Rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

T.1. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any pre-hearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

2. Pre-hearing motions shall ordinarily be ruled upon by the presiding officer or the board, as the case may be, on the papers filed, without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument, on any pre-hearing motion.

U.1. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of

this section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

2. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

V.1. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a pre-hearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §1304.W hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

2. Following such pre-hearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a pre-hearing stipulation which should include:

- a. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;
- b. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
- c. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;
- d. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and
- e. an estimate of the time required for the hearing.

W.1. Unless otherwise requested by the respondent, adjudication hearings, being the hearing conducted on the merits of the administrative complaint, shall be conducted in closed session.

2. At an adjudication hearing, opportunity shall be afforded to administrative complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative complaint.

3. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

4. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel retained by the board for such purpose, who is independent of administrative complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

5. The record in a case of adjudication shall include:

- a. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
- b. evidence received or considered at the hearing;
- c. a statement of matters officially noticed except matter so obvious that statement of them would serve no useful purpose;
- d. offers of proof, objections, and rulings thereon;
- e. proposed findings and exceptions, if any;
- f. the decision, opinion, report or other disposition of the case made by the board.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

X.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. All evidence, including records and documents in the possession of the board which administrative complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts or by incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

5. Except as otherwise governed by the provision of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

Y. The board may make informal disposition, by default, consent order, agreement, settlement or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

Z.1. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative complaints.

AA.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §1304.Q and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. the decision is clearly contrary to the law and the evidence;
- b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
- d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

BB. Pursuant to R.S. 34:945(C)(3), the Board of Examiners shall have the authority to impose a fine of not more than \$500 on any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with these Rules and regulations and the administrative procedure act a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

CC. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove or to remove a pilot from a vessel pursuant to the provisions of R.S. 34: 947 and RS. 49:961(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1305. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

§1306. Effective Date

A. These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R. S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

Chapter 14. Standards of Conduct: Proper and Safe Pilotage

§1401. Adoption of Inland Navigational Rules

A. For those waters on which the Inland Rules apply within the jurisdiction of the bar pilots, the Board of Examiners has adopted, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. Section 2001 et seq. The Board of Examiners also adopted the navigation safety standards set forth in Title 33 CFR part 164(p). All bar pilots and bar pilot applicants shall be subject to these Inland Navigational Rules and safety standards as adopted herein by reference.

Title 33 CFR Part 164(p)

(p) The person directing the movement of the vessel sets the vessel's speed with consideration for

- (1) The prevailing visibility and weather conditions;
- (2) The proximity of the vessel to fixed shore and marine structures;
- (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;
- (4) The comparative proportions of the vessel and the channel;
- (5) The density of marine traffic;
- (6) The damage that might be caused by the vessel's wake;
- (7) The strength and direction of the current; and
- (8) Any local vessel speed limit;

NOTE: These rules CFR 110.195 and 164.402 have not been adopted but should be reviewed by all pilots and applicants.

Title 33 CFR 110.195

(a) The Anchorage Grounds. Unless otherwise specified, all anchorage widths are measured from the average low water plane (ALWP).

(1) Pilottown Anchorage. An area 5.2 miles in length along the right descending bank of the river from mile 1.5 to mile 6.7 above Head of Passes, extending in width to 1600 feet from the left descending bank of the river.

Title 33 CFR 161.402

(c) Navigation of South and Southwest Passes.

(1) No vessel, except small craft and towboats and tugs without tows, shall enter either South Pass or southwest Pass

from the Gulf until after any descending vessel which has approached within two and one-half (2 1/2) miles of the outer end of the jetties and visible to the ascending vessel shall have passed to sea.

(2) No vessel having a speed of less than 10 mph shall enter South Pass from the Gulf when the state of the Mississippi Rive exceeds 15 feet on the Carrollton Gage at New Orleans. This paragraph does not apply when Southwest Pass is closed to navigation.

(3) No vessel, except small craft and towboats and tugs without tows, ascending South Pass shall pass Franks Crossing Light until after a descending vessel shall have passed Depot Point Light.

(4) No vessel, except small craft and towboats and tugs without tows, shall enter the channel at the head of South Pass until after an ascending vessel which has reached Franks Crossing Light shall have passed through into the river.

(5) When navigating South Pass during periods of darkness no tow shall consist of more than one towed vessel other than small craft, and during daylight hours no tow shall consist of more than two towed vessels other than small craft. Tows may be in any formation, When towing on a hawser, the hawser shall be as short as practicable to provide full control at all times.

(6) When towing in Southwest Pass during periods of darkness no tow shall consist of more than two towed vessels other than small craft, and during daylight hours no tow shall consist of more than three towed vessels other than small craft.

AUTHORITY NOTE: Promulgated in accordance with R. S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

§1402. Ships Required to take Pilots

A. All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1403. Pilots' Duty of Remain on Board Ship until Crossing Bar

A. When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1404. Acting as Pilot without License; Penalty

A. No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than

\$5,000, or may be imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1405. Pilot's Duty to Exhibit License

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof this identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1406. Employing Pilot without Licenses; Liability of Vessel, Master or Owner

A. When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgment hereunder, the court shall include in its judgment a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1407. Employing Pilot without a State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violated this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1408. Offering of Services

A. As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2063 (October 2003).

§1409. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

A. The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1410. Report by Pilot

A. In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible report such incident to the board. The pilot shall also complete a written incident report form provided by the board within 24 hours after the incident.

B. The board, with or without complaint made against said pilot, shall investigate the incident.

C. The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

D. These Rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1411. Pilots Duty to Report

A. Pilots, when notified, shall report in person to the board at the time and place so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2064 (October 2003).

§1412. Pilots Summoned to Testify

A. Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

Chapter 15. Drug And Alcohol Policy

§1501. Application

A. The Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana (hereinafter "Board") adopted the following rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1502. Statement of Findings and Purposes

A. The board of has always had a strong commitment to the safety of the public. In order to carry out its mission, the board has established this policy regarding drug and alcohol abuse. The board's goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition capable of performing their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to perform his duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1503. Bar Pilots' Assistance Program

A. The board recognizes that the Associated Branch Pilots for the Port of New Orleans established a Bar Pilot's Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1504. Definitions

A. As used in this Chapter:

Alcoholic Beverage Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

Drug Call controlled dangerous substances as defined in R.S. 40:961.7. and R.S. 40:964.

Non-Prescription Medication Any medication sold or dispensed without a prescription that is not a drug as defined in *drug* above.

Prescription Medication Any drug as defined in 1504A.*Drug* distributed by the authorization of a licensed physician as defined in R.S. 40:961.31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2064 (October 2003).

§1505. Prohibitions and Requirements of the Policy

A. A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property and personnel. Consistent with existing board practices, such conditions shall be probable cause for disciplinary action up to and including recommendation for revocation of a bar pilot commission.

B.1. Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for

administrative or disciplinary action up to and including recommendation for revocation of a bar pilot's commission.

2. Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot, and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

3. The abuse of non-prescription medication by a bar pilot also has the potential for interfering with his own safety as well as that of others. A bar pilot shall not abuse non-prescription medication which may impair his or her ability to perform his duties as a bar pilot. Abuse of non-prescription medication by a bar pilot which impairs his or her ability to perform his duty may subject the pilot to administrative or disciplinary action. A bar pilot shall not use non-prescription medication if it impairs his competence as a pilot in the discharge of his duties.

C.1. A bar pilot shall be free of use of any drug as defined in §1504.A.*Drug*, but excluding prescription medication as defined in §1504.A.*Prescription Medication*, so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

2. Bar pilots shall report to the chairman of the board the use of any drug, as defined in §1504.A.*Drug*, including prescription medication.

D. A bar pilot who voluntarily requests assistance in dealing with personal drug or alcohol abuse under the Associated Branch Pilots BPAP program may do so without the board taking action for his voluntary participation. Volunteering to participate in the BPAP will not prevent administrative or disciplinary action for a violation of this policy which has already occurred or which may occur while in the program.

E.1. Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the Associated Branch Pilots.

2. Persons, or property, coming aboard any such vessel or property will be subject to inspection.

3. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2064 (October 2003).

§1506. Drug Testing

A. Testing. All bar pilots shall be subject to testing for the presence of any drug, as defined in §1504.A.*Drug*, above.

B. Types of Testing

1. All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing

shall comply with R.S. 49:1001-1015, except that certain terms contained therein are redefined because there is no employer-employee relationship. §1001(7) shall read "Pilot" Any person who holds a commission from the Governor of the State of Louisiana as an Associated Branch Pilot for the Port of New Orleans. The word "pilot" shall be used wherever the terms "employee" is used in §1001-1015. §1001(8) shall read "board" which is the Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana. The word "board" shall be used whenever the term "employer" is used in §1001-1015.

2. A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required in these rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written sworn complaint signed by the complainant in accordance with Chapter 16 of the rules and regulations of the Board of Review of Bar Pilots for the Port of New Orleans;

d. when the pilot is reasonably suspected of using drugs in violation of this policy;

e. at random at the discretion of the board; and

f. when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

i. one or more deaths;

ii. injury to any person which requires professional medical treatment beyond first aid;

iii. damage to property in excess of \$100,000; or

iv. actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2065 (October 2003).

§1507. Alcohol Testing

A. The Board of Examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

1. upon written complaint signed by the complainant in accordance with Chapter 16 of the rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

2. when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

3. when the pilot is determined to be directly involved in a marine casualty or accident of the type described in §1506.B.2.f.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2065 (October 2003).

§1508. Violations of the Policy

A. Any pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for violations of this policy and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the Associated Branch Pilots for the Port of New Orleans, or causing to bring on board a vessel or property owned or leased by the Associated Branch Pilots for the Port of New Orleans, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the governor of the state of Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

- 1. he tests positive for any drug covered by §1504.A.Drug;
- 2. he uses any drug in violation of §1505.C;
- 3. he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or intentionally tries to alter the test results;
- 4. he test positive for alcohol; or
- 5. he refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or intentionally tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility. The physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these Rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1509. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, shall be confidential and disclosed only to the Board of Examiners and the pilot tested, except that:

- 1. the Board of Examiners may report the results to the governor, the president of the Associated Branch Pilots for the Port of New Orleans, the United States Coast Guard; and

2. in the event that the Board of Examiners determines that a hearing is required pursuant to R.S. 34:947 or 962, there shall be no requirement of confidentiality in connection with such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

Chapter 16. Administrative Policy

§1601. Application

A. The purpose of this section is to ensure compliance by the Board of Examiners of Bar Pilots for the Port of New Orleans with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1602. Meetings of Examiners

A. All meetings and notices thereof of the Board of Examiners shall be conducted in accordance of the Open Meetings Law (R.S. 42:4 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1603. Record Keeping

A. The Board of Examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

Thomas L. Ittman
Chairman

0310#011

RULE

**Office of the Governor
Real Estate Commission**

Post Licensing and Continuing Education Vendors
(LAC 46:LXVII.5515, 5519 and 5545)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Real Estate Commission has amended LAC 46:LXVII.5515, 5519 and 5545. The amendments are housekeeping in nature and (1) serve to better define distance education course approval procedures/delivery methods; and (2) reduce the minimum credit requirement for post licensing courses to 3-hour increments so as to make them more conducive to the overall 30-hour requirement.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXVII. Real Estate

Chapter 55. Real Estate Post Licensing and Continuing Education Vendors

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to all licensees subject to post licensing requirements, regardless of broker affiliation. Each course acceptable for credit toward fulfillment of the 30-hour post licensing requirements for salespersons or brokers must be a minimum of 3 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

2. ...

3. Approved schools and vendors shall not incorporate post licensing instruction and hours with prelicensing education instruction and hours.

4. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003).

§5519. Post Licensing and Continuing Education Course Work by Correspondence or Other Distance Learning Methods

A. The commission may approve continuing and post licensing courses offered through correspondence or other distance education delivery methods. As used in this Chapter, a correspondence or distance education/ learning course delivery method is defined as a course of study in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods may be required by the commission.

B. Approved education vendors shall apply for and receive approval of correspondence or other distance learning study course(s) prior to any public offering. Each correspondence/distance education course for which credit is granted toward post licensing and/or continuing education requirements must be approved by the commission for course content and by the Association of Real Estate License Law Officials (ARELLO) for course delivery standards. The vendor must apply for and receive course approval from the commission prior to applying for ARELLO certification.

C. Passage of an examination on course content is a requirement for all correspondence or other distance learning courses. Each correspondence course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course, including title, course description, length of course, outline, and a copy of the required test.

D. Applications for approval of correspondence courses shall comply with the following where applicable.

1. Written Correspondence Courses
 - a. A workbook consisting of a minimum of 20 typed pages, not smaller than 8 1/2" x 11" in size, per two

hours of continuing education correspondence study credit or a workbook consisting of a minimum of 40 typed pages, not smaller than 8 1/2" x 11" in size, per four hours of post licensing education is required. If the course meets only the minimum of pages, the type cannot be larger than 12 point. Minimum standards require that paragraphs may be indented not more than 10 spaces and a maximum of 1 line of space may appear between paragraphs. Charts and graphs are not to be included in the required minimum page total. The top margin of the page cannot exceed 12", the bottom margin 12", and the side margin 1". The commission reserves the right to approve an offering which marginally meets the minimum page requirement. Such approval will be based on a determination that the time period required to complete the course exceeds the credit hours requested based on the technical nature of the subject matter.

2. Audio/Visual Correspondence Courses

a. Videotaped material may be submitted for approval as a complete course offering or in conjunction with written correspondence. The applicant shall provide a complete written transcript of any videotaped material submitted for approval.

b. Audio only courses shall be formatted in segments consisting of taped lecture of at least two hours for continuing education purposes or at least three hours for post licensing purposes. The applicant shall submit a written transcript of the taped lecture with each request for audio approval.

3. Computer Generated Correspondence Courses

a. Computer generated correspondence courses will be considered for approval provided the applicant submits course materials in the exact format to be offered for education credit.

E. Every correspondence or distance learning course for post licensing or continuing education shall require students to complete a test consisting of a minimum of 20 multiple choice questions with four possible choices (a, b, c and d) for each two hours of continuing education credit or a minimum of 30 multiple choice questions with four possible choices (a, b, c and d) for each three hours of post licensing credit. The test a student submits for grading shall include the following statement.

I certify that I have personally completed this course and test .

Student's Name

Date

F. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

G. No changes will be made to approved correspondence course material without the prior written approval of the commission.

H. Education vendors shall:

1. have the student's name, Social Security number, address and payment prior to the student receiving the course;
2. not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached;
3. not grade any test which does not contain the signed certification required by Subsection C, above;

4. certify students as successfully completing a course only if the student completes any required written assignments and passes the required examination on course content;

5. issue certificates containing the following information to students completing education by correspondence:

- a. complete name of approved vendor and LREC vendor code;
- b. name and social security number of student completing course;
- c. specific course title;
- d. number of hours of education received;
- e. date of course completion;
- f. signature of verifier of course completion;
- g. indication that student successfully completed examination on course content;
- h. correspondence study completion noted with the notation, "correspondence" or "C".

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003).

§5545. Minimum Length of Courses

A. Courses of instruction for continuing education purposes will not be approved by the commission if the total instruction time is less than two hours. Courses of instruction for post licensing purposes will not be approved by the commission if the total instruction time is less than three hours. Time devoted to breakfasts, luncheons, dinners or other refreshments shall not be counted as instruction time.

B. Credit shall not be given for any classroom hour consisting of less than 50 minutes of instruction and/or study. A classroom hour is defined as 60 minutes, of which 50 minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Vendors shall not grant credit to any student for completing more than eight hours of instruction in one calendar day.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2068 (October 2003).

Julius C. Willie
Executive Director

0310#058

RULE

**Office of the Governor
Board of River Port Pilot Commissioners**

River Port Pilots
(LAC 46:LXXVI.Chapters 31-36)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby promulgates Rules and

repeals and reenacts its Rules. The Rules restate existing Rules and are reenacted for the purpose of codification. New Rules are in the public's interest and will promote public safety by enhancing additional education qualifications for River Port Pilots. The Rules are in the public's interest and promote public safety by establishing: age restrictions, a requirement to perform marine incident investigations, a requirement for pilots to be certified after an absence, and a method for the public to file complaints against pilots. The board has conducted several meetings to receive comments from interested parties and undertook some revisions. The purpose of this rulemaking is to put the Rules in a proper format for codification as follows.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part. LXXVI. River Pilots

Subpart 4. Board of River Port Pilot Commissioners

Chapter 31. General Provisions

§3103. Definitions

A. The following terms shall have the following meaning as used in these Rules.

Applicant Cone who submits an application to become a River Port Pilot.

Apprentice Cone who has been selected to become a River Port Pilot pending successful completion of the apprenticeship program.

Board Cthe Board of River Port Pilot Commissioners as defined in R.S. 34:991.

Candidate Cone whose application has been certified by the board.

Commission Cthe appointment by the governor authorizing one to perform the duties of a River Port Pilot.

Commissioner Ca member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.

Conviction Cfound guilty by judgment or by plea and includes cases of deferred adjudication (no contest, adjudication withheld, etc.) or where the court requires a person to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court finding. Expunged convictions must be reported unless the expungement was based upon a showing that the court's earlier conviction was in error.

Drug Call controlled dangerous substances as defined in R.S. 40:961(7).

Marine Incident Ca personal injury, loss of life, discharge of pollution, collision and/or allision, wave wash or suction resulting in an injury or damage, or hard grounding in which the vessel is damaged or needs assistance to be re-floated.

Pilot CRiver Port Pilots as defined in R.S. 34:992.

Prescription Medication Cmedication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2068 (October 2003).

§3103. Board of River Pilot Commissioners for the Port of New Orleans

A. The duties of the board are established pursuant to R.S. 34: 991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3105. Application

A. Any person wishing to submit an application to become an apprentice candidate must submit a written request for an application to the commission at its address. The commission's current address is:

Board of River Port Pilot Commissioners
c/o Application Request
P. O. Box 848
Belle Chasse, LA 70037

B. All applications to become an apprentice candidate must be in writing, must be signed by the applicant, and presented to the secretary of the board. All applications must be notarized and accompanied by satisfactory evidence of compliance of the board's requirements.

C. The board shall maintain the application of applicants in its files for a period of two years from January 1 of the year the application was dated. All applicants are required to update and maintain their application and to re-file the application as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

Chapter 32. Licensing, Qualifications, and Apprenticeship

§3201. General Qualifications

A. Applicant must be of good moral character. Evidence of a clear police record will be considered, but the board reserves the right to examine other sources of information as to the applicant's character.

B. Applicant has been a voter of the state of Louisiana continuously for at least two years before submitting an application to become an apprentice candidate.

C. The applicant must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the River Port Pilots.

D. The applicant must possess a high school diploma, or equivalent.

E. A person applying for an appointment under this section shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol in the 60 months prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3202. Licensing Qualifications

A. Before being accepted as a candidate to become a River Port Pilot, each applicant must meet the below listed requirements.

1. Each applicant must hold a United States Coast Guard First Class Pilot License of Steam or Motor Vessel of any gross tons for the Mississippi River from Southport Mile 104.7 to the Head of Passes Mile 0.0 and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain, and for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and the ICW to and including Michoud Canal, and for the Mississippi River Gulf Outlet, from the intersection of the ICW to Mile 28.3, the present location of Beacon #78. In the event the Inner Harbor Navigation Canal is closed and or navigation on the canal is severely restricted, the board in its discretion may waive the requirement of a First Class Pilot License on all or part of the Inner Harbor Navigation Canal.

2. Commencing July 1, 2006, the applicant must have held the license described in §3202.A.1 for a period of one year prior to submitting an application to become an apprentice candidate.

3. Each applicant must meet one of the following requirements:

a. a United States Coast Guard Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers; or

b. a United States Coast Guard Second Mate's License (or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon oceans; or

c. a United States Coast Guard Third Mate's License of Steam or Motor Vessels of any gross tons upon oceans, and a Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers. The applicant, as a condition of the apprenticeship, must upgrade the Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers to a Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers prior to being commissioned as a River Port Pilot; or

d. a bachelors degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools, and the applicant must hold a Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers. The applicant, as a condition of the apprenticeship, must upgrade the Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers to a Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers prior to being commissioned as a River Port Pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3205. Education Qualifications

A. In addition to the requirements described herein the applicant must complete the following educational requirements. To successfully complete the educational requirements the applicant must attend a college or university accredited by an accreditation association or society approved by the board, and the applicant must have a

minimum grade point average of "2.0" on a "4.0" system, in non-remedial courses.

1. Applicants graduating from high school or receiving a high school equivalent after 5/01/95 will be required to successfully complete 30 credit hours.

2. Applicants graduating from high school or receiving a high school equivalent after 1/01/96 will be required to successfully complete 60 credit hours.

3. Applicants graduating from high school or receiving a high school equivalent after 1/01/97 will be required to successfully complete 90 credit hours.

4. Applicants graduating from high school or receiving a high school equivalent after 1/01/98 will be required to acquire a bachelors degree or diploma.

5. After July 1, 2006 all applicants must have a bachelors degree or diploma.

B. Applicants shall document the aforementioned requirements by providing the board with a transcript of the mandatory educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3207. Physical Qualifications

A. The applicant, when requested, must be examined by a physician, clinic or group of physicians of the board's choosing to determine the applicant's physical condition. The examination report must reflect to the board's satisfaction that the applicant's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibilities for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

B. The applicant, when requested, shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the petitioner's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

C. The applicants shall submit to drug screening in the same manner as pilots and apprentices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

§3209. Apprenticeship

A. The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep

draft vessel over the operating territory of the River Port Pilots under the tutelage of not less than 40 commissioned River Port Pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned River Port Pilots. No apprentice shall be permitted to be examined for commissioning who has not made at least 18 trips on the operating territory of the River Port Pilots between Pilottown and Southport during each of the 12 months of his apprenticeship and serve at least one week of each month of the apprenticeship engaged in harbor shifting, docking, undocking and piloting on the Mississippi River Gulf Outlet. The apprenticeship work must be certified by the board during the apprenticeship program. The board reserves the right to substitute work requirements and to require satisfactory completion of additional trips, extended the apprenticeship, or terminate the apprenticeship when deemed necessary.

B. The board of commissioners shall examine those apprentices who have complied with all the requirements. The apprentices will be examined as to their knowledge of pilotage and their proficiency and capability to serve as commissioned River Port Pilots. This examination shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

C. The board of commissioners shall certify to the governor for his consideration for appointments to commissions as River Port Pilots those apprentices who satisfactorily complete all requirements established by state law and these Rules and who complete and pass the examination given by the board. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

D. The apprentice shall submit to drug screening in the same manner as pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

§3211. Age Restrictions

A. A pilot shall be required to resign his pilot commission in the calendar year in which the pilot attains the age of 70. This provision shall take effect on July 1, 2004.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

Chapter 33. Duties

§3301. Restricted Duties Guidelines

A. The board has established the following guidelines, which shall be adhered to whenever possible. The failure to strictly adhere to these guidelines will not subject the pilot to disciplinary action.

1.a. After being commissioned a River Port Pilot by the governor of Louisiana, the newly commissioned pilot shall be allowed to pilot the following vessels in the first four months subsequent to the issuance of the pilot's commission:

- i. vessels up to 35 feet in draft;
- ii. vessel up to 50,000 deadweight tons;
- iii. vessels up to 700 feet in length.

b. After the newly commissioned pilot has served the first four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of the Section before being reexamined.

2.a. The newly commissioned pilot shall be allowed to pilot the following vessels in the second four months subsequent to the issuance of the pilot's commission:

- i. vessels up to 40 feet in draft;
- ii. vessels up to 75,000 deadweight tons;
- iii. vessels up to 800 feet in length.

b. After the newly commissioned pilot has served the second four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of the Section before being reexamined.

3. The newly commissioned pilot shall be allowed to pilot the following vessels in the third four months subsequent to the issuance of the pilot's commission:

- a. vessels up to 45 feet in draft;
- b. vessels up to 100,000 deadweight tons;
- c. vessels up to 900 feet in length.

4. The newly commissioned River Port Pilot shall be prohibited from piloting the following vessel during the first 12 months he holds a commission as a River Port Pilot:

- a. passenger vessels regardless of draft, tonnage or length;
- b. tank vessels with explosive, combustible, petroleum, or chemical cargo aboard, regardless of the draft, tonnage or length. Gas-free tank vessels are not subject to this prohibition.

5. After the newly commissioned pilot has served the third four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of this Section before being reexamined.

6. For the first year as a pilot, no persons are allowed on the bridge with the pilot with the exception of the bridge team, U.S. Coast Guard representatives, government officials, and the vessel's crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

Chapter 34. Drug and Alcohol Policy

§3401. Drug Use

A. A pilot shall be free of use of any *drug* as defined in §3101, but excluding *prescription medication* as defined in §3101 so long as use of such *prescription medication* does not impair the physical competence of the pilot to discharge his duties.

B. The board shall designate a testing agency to perform scientific test or tests to screen for the presence of drugs. These tests shall be conducted at random, post incident, and for reasonable suspicion at the discretion of the board.

C. All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the board.

D. The results of drug testing and screening shall be confidential and disclosed only to the board and the pilot tested, except that:

1. the board may report the results to the governor, the Board of Directors of the Crescent River Port Pilot Association and the United States Coast Guard;

2. in the event that the board determines that a hearing is required there shall be no requirement of confidentiality in connection with the hearing.

E. Any pilot testing positive for drugs or any residual thereof, shall be suspended from performing the duties of a pilot pending a hearing.

F. Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal shall be considered as a positive test.

G. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended or revoked.

H. Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003).

§3403. Alcohol Use

A. No pilot shall consume any alcohol of any nature whatsoever within six hours before, or during, the performance of his pilotage duties.

B. No pilot shall perform his duties as a River Port Pilot if his blood alcohol content is 0.04 or greater.

C. Any pilot who believes he would be in violation of any of these Rules if he were to perform his duties as a River Port Pilot is obligated to remove himself from duty. The pilot is the absolute insurer of his or her state of mind, physical abilities, and overall well being.

D. The board may request a pilot to submit himself to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing his duties as a River Port Pilot while under the influence of alcohol.

E. Any pilot who refuses to submit to reasonable scientific testing or screening for alcohol, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal to cooperate will be considered as a positive test.

F. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

G. Any pilot who is required to undergo evaluation and/or treatment for alcoholism shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003).

Chapter 35. Continuing Education

§3501. Continuing Professional Education

A. Every pilot seeking to maintain a pilot's commission must attend 40 hours of professional education classes and programs every 5 years. In addition the pilot must attend a ship simulator training program every five years. This requirement is effective December 31, 2000.

B. The professional education classes and programs approved by the board include but are not limited to:

1. electronic ship simulation training;
2. small scale ship simulation training;
3. ARPA training;
4. VTS/VTIS simulator training;
5. bridge resource management training for pilots;
6. Any other course or program that the board deems appropriate.

C. Any pilot who fails to attend the required professional education classes or programs may be reprimanded, fined, and/or suspended until the pilot complies with this Section.

D. It shall be the responsibility of the pilot to file with the board proof that the pilot has attended the required professional education classes and programs.

E. It shall be the responsibility of the pilot to attend the professional education classes and programs approved by the board.

F. The board, for good cause shown, may grant a waiver or extend the time for a pilot to complete the continuing professional education requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

Chapter 36. Investigation, Competence, Complaints and Criminal Convictions

§3601. Marine Incident Investigation

A. Any pilot piloting a vessel involved or allegedly involved in a marine incident shall as soon as practical notify the board of the incident by telephone however said notice must occur within four hours of the incident.

B. The pilot shall provide the board a Marine Incident Report on the form provided by the board within two days after the marine incident was first reported.

C. The pilot shall make himself available to the board and cooperate with the board during the board's investigation of the marine incident.

D. The pilot shall provide the board a detailed written statement of the marine incident if requested by the board. The report shall be provided to the board with 10 days of the board's request.

E. A pilot failing to comply with these regulations may be reprimanded, fined and /or suspended.

F. After its investigation of the Marine Incident, the board may render a findings and conclusion. The findings and conclusions is solely and exclusively the opinion of the board relative to the conduct of the pilot and is not intended to be introduced as evidence in legal proceeding. Pursuant to R.S. 34:1005 all communications between the pilot and the commission are deemed confidential, and the findings and conclusions of the board shall not be deemed discoverable or relevant in any civil proceeding.

G. The board may, under the procedure herein set out, examine into such cases of dereliction of duty of a pilot as come to their attention, and on the basis of such examination make recommendations to the governor relative to the pilot's commission. The pilot may elect to consent to such corrective or remedial steps as may be suggested by the board under the circumstances, waiving executive review. All violations of the regulations of any governmental agency by a pilot shall come within the purview of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3603. Competence

A. Any pilot who has not performed his duties as a pilot for a period of 12 months shall be required to report said absence to the board. Prior to returning to the duties and responsibilities of a pilot, the pilot must satisfy the return to duty requirements set forth by the board.

B. Any pilot or apprentice who for any reason becomes physically or mentally incompetent to perform the duties of a pilot is required to immediately notify the board of the their condition.

C. The pilot is the absolute insurer of his state of mind, physical abilities, and overall well being.

D. Any pilot, who lacks the competency to perform the duties of a pilot, shall be suspended from performing the duties of a pilot pending a hearing.

E. Any pilot found to be incompetent may be evaluated and/or have his commission suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3605. Complaints

A. Any person having cause to file a complaint against a pilot may file such complaint with the board.

B. The complaint must be sworn and in writing. The complaint may be sent to the board at its address. The commission's current address is:

Board of River Port Pilot Commissioners
c/o Pilot Complaint
P.O. Box 848
Belle Chasse, LA 70037

C. The board shall investigate all sworn complaints and take all appropriate action based on the nature of the complaint.

D. The board shall review all anonymous complaints and shall investigate those complaints, which have merit and will take all appropriate action based on the nature of the complaint.

E. Any person wishing to make an anonymous complaint against a pilot may do so by calling the commission at its telephone number or by forwarding an anonymous letter to the above address. The commission's current telephone number is (504) 392-5015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3607. Criminal Convictions

A. Any pilot or apprentice convicted of the following must immediately notify the board:

- 1. a conviction of a felony;
- 2. a conviction of any offense in which the use of drugs or alcohol is involved.

B. The board shall conduct a hearing to review the competency of any pilot who has been convicted of any offense described in §3607.A and the board in its discretion may find the pilot by virtue of the conviction incompetent to perform his pilot duties.

C. Any pilot or apprentice who fails to comply with these regulations may be reprimanded, fined, and/or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2073 (October 2003).

Captain Scott Loga
President

0310#094

RULE

**Office of the Governor
Real Estate Commission**

Prelicensing Courses
(LAC 46:LXVII.5305)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.5305. The amendments are housekeeping in

nature and serve to better define the distance learning course delivery method and procedures for course approval.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 53. Real Estate Schools

§5305. Prelicensing Courses Course Content and Delivery Method

A. – C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicense courses offered through distance education delivery methods. As used in this Chapter, a distance education or distance learning delivery method is defined as internet-based instruction in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods are provided. The commission will approve only those prelicensing courses through distance education/distance learning delivery methods that are internet-based instruction. Each course must meet the following standards:

1. – 6. ...

E. Each distance education course for which credit is granted toward prelicensing educational requirements must be approved by the commission for course content and by the Association of Real Estate License Law Officials (ARELLO) for delivery standards. The school must apply for and receive course content approval from the commission prior to applying for ARELLO certification.

F. Loss of ARELLO certification for a prelicensing course offered via internet-based education will automatically suspend commission approval of the course.

G. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1432 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Louisiana Real Estate Commission, LR 28:486 (March 2002), amended LR 29:2073 (October 2003).

Julius C. Willie
Executive Director

0310#057

RULE

**Office of the Governor
Used Motor Vehicle and Parts Commission**

Hearings on Disputes under the Area of Responsibility
(LAC 46:V.4714)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 32:Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, the Used Motor Vehicle and Parts Commission, has adopted rules and regulations governing hearings on disputes under the Area of Responsibility Law, in accordance with R.S. 32:776.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 47. Hearing Procedures

**§4714. Hearings on Disputes under the Area of
Responsibility**

A. When disputes arise under the Area of Responsibility Law by the filing of an objection by an affected dealer pursuant to R.S. 32:773.2(D) and (F), and when no party has been cited for a violation, the commission shall not be responsible for the presentation of any evidence of the factors set forth in R.S. 32:773(4)(a) and R.S.32:773.2F(5). Each party is required to set forth evidence in support of its contentions.

B. Each party shall be responsible for its own respective costs; however, the losing party or parties shall pay the costs of the commission, including the court reporter's fees, any per diem rate, and mileage for any commissioner attending a hearing as a special fixing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:2074 (October 2003).

John M. Torrance
Director

0310#036

RULE

**Department of Health and Hospitals
Board of Dentistry**

Requirements for Applicants for Licensure by Credentials;
Laser Requirements, Procedures, and Approval of Training
(LAC 46:XXXIII.1301-1303)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII., 1301-1303. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 13. Dental Laser and Air Abrasion Utilization

§1301. Requirements

A. A laser capable of the removal of hard or soft tissue may be employed in the treatment of a dental patient only by a licensed dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

§1302. Procedures

A. American National Standards Institute standards for laser safety must be followed.

B. Use of the laser must be in accordance with scientifically accepted treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

§1303. Approval of Training

A. Prior to commencing use of the laser for dental purposes, a dentist must obtain appropriate training for the laser being utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

C. Barry Ogden
Executive Director

0310#023

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Licenses (LAC 46:LXIII.901)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted LAC 46:LXIII.901.E.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 9. Licenses

§901. Renewal of Lapsed Licenses

A. - D. ...

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003).

Brenda C. Ward
Executive Director

0310#015

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Reciprocity
(LAC 46:LXIII.201)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Board of Examiners of Psychologists has amended LAC 46:LXIII.201.A.2 and adopted LAC 46:LXIII.201A.3.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - A.1.e. ...

2. he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who has met the requirements for and holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB); or

3. that he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who is a current Diplomat of the American Board of Professional Psychology (ABPP) in good standing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended LR 27:723 (May 2001), LR 29:2075 (October 2003).

Brenda C. Ward
Executive Director

0310#016

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Supervised Practice
(LAC 46:LXIII.703)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.703.A.2.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 7. Supervised Practice Leading toward

Licensure

§703. Duration and Setting of Supervised Practice

A. - A.1. ...

2. To be credited toward the two years full-time requirements each assignment in a setting or integrated program shall be of at least 500 hours in duration and at least

half-time for that setting or integrated program. Supervised practice must be completed within five calendar years, and for cause shown, the board may grant extensions.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, IR 13:180 (March 1987), LR 29:2075 (October 2003).

Brenda C. Ward
Executive Director

0310#014

RULE

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacists (LAC 46:LIII.Chapters 1-29)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended the following Rule, which becomes effective January 1, 2004.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LIII. Pharmacists**

Chapter 1. Introduction

§101. Preamble

A. Pursuant to the authority granted by R.S. 37:1182, and in the interest of promoting the public health, safety, and welfare, the following rules and regulations are hereby adopted by the Louisiana Board of Pharmacy (board).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2075 (October 2003).

§103. Pharmacy Board Organization

A. Board Officers

1. President. The president shall preside at all board meetings.

2. Vice-Presidents. In the absence of the president, the vice-presidents shall preside in descending order at all board meetings.

3. Secretary. The secretary shall conduct the nomination procedure for board candidates and report the results of the balloting to the governor for his appointments.

B. Election

1. General Election. The board shall annually elect officers from its membership.

2. Special Election. The president may call a special election of the board to fill vacancies of elected officers.

C. Officers' Terms. Officers elected by the board shall serve one-year terms and their terms shall end upon the election of their successors. An officer elected to a vacant position shall serve for the remainder of that term, at which

time an election shall occur commensurate with the annual election.

D. *Per Diem*. A per diem, as authorized by R.S. 37:1178, is defined as compensation to be received by a board member for each day of service while attending regular or called board meetings, while attending to official business of the board, or while attending a board related or board sanctioned conference, including travel days for members to and from these meetings, conferences, and related business. This per diem shall not serve as reimbursement for meals, lodging, and other expenses incurred as a result of these meetings, conferences, and related business.

E. *Board Budget*. The board is a self-sustaining body that shall generate sufficient revenues funded by fees, appropriations, and/or assessments in order to maintain efficient operations.

1. *Administrative Costs*. The board may assess administrative costs as it deems necessary to facilitate the proper implementation of its rules and regulations.

2. *Annual Operating Budget*. The board has the responsibility to perfect an annual operating budget.

3. *Annual Capital Budget*. The board has the responsibility to establish a capital budget, when applicable.

F. *Executive Director*. The executive director shall carry out functions of the board relative to its statutory requirements and other duties as defined by the board. With the board's approval, the executive director serves as the appointing authority and may appoint additional employees for professional, clerical, and special duties necessary to carry out the board's functions and may establish standards for the conduct of employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2075 (October 2003).

§105. Board Procedures

A. All board procedures and operations shall adhere to the Administrative Procedure Act, R.S. 49:950 et seq., the Open Meetings Law, R.S. 42:4.1 et seq., and the Public Records Act, R.S. 44:1 et seq.

B. *Order*. Robert's Rules of Order shall govern all proceedings unless otherwise provided.

C. *Public Comments*. A public comment period shall be held during each board meeting.

1. Persons desiring to present public comments shall notify the board chairman or executive director no later than the beginning of the meeting. However, to assure that an opportunity is afforded to all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed 30 minutes. Each person making public comments shall identify himself and the group, organization, company, or entity he represents, if any.

2. Unless otherwise provided by law, public comment is not part of the evidentiary record of a hearing or case unless sworn, subject to cross-examination, offered by a

party as relevant testimony, and received in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§107. Board Committees and Subcommittees

A. Board committees are working bodies created by the board comprising members appointed or removed by the president to address and deliberate specific pharmacy matters referred by the board for specified periods consisting of the following.

1. *Standing Committees*. Standing committees are permanent bodies and are created by the board comprising members appointed by the president with the duty to address and deliberate specific subject matters referred by the board.

2. *Special Committees*. Special committees are appointed by the president for a particular period to address or deliberate special matters.

3. *Board Subcommittees*. Board subcommittees are created by the board comprising members and ex-officio non-voting members appointed by the president that are ancillary to a standing or special committee to address or deliberate a limited committee subject matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§109. Standing Board Committees

A. *Executive Committee*. The executive committee, comprised of the president, vice-presidents, and secretary shall function to address interim administrative board matters that require immediate attention between regularly scheduled board meetings.

B. *Regulation Revision Committee*. The regulation revision committee, consisting of at least three board members appointed at the discretion of the president, shall function to preliminarily draft rules, regulations, and policies to be considered by the full board for promulgation and/or resolution or order.

C. *Reciprocity Committee*. The reciprocity committee, consisting of at least three board members appointed at the discretion of the president, shall function to document the qualifications, compliance, and credentials of reciprocity candidates.

D. *Impairment Committee*. The impairment committee, consisting of at least three board members appointed at the discretion of the president, shall function to study, recognize, address the need to identify, and monitor the recovery of impaired persons in order to protect the public and the practitioner. Additionally, the impairment committee shall function to investigate, review, and interview impaired or allegedly impaired persons practicing or assisting in the practice of pharmacy and tender findings and recommendations to the board.

E. *Violations Committee*. The violations committee shall consist of at least three board members appointed at the discretion of the president. Board-designated staff shall preliminarily determine the disposition of complaints and alleged offenses. Thereafter, the violations committee shall

function to receive complaints, receive staffs' reports, and evaluate and review findings. The disposition of alleged offenses shall be determined by conducting an informal inquiry conference, an interlocutory hearing, and/or referring the matter to special counsel for formal hearing by the full board.

F. Reinstatement Committee. The reinstatement committee, consisting of at least three board members appointed at the discretion of the president, shall function to receive complaints, receive staffs' reports, evaluate and review findings, interview applicants, deliberate, and tender recommendations to the full board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§111. Official Journal

A. The official journal of the board is the *Louisiana Board of Pharmacy Newsletter*. The newsletter may be used in administrative hearings as proof of notification to pharmacists, interns, pharmacy technicians, pharmacy technician trainees, and holders of pharmacy permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

Chapter 3. Board Hearings

§301. Board Hearing Procedures and Jurisdiction

A. Person. The board has jurisdictional authority over the person practicing pharmacy, assisting in the practice of pharmacy, operating a pharmacy, or otherwise licensed, registered, certified, or permitted by the board. A person is as defined in R.S. 37:1164(33) of the Pharmacy Practice Act.

B. Subject Matter. The board has jurisdiction over any subject matter related to the practice of pharmacy or any other matter regarding the dispensing or selling of prescription drugs in a safe manner so as not to endanger the public health, safety, or welfare.

C. Board Authority. The board has authority to adopt rules pursuant to the Pharmacy Practice Act, R.S. 37:1161 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., regarding due process disciplinary hearings.

D. Venue. A due process hearing shall convene in a designated Louisiana parish at a regularly called board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§303. Summons

A. A summons shall represent a complaint of an alleged violation directed to a respondent.

B. Hearing Notice. The board shall initiate a hearing by issuing a notice summons. The notice summons shall be forwarded to the respondent commanding his presence to appear before the board for a due process hearing setting forth the following.

1. Name. The notice shall include the respondent's name and address.

2. Time. The notice shall state the designated time, date, and place.

3. Allegation. The notice shall recite the alleged violation(s) establishing a cause of action and the nature of the hearing.

4. Authority. The notice shall make references to specific board, state, or federal statutes, regulations, rules, policies, or code of ethics involved in the alleged violation(s).

5. Citation. The notice shall cite legal or jurisdictional authority constituting an alleged violation(s).

6. Documents. The notice may include supporting documents, reports, and/or other relevant material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§305. Service

A. Method. Service of a summons shall be made either by regular, registered, or certified mail, with a return receipt requested, or board or court designated process servers confected by tendering the summons to the respondent personally or domiciliary at the last known address.

B. Time. Service shall be made at least 30 days prior to the date of the hearing as per R.S. 37:1245.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1245.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§307. Default Proceedings

A. The board may proceed with a hearing in the event the respondent fails to appear after due notice was perfected or a diligent effort had been made to perfect service on the respondent at the last known address of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§309. Joinder

A. Several complaints may be joined or incorporated and the respondents may be joined in the same or similar complaints based on the same or similar acts or transactions that are connected in a common plan or scheme.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§311. Consolidation

A. Hearings may be held jointly to assure a fair due process hearing. Any alleged violations may be consolidated for an administrative hearing of respondents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§313. Severance

A. A severance of complaints is permitted when a fair due process hearing will not be satisfied. Otherwise, complaints may be heard jointly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§315. Motions

A. Hearing Motions. Motions are directed to the board or presiding officer for particular relief or action before, during, or after a hearing and shall be in writing when applicable, and allege specifically the grounds upon which the relief is based, and filed with the board five days before hearing or within ten days post-hearing or timely filed during the hearing. At an appropriate time to be decided by the hearing officer, oral or written motions may be directed to the presiding hearing officer during a hearing. Hearing motions are directed to the presiding hearing officer and disposed of appropriately.

B. Continuance Motions.

1. Postponement Motions. The board may grant or deny a continuance based upon critical or extenuating circumstances that could jeopardize a fair and expeditious due process hearing.

2. Time. Continuance motions shall be filed in writing at least five days prior to the scheduled hearing with specific grounds for postponement. This requirement may be waived by the board under emergency circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§317. Recusation

A. A board member or special counsel may be recused by one's own motion because of an inability to contribute to a fair and impartial hearing or may be recused by a majority vote of the board members present based on the following grounds:

1. prejudicial or personal interest in a case that might prevent one from participating in an impartial hearing;

2. the board may recuse the presiding administrative hearing officer on his own motion or he may be disqualified based upon his own inability to contribute to or conduct an impartial hearing by the respondent filing an affidavit of specific grounds at least five days prior to the scheduled hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§319. Sequestration

A. Upon request by either respondent or special counsel or by direction of the hearing officer, witnesses shall be sequestered and not allowed in the hearing chambers or permitted to discuss their testimony with other witnesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§321. Sanction Guidelines

A. The sanctions imposed by the board pursuant to R.S. 37:1241 of the Pharmacy Practice Act shall be based on the following guidelines.

1. Nature. The nature or seriousness of the violation.
2. Degree. The degree of culpability, knowledge and/or intent, or the responsibility to have knowledge.
3. Scope. The scope of circumstances involved.
4. Demeanor. Honesty and truthfulness of respondent.
5. History. History of prior offenses.
6. Sanctions. Prior sanctions.
7. Cooperation. Willingness of respondent to comply with applicable laws and regulations and avoid future violations.
8. Sufficiency. Sanctions are sufficient to remedy the problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§323. Administrative Investigation

A. Upon the receipt of a written complaint, board staff shall initiate and conduct an investigation.

1. Grounds. The investigative report shall be reviewed by board-designated staff and forwarded to the violations committee or legal counsel to determine sufficient grounds for proceeding either informally or formally.

2. The report shall include:

- a. respondent's name and address; and
- b. a concise statement of facts and circumstances indicating the basis of the routine or specific complaint or cause of action; and
- c. supporting documents and/or materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§325. Violations Committee

A. Purpose. Board-designated staff shall receive reports and complaints and review and evaluate findings to determine the nature and disposition of the alleged violation(s). The alleged violation(s) may then be directed to:

1. violations committee for informal hearing;
 2. violations committee for interlocutory hearing;
- and/or
3. special counsel for institution of a formal administrative hearing.

B. Guidelines. If determined appropriate by board-designated staff, the violations committee shall receive and review complaints and determine the disposition of the pending matters based on the following.

1. Seriousness. The seriousness of the alleged offense.
2. Degree. The extent of the alleged violations.
3. History. The history of prior violations.
4. Record. Prior sanctions.
5. Cooperation. Willingness to obey the prescribed laws and regulations.
6. Deterrent. Consider the sanctions as a deterrent to future violations.
7. Remedy. The sanctions are sufficient to remedy the problem.

C. Informal Hearings. The violations committee may conduct an informal non-adversarial hearing with the respondent properly noticed of the inquiry regarding the

issues to be discussed. The committee shall receive information and deliberate as to a cause of action regarding a potential violation. The committee may recommend a course of action to the full board or dismiss the allegations by an affirmative majority vote of the committee. Should the violations committee recommend a course of action to the full board, the following shall apply.

1. Disclosure. Respondent's testimony or the work product from the informal hearing of any staff or committee member may not be introduced at any subsequent formal hearing.

2. Recusal. Violations committee members shall not be permitted to participate in subsequent formal board hearings pertaining to complaints or alleged violations heard by the violations committee, unless respondent allows otherwise.

D. Interlocutory Hearings. By interlocutory (or summary) hearing, the violations committee may summarily suspend a license, permit, certification, and/or registration prior to a formal administrative board hearing wherein, based upon the committee's judgment and reflected by adequate evidence and an affirmative majority decision, a person poses a danger to the public's health, safety, and welfare, and the danger requires emergency action.

1. Summons Notice. A summary proceeding summons notice shall be served at least five days before the scheduled hearing to afford the respondent an opportunity to be heard with respect to a potential summary suspension action. The notice shall contain a time, place, nature, and the grounds asserted relative to the alleged conduct warranting summary suspension.

2. Burden of Proof. Legal counsel shall have the burden of proof to support the contention that the public's health, safety, or welfare is in danger and requires summary or emergency action.

3. Evidence. The respondent shall have the right to appear personally and/or be represented by counsel to submit affidavits, documentary evidence, or testimony in response to the cause of action asserted as the basis for the summary suspension.

4. Decision. The committee shall determine whether to grant or deny the summary suspension based upon adequate evidence with an affirmative majority vote substantiated by finding(s) of fact and conclusion(s) of law that the public's health, safety, or welfare is in danger and requires emergency or summary action.

5. Report. The committee shall submit their findings and interlocutory decree to the board when rendered.

6. Suspensive Duration. The summary suspension decree shall be followed by a formal administrative hearing within 30 days from receipt of notice by the respondent.

E. Probation Violation Hearings. Probation violation proceedings shall be initiated upon receipt of information indicating that a respondent is in violation of any of the terms or conditions of his probation.

1. Review. Board-designated staff shall receive and review the compliance officer's report and then determine whether a probation violation proceeding is warranted. Should a probation violation hearing be determined warranted, the violations committee shall proceed by interlocutory hearing or informal hearing as deemed appropriate.

2. Notice. Notice shall be afforded the respondent of the allegation(s) forming the basis of the alleged violation status, and the time and place of the appropriate hearing to be conducted.

3. Disposition. Disposition of the hearing shall be according to the appropriate procedures to informal hearings or interlocutory hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§327. Impairment Committee

A. Impairment. Impairment means a condition that causes an infringement on the ability of an individual to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. The impairment committee shall have the following responsibilities:

1. supervise the Practitioner Recovery Program;
2. recommend for board consideration any addictionists or other professionals utilized by the program;
3. recommend for board consideration any action for reinstatement of recovering persons;
4. any other related responsibilities deemed appropriate by the board.

C. Practitioner Recovery Program. The board may establish and maintain a recovery program to assist impaired persons through the recovery process so that they may safely return to practice. The board may utilize the services of outside agencies to assist in the recovery of the impaired person.

D. Informal Hearing

1. The board may convene an informal administrative hearing to identify an impaired person and to take appropriate action. The board may require the appearance of any persons deemed necessary to properly conduct an informal hearing. This process shall be conducted by the impairment committee chairman or any other member(s) of the board or staff as the president deems necessary.

2. Any knowledge acquired by any board member or staff in identifying and assisting an allegedly impaired person shall not automatically be grounds for recusal at any later hearing on that same matter.

3. An impaired or allegedly impaired person may enter into a preliminary consent agreement that shall include a mandatory surrender of that person's license, permit, certification, or registration, which shall be delivered to the board office and shall effectively prohibit that person from practicing, or assisting in the practice of, pharmacy. Such person shall agree to enter into an approved treatment and monitoring program as determined by the board. This consent agreement shall not restrain the board from conducting violations proceedings in the matter as it deems necessary.

4. The impairment committee may make recommendations to the full board and/or the violations committee as it deems appropriate on an impaired or allegedly impaired person.

E. Impaired Reinstatement. An application for reinstatement of an impaired person shall be filed with the impairment committee for consideration and recommendation to the violations committee and/or the full board.

1. An impaired person may petition the board for reinstatement of his license, permit, certification, or registration, provided he has:

a. documented proof from an attending physician that he has successfully completed an alcohol or substance abuse recovery program; and

b. a current post-treatment evaluation from a board-approved addictionist; and

c. successfully completed any requirements the board deems necessary with respect to the particular type of impairment;

d. the impairment committee may waive the above requirements for impairments not related to alcohol or substance abuse.

2. After the above stipulations have been met, the person applying for reinstatement may be scheduled for an interview with the impairment committee for consideration of any recommendation to the reinstatement committee and/or the full board.

3. Upon reinstatement, the board may place the reinstated person on probation for a specified length of time and may assign conditions of the probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2079 (October 2003).

§329. Formal Hearing

A. Authority. The board shall provide a formal administrative hearing pertaining to the proprietary rights or privilege to practice pharmacy, or operate a pharmacy, or hold a certificate or registration, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., with authority to take disciplinary action pursuant to R.S. 37:1241 of the Pharmacy Practice Act.

B. Ex-Parte Communication. Once a formal hearing has been initiated and notice served, board members participating in the decision process shall not communicate with a respondent or a respondent's attorney concerning any issue of fact or law involved in the formal hearing.

C. Notice. A formal disciplinary public proceeding may be initiated upon proper notice to a respondent and held at a designated time and place based upon the following grounds:

1. violationC sufficient evidence or a serious complaint of an alleged violation to require a formal hearing shall be directed to legal or special counsel for administrative prosecution to justify a formal hearing; or

2. failure to respondCa failure by the respondent to respond to the violations committee informal inquiry; or

3. irresolvable issuesCa violations committee informal hearing fails to resolve all issues and requires further formal action; or

4. irreconcilable issuesCan interlocutory hearing fails to resolve all pertinent pending issues thus requiring further formal action; or

5. reaffirmationCreaffirmation of an interlocutory decree; or

6. requirementCa formal administrative hearing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2080 (October 2003).

§331. Formal Hearing Procedures

A. Hearing Officers

1. Administrative Hearing Officer. The presiding hearing officer may be the board president, a vice-president, or other individual appointed by the president or his successor. The hearing officer has the responsibility to conduct a fair and impartial proceeding with the administrative duty and authority to:

a. convene an administrative board hearing;

b. rule on motions and procedural questions arising during the hearing such as objections or admissibility of evidence or examination of witnesses;

c. issue or direct staff to issue subpoenas;

d. declare recess;

e. maintain order;

f. enforce a standard of conduct to insure a fair and orderly hearing;

g. remove disruptive person(s) from a hearing.

2. Oaths. The presiding hearing officer, executive director, or other board designee may administer oaths.

B. Administrative Jury. The board, comprised of a quorum of members, shall serve as an administrative jury to hear and determine the disposition of the pending matter based on the finding(s) of fact and conclusion(s) of law by receiving evidence and reaching a decision and/or ordering sanctions with an affirmative majority record vote of board members participating in the decision process.

C. Administrative Hearing Clerk. The board's executive director shall serve as the administrative hearing clerk and shall maintain administrative hearing records.

D. Administrative Prosecutor. The legal or special counsel shall prosecute the pending matter and bear the burden of proof to be presented to the board.

E. Administrative Reporting. The board-designated stenographer shall record all testimony dictated and evidence received at the hearing. The utilization of recording equipment may be employed.

F. Hearing Order

1. Docket. Contested matters shall be identified by reference docket number and caption title. The administrative hearing clerk or other staff or board member designated by the presiding hearing officer shall announce the docket and identify persons present or absent in the hearing chambers.

2. Complaint. The complaint may be read at an open hearing unless waived by the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2080 (October 2003).

§333. Pre-Hearing Conference

A. Respondents and/or their legal counsel in matters pending before the board may be directed by the presiding administrative hearing officer to appear at a pre-hearing conference to consider the simplification of the issues, admission of facts, or stipulations to documents which may avoid unnecessary proof and such other items as may aid in the disposition of the matter(s) pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§335. Consent Agreements

A. Respondents may enter into consent agreements with the board on any matter pending before the board. A consent agreement is not final until the board approves the consent agreement by majority vote of the administrative jury. If the consent agreement is rejected in full or part, the matter shall be heard at the next regularly scheduled board hearing. However, nothing herein shall limit the board from modifying a consent agreement, with respondent's approval, to include less severe sanctions than those originally agreed to in a pending consent agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§337. Opening Statement

A. An opening statement by legal or special counsel may present a brief position comment with an outline of evidence to be offered. Respondent or respondent's legal counsel may present an opening defense position statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§339. Evidence

A. Testimony Received. Testimony shall be received under oath administered by the presiding hearing officer, the executive director, or other staff or board member designated by the hearing officer.

B. Evidence Introduction. All parties shall be afforded an opportunity to present evidence on all issues of fact and argue on all issues of law and respond by direct testimony, followed with cross examination as may be required for a full and true disclosure of the facts. The direct presentation of evidence shall be introduced by the legal or special counsel and shall be followed by the respondent in proper person or by legal counsel by direct and/or cross-examination and/or rebuttal.

C. Examination. Witnesses may be directly examined and cross-examined. Additionally, witnesses and/or respondents may be questioned during an administrative hearing by members of the administrative jury on matters for clarification.

D. Rule Interpretation. Liberal rules of evidence shall be employed by the presiding hearing officer to provide adequate facts and law necessary for the board to deliberate and decide each case. The board's administrative hearing shall not be bound to strict rules of evidence.

E. Admissibility. Admissibility of evidence and testimony shall be determined by the presiding hearing officer as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§341. Closing Arguments

A. Closing arguments may be made by respondent in proper person or by legal counsel followed by closing arguments from prosecuting legal or special counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§343. Board Decisions

A. The board's decision shall be based on finding(s) of fact and conclusion(s) of law. The board's decision shall be based on clear and convincing evidence presented at a formal hearing, together with the board's determination of any appropriate sanctions, by an affirmative majority record vote of the board members participating in the decision process. Decisions shall be recorded and made part of the record.

1. Board Order. The board's order shall be rendered at the open hearing or taken under advisement and rendered within 30 days of the hearing and then served personally or domiciliary at the respondent's last known address by regular, registered, or certified mail, or by a diligent attempt thereof.

2. Finality of Board Order. The board's order becomes final eleven days after receipt of notification of the board's decision by respondent, provided an appeal is not filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§345. Complaint Dismissal

A. The board, in their discretion and based upon lack of evidence, may orally dismiss at an open hearing a pending matter or parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§347. Transcripts

A. A complete record of all formal hearing proceedings shall be transcribed, maintained, and available upon written request with sufficient costs of the preparation of the transcript for a minimum of three years from the date the pertinent order(s) is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§349. Contempt

A. A failure of a respondent or witness to comply with a board order, after being duly served, constitutes contempt and the board may petition a court of competent jurisdiction

to rule the witness or respondent in court to show cause why he should not be held in contempt of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§351. Administrative Review

A. Rehearing. An aggrieved respondent may file within ten days a rehearing motion in proper form requesting reconsideration or a rehearing by the board or by the interlocutory hearing panel.

B. Grounds. The board or an interlocutory hearing panel may reconsider the motion for rehearing at the next regularly scheduled board meeting. The grounds for such action shall be either that:

1. the board's decision was clearly contrary to the law or evidence; or
2. newly discovered evidence not available at the time of the hearing which may be sufficient to reverse the board's decision; or
3. issues not previously considered ought to be examined; or
4. it is in the public interest to reconsider the issues and the evidence.

C. Time. The board or an interlocutory hearing panel shall grant or deny the petition for rehearing within 30 days after its submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§353. Judicial Review

A. An aggrieved respondent may appeal the board's decision to a court of appropriate jurisdiction within 30 days from the board order or rehearing motion denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1248.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§355. Reporting

A. The board may publish in the board's newsletter the sanctions imposed by the board that are of public interest and the public's right to know.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§357. Reinstatement

A. An application for reinstatement based on revocation or suspension of a pharmacist license, pharmacy permit, certification, registration, or any other designation authorized by the board shall be filed with and heard by the reinstatement committee for consideration and recommendation to the full board. The board may then hold a formal hearing whereby the burden of proof shifts to the applicant to demonstrate and support with substantial evidence respondent's rehabilitation and that the reinstatement of the license, permit, certification, registration, or other board-authorized designation at issue

would not pose a danger to the public's health, safety, or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§359. Declaratory Statements and Advisory Opinions

A. The board may issue declaratory rulings in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. These may include a declaratory statement or an advisory opinion, in the form of a ruling which has the same status as board decision in adjudicated cases, in response to a request for clarification of the effect of rules and regulations or of R.S. 37:1161 et seq. Advisory opinions as a statement of the board's ruling are generally rendered in cases that relate to specific situations. Declaratory statements contain the board's ruling relative to the petition, with the principles and rationale that support the ruling. Declaratory statements are generally rendered in situations that relate to widespread situations. Neither an advisory opinion nor a declaratory statement has the binding force of law, but they represent the board's expert opinion relative to the matter in question.

B. A request for a declaratory statement or for an advisory opinion is made in the form of a petition to the board. At a minimum, the petition shall include:

1. the name and address of the petitioner;
2. specific reference to the statutes or rules and regulations to which the petition relates;
3. a concise statement of the manner in which the petitioner is aggrieved by the rule, regulation, or statute, or by its potential application to the petitioner, or in which the petitioner is uncertain of its effects;
4. a statement of whether an oral hearing is desired; and
5. other information appropriate for the board's deliberation on the request.

C. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 60 days prior to the next scheduled board meeting.

D. The declaratory statement/advisory opinion of the board on said petition shall be in writing and mailed to petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§501. Application

A. An application for initial pharmacist licensure, whether by examination or reciprocity, shall be submitted, with appropriate fee, to the board at least 30 days prior to any examination. An application shall expire one year after the date of receipt in the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§503. Examination

A. Examination. A board-approved licensure examination shall consist of integrated pharmacy subject matters and any other disciplines the board may deem appropriate in order to demonstrate competence. An applicant shall achieve a passing score, as determined by the board, in the pharmacy examination.

B. Re-Examination

1. Following the first or second unsuccessful attempt of an examination for licensure, an applicant may be permitted to attempt that examination for licensure.

2. Following the third unsuccessful attempt of an examination for licensure, an applicant shall not be permitted to attempt that examination for licensure until one year from the date of the last examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§505. Licensure

A. The board shall issue a license upon payment of appropriate fees when the board is satisfied the applicant is competent to practice pharmacy in the state.

1. License Display. A pharmacist's license shall be displayed in a conspicuous place in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said license may be seen by patrons.

2. Identification Card. The board shall issue an identification card to a pharmacist who completes the licensure process. A pharmacist shall have this identification card on his person when practicing outside of his principal practice site in order to show proof of licensure.

3. Renewal. The board shall mail the annual pharmacist license renewal application to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A pharmacist's renewal of licensure shall be displayed in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said renewal may be seen by patrons. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

a. Active. A pharmacist applicant shall pay the annual renewal fee, attain minimum continuing pharmacy education (CPE) as required, and complete and submit the annual renewal form to the board office before December 31 of each year.

b. Inactive. A pharmacist applicant may make a written request for inactive status from the board. The inactive pharmacist must complete the annual renewal form furnished by the board and submit it with the appropriate fee to the board before December 31 of each year. An inactive pharmacist shall not engage in the practice of pharmacy and is not required to obtain CPE. In order to upgrade an inactive license to active status, an inactive pharmacist shall petition the board and meet requirements of the reinstatement committee and the board. The board shall set the requirements necessary to assure competency for each individual applying for active status.

D. Expired License. A pharmacist license that has not been renewed by December 31 of each year shall expire and be null and void. The holder of an expired license may submit a written request, complete with any supporting documentation, for reinstatement to the board. The request may be referred preliminarily to the board's reinstatement committee for an informal hearing and recommendation that may be considered by the board at its next regularly scheduled meeting. The board may reinstate an expired license upon payment of applicable annual, delinquent, and lapsed license fees pursuant to R.S. 37:1184, as amended, and other conditions as the board deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§507. Continuing Education Program

A. The board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

B. Definitions

1. ACPE American Council on Pharmaceutical Education.

2. CPE continuing pharmacy education, a structured postgraduate educational program for pharmacists to enhance professional competence.

3. CPE unit A standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

C. Requirements

1. A minimum of one and one-half ACPE or board-approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

2. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the board.

3. When deemed appropriate and necessary by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

D. Compliance

1. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

2. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241(A)(2), and shall constitute a basis for the board to refuse licensure renewal.

3. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241(A)(22).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1306 (October 1997), amended LR 29:2083 (October 2003).

§509. Address Change

A. A licensed pharmacist shall notify the board within ten days, with documentation, attesting to any change of mailing and/or home address. This documented notice shall

include the pharmacist's full name and license number, and the old and new address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§511. Employment Change

A. A licensed pharmacist shall notify the board within ten days, with documentation, attesting to any change in employment. This documented notice shall include the pharmacist's full name and license number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§513. Certified Pharmacist Preceptor Program

A. Qualifications for Certified Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and shall have been actively practicing for not less than two consecutive years prior to the date of application.

2. The applicant shall not be on probation with the board at the time of application.

B. Certified Pharmacist Preceptor Requirements

1. The applicant shall complete a board-approved certified pharmacy preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certification. The board may issue a Pharmacist Preceptor Certification after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years after the date of issue, and may be renewed upon application to the board and verification by the board that all requirements have been satisfied.

b. The board shall reserve the right to refuse to issue or terminate any Pharmacist Preceptor Certification for cause.

c. The Pharmacist Preceptor Certification shall be conspicuously displayed at the primary preceptor pharmacy location.

C. A Certified Pharmacist Preceptor Program shall meet all requirements established by the board.

D. A certified pharmacist preceptor shall not supervise more than one intern at any given time. Interns satisfactorily progressing in their final academic year in a board-approved college of pharmacy shall not be counted in that 1:1 ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2286 (October 2000), amended LR 29:2084 (October 2003).

Subchapter B. Professional Practice Procedures

§515. Prospective Drug Utilization Review

A. A pharmacist shall review the patient record and each prescription presented for dispensing for purposes of enhancing pharmacy care and therapeutic outcomes by recognizing the following potential situations:

1. drug over-utilization or under-utilization;
2. therapeutic duplication;
3. drug-disease contraindications;
4. drug-drug interactions;
5. inappropriate drug dosage or treatment duration;
6. drug-allergy interactions; or
7. clinical abuse/misuse.

B. Upon recognizing any of the above situations, the pharmacist, using professional judgment, shall take appropriate actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§517. Patient Counseling

A. Patient counseling means the effective communication by a pharmacist of information to the patient or caregiver, in order to ensure proper use of drugs and devices.

B. Minimum Requirements. At a minimum, the pharmacist should be convinced that the patient or caregiver is informed of the following:

1. name and description of the medication;
2. dosage form, dosage, route of administration, and duration of therapy;
3. special directions and precautions for preparation, administration, and use by the patient;
4. common severe side effects or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required in the event of their occurrence;
5. techniques for self-monitoring drug therapy;
6. proper storage of the medication;
7. prescription refill information, if any; and
8. the action to be taken in the event of a missed dose.

C. The pharmacist may supplement oral information with written information, but shall not use written information alone to fulfill the counseling requirement.

D. Patient Information

1. The pharmacist shall make a reasonable effort to obtain, record, and maintain the following information:

- a. name, address, and telephone number;
- b. date of birth (or age) and gender;
- c. allergies/drug reactions, disease state(s); and
- d. current list of all medications.

E. Communication to the Patient

1. A pharmacist shall counsel the patient or caregiver "face-to-face" when possible or appropriate. If it is not possible or appropriate to counsel the patient or caregiver "face-to-face," then a pharmacist should counsel the patient or caregiver by using alternative methods. The pharmacist shall exercise his professional judgment in the selection of alternative methods, including but not limited to, telephonic or electronic communication with the patient or caregiver.

2. A pharmacist shall provide patient counseling to patients discharged from hospitals and/or other institutions, where applicable. However, counseling shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer medication(s).

3. The pharmacist shall maintain appropriate patient-oriented drug information materials for use by the patient upon request.

F. Waiver. No pharmacist or pharmacy may solicit or encourage blanket waivers for patient counseling. However, nothing in this regulation shall prohibit the patient or caregiver from declining patient counseling.

AUHTORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§519. State of Emergency

A. When the governor issues, or renews, a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq.:

1. a pharmacist may work in the affected parish(es) and may dispense a one-time emergency prescription of up to a 30 day supply of a prescribed medication if:

a. in the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy; and

b. the pharmacist makes a good faith effort to reduce the information to a written prescription marked "Emergency Prescription," then file and maintain the prescription as required by law;

2. a pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in those affected parish(es) during the time that a state of emergency exists if:

a. the pharmacist has some type of identification to verify current licensure in another state; and

b. the pharmacist is engaged in a legitimate relief effort during the emergency period.

B. The authority provided for in this Section shall cease with the termination of the state of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2085 (October 2003).

§521. Prescription Orders to Administer Medications

A. Purpose. The Rules of this Section describe the minimum requirements for the administration of medications to patients by Louisiana-licensed pharmacists.

B. A licensed pharmacist may administer medication directly to a patient upon the prescription or order of a practitioner. Such a prescription or order shall be known as an "Authority to Administer."

1. An Authority to Administer is valid only for the pharmacist meeting the requirements herein and is not transferable.

2. An Authority to Administer, once granted, is valid for a period of time not to exceed six months, unless revoked sooner by the practitioner granting the order.

C. A properly executed Authority to Administer shall:

1. identify the licensed practitioner's name, office address, and telephone number;

2. bear the patient's name, address, gender, and date of birth;

3. identify the medication, dose, and route of administration;

4. identify the pharmacist authorized to administer the medication; and

5. bear the date of the original order and the date of any authorized subsequent dose administrations.

D. Requirements. Unless otherwise specifically authorized by the board, a pharmacist shall meet the following minimum standards to qualify for an Authority to Administer:

1. obtain and maintain a license to practice pharmacy from the board;

2. successfully complete a board-approved course of study from a board-approved provider that:

a. requires documentation by the pharmacist of current certification in the American Heart Association's Basic Cardiac Life Support for Healthcare Providers, its successor, or board-approved equivalent;

b. is an evidence-based didactic course that meets current Centers for Disease Control and Prevention (CDC) training guidelines, or other guidelines as designated by the board, and provides a minimum of twenty hours of instruction and experiential training in the following content areas:

i. standards for medication administration practices;

ii. basic immunology;

iii. recommended medication administration schedules;

iv. vaccine storage and management;

v. informed consent;

vi. physiology and techniques for medication administration;

vii. pre- and post-administration assessment and counseling;

viii. medication administration record management; and

ix. management of adverse events, including identification and appropriate response, as well as documentation and reporting; and

c. provides documentation of the successful completion of the course to the participant.

i. The pharmacist shall display the certificate of completion in the primary practice site.

ii. The pharmacist shall submit a copy of said certificate to the board office for placement in the pharmacist's permanent file.

E. The pharmacist shall maintain continuing competency to accept an Authority to Administer, as evidenced by:

1. a current certification by the American Heart Association's Basic Cardiac Life Support for Healthcare Providers, its successor, or board-approved equivalent; and

2. successful completion of at least one hour of continuing education per year related to this area of practice.

F. Vaccines. The pharmacist shall maintain and furnish the following information to the practitioner within 24 hours of the administration:

1. name and address of the patient;

2. age of the patient, if under fourteen years of age;

3. name of the patient's primary care physician as provided by the patient or patient's agent;

4. name, manufacturer, and lot number of the vaccine administered;

5. amount administered;
6. date of vaccine administration;
7. site of vaccine administration;
8. route of administration; and
9. name, address, and telephone number of the pharmacist administering the vaccine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2085 (October 2003).

Chapter 7. Pharmacy Interns

§701. Definition

A. A *pharmacy intern* is an individual who is not yet licensed as a pharmacist in any jurisdiction, and is:

1. engaged in the practice of pharmacy while under the direct and immediate supervision of a pharmacist for the purpose of obtaining practical experience for licensure as a pharmacist, and is satisfactorily progressing in a board-approved college of pharmacy; or
2. a graduate of a board-approved college of pharmacy awaiting examination for licensure; or
3. a graduate who has established educational equivalency through a program approved by the board; or
4. an individual participating in a residency or fellowship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1306 (October 1997), amended LR 26:2284 (October 2000), amended LR 29:2086 (October 2003).

§703. Registration

A. All pharmacy interns shall meet the following requirements for registration.

1. All pharmacy interns shall register with the board. The failure to register may result in disciplinary action by the board.
 - a. The applicant shall submit to the board office a properly completed application no later than the end of the first semester of the first academic year at a board-approved college of pharmacy.
 - b. The board may issue an Intern Registration to the applicant, upon receipt of a properly completed application, appropriate fee, and any other documentation required by the board office.
 - c. The Intern Registration shall expire one year after the certification of graduation from a board-approved college of pharmacy.
 - d. The Intern Registration shall be conspicuously displayed at the preceptor site.
 - e. The board shall reserve the right to recall or refuse to issue any Intern Registration for cause.
2. A pharmacy intern shall wear appropriate attire and be properly identified with his name and intern status while on duty at the preceptor site.
3. A pharmacy intern shall notify the board in writing within ten days of a change of address. This notice shall include the pharmacy intern's name, registration number, and old and new addresses.

4. A pharmacy intern shall notify the board in writing within 10 days of a change in location(s) of employment. This notice shall include the pharmacy intern's name and

registration number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

5. The pharmacy intern shall be non-impaired.

a. The pharmacy intern is subject to confidential random drug screen testing and/or evaluations.

b. A positive drug screen may be self evident as proof of improper drug use. For the purposes of this Chapter, a missed screen, a screen submitted beyond the mandated period, and/or any screen submitted indicating the sample provided is diluted, substituted, or in any way adulterated is considered to be a positive drug screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003).

§705. Practical Experience

A. All applicants for licensure by examination shall earn practical experience in the practice of pharmacy concurrent with attending or after graduation from a board-approved college of pharmacy.

B. The practical experience shall be predominantly related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under federal and state law.

1. The practical experience earned shall have been under the supervision of a certified pharmacist preceptor.

2. A pharmacy intern shall not earn hours in a permitted pharmacy site that is on probation with the board or under the supervision of a pharmacist who is on probation with the board.

C. Practical Experience Hours. Interns shall supply, on an affidavit form supplied by the board office, evidence of earning at least 1,500 hours of practical experience. Interns may submit their affidavit(s) to the board office for credit approval either prior to, or concurrent with, their application for pharmacist licensure.

1. In order to receive credit for the 1,500 hours of practical experience upon certification of graduation, a pharmacy intern shall comply with the following:

a. prior to beginning his final academic year in a board-approved college of pharmacy, the intern shall earn a minimum credit of 500 hours under the supervision of a certified pharmacist preceptor at a permitted pharmacy site; and

b. The intern shall earn a minimum credit of 1,000 hours within the board-approved college of pharmacy's professional experience curriculum; and further, of the 1,000 hours within that professional experience curriculum, not less than 300 hours shall be earned in a traditional community pharmacy dispensing practice, and not less than 300 hours shall be earned in a traditional hospital pharmacy dispensing practice, as certified by the dean of the college of pharmacy.

2. If credit is not received for the total required 1,500 hours upon certification of graduation pursuant to the provisions of §705.C.1, the intern shall earn 1,500 hours of practical experience under the supervision of a certified pharmacist preceptor at a permitted pharmacy site after

certification of graduation from a board-approved college of pharmacy.

3. Practical experience hours earned either prior to the final academic year, or after certification of graduation from a board-approved college of pharmacy, that are submitted to the board for credit consideration shall be listed on an affidavit form supplied by the board office, and signed by the certified pharmacist preceptor and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. Certification of Hours To and From Another Jurisdiction.

a. Interns enrolled in a board-approved college of pharmacy in Louisiana who earn hours of practical experience in another jurisdiction, as well as interns enrolled in a board-approved college of pharmacy in another jurisdiction who earn hours of practical experience in another jurisdiction, may transfer those hours to Louisiana under the following conditions:

i. the hours of practical experience shall be listed on an affidavit form supplied by the Louisiana Board of Pharmacy, signed by the preceptor pharmacist and the intern, and submitted to the Louisiana Board of Pharmacy for consideration of credit; and

ii. the board of pharmacy in the jurisdiction where the hours were earned shall certify those hours to the Louisiana Board of Pharmacy;

iii. the Louisiana Board of Pharmacy may grant credit for all hours that comply with the Louisiana Board of Pharmacy's requirements as delineated in this Section.

b. Upon written request by the pharmacy intern, the Louisiana Board of Pharmacy may certify practical experience hours earned in Louisiana to a board of pharmacy in another jurisdiction.

5. Credited hours of practical experience shall expire on the expiration date of the Intern Registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003).

Chapter 9. Pharmacy Practice

Repealed.

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1101. Pharmacy

A. Qualification. Individuals, partnerships, corporations, limited liability companies, or associations desiring to operate a pharmacy in Louisiana, or outside the state where prescriptions drugs/devices are dispensed and delivered to Louisiana residents, shall execute an application for a pharmacy permit for their particular classification of pharmacy.

B. Appearance. The applicants, including the pharmacist-in-charge, may be required to personally appear before the board prior to a board decision on the permit application.

C. Pharmacy Permit

1. Initial. A completed pharmacy permit application shall be signed by the pharmacist-in-charge and the owner of the pharmacy and submitted to the board for approval.

2. Renewal. A pharmacy permit that has not been renewed by December 31 of each year shall expire and be null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1310 (October 1997), amended LR 29:2087 (October 2003).

§1103. Prescription Department Requirements

A. A prescription department of a pharmacy shall provide sufficient floor space allocated to ensure that drugs are compounded and dispensed in a well lighted, ventilated, climate controlled, and safely enclosed structure.

B. Restricted. A prescription department is a restricted area.

C. Square Footage. A prescription department that is new or remodeled on or after January 1, 2004 shall be not less than 300 total square feet, and shall be inaccessible to the public.

D. Prescription Counter. A prescription counter on which to compound or dispense medications shall have a working surface of not less than a minimum of 24 total square feet. The minimum unobstructed free working surface shall be kept clear at all times for the compounding or dispensing of prescriptions.

E. Prescription Aisle Space. The aisle space behind the prescription counter shall be not less than 30 inches in width.

F. Prescription Department Plumbing. A sink equipped with hot and cold running water shall be located within the prescription department. A sink located in a pharmacy restroom shall not be sufficient to satisfy this requirement.

G. Electronic Record Keeping System. An electronic record keeping system shall be utilized in a pharmacy department and shall be a complete, accurate, and readily retrievable prescription record keeping and storage system.

H. Drug Inventory

1. Storage. The pharmacy shall provide sufficient space on-site for proper storage of labels, prescription containers, and an adequate prescription inventory in order to compound and dispense prescription orders. Drugs that require special storage shall be properly stored.

2. Missing or Damaged Inventory. When significant drug inventory is missing or damaged for any reason, the pharmacy owner or pharmacist-in-charge shall file with the board a signed statement of the circumstances of such occurrence and evidence that the appropriate law enforcement authorities were notified as required by law.

3. Equipment. The pharmacy shall provide sufficient fixtures, equipment, and utensils to ensure that drugs are properly compounded and dispensed.

I. Pharmacy Security. The prescription department shall be adequately secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist

and made inaccessible when the prescription department is closed. Any premises housing a prescription department shall be adequately secured by an alarm system.

J. Emergency Access. An additional key to the prescription department may be maintained in a secure location outside the prescription department for use during an emergency. A log shall be maintained with the key, indicating the name of each non-pharmacist using this key, the date and time of entry, and the nature of the emergency.

K. References. A printed copy of the *Louisiana Board of Pharmacy Laws, and Regulations* shall be maintained and readily available within the prescription department of a pharmacy. The pharmacy shall maintain access to current and appropriate reference materials pertinent to the pharmacy practice, including but not limited to, pharmacology, drug interactions, dosing, toxicity, and patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003).

§1105. Pharmacist-in-Charge

A. An initial and renewal pharmacy permit application shall designate and identify the licensed pharmacist-in-charge.

B. Authority and Accountability. The pharmacist-in-charge shall be ultimately responsible for complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department. This responsibility necessarily includes accountability for any violation involving federal or state laws or regulations occurring within the prescription department supervised by a pharmacist-in-charge.

C. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

D. Circumvention. It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

E. Records. The pharmacist-in-charge shall be responsible for the proper maintenance of all prescription records. This necessarily includes electronic prescription records and the system's compliance and capacity to produce the required records.

F. Recall. The pharmacist-in-charge shall be responsible for the implementation of a recall procedure that can be readily activated to assure patient safety.

G. Discontinued and Outdated Drugs. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures to ensure that discontinued or outdated drugs, or containers with worn, illegible, or missing labels are withdrawn from the pharmacy inventory.

H. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 10 days of the prior pharmacist-in-charge's departure date. The permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 10 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least ten days prior to this voluntary departure, unless replaced in a shorter period of time.

I. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This notarized document shall be submitted to the board for inclusion in the pharmacy's record in the board office.

J. A pharmacist shall not hold a pharmacist-in-charge position at more than one pharmacy permit, unless approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003).

§1107. Pharmacy Operation

A. A pharmacist shall be on duty at all times during regular open hours of the pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003).

§1109. Pharmacist Temporary Absence

A. A pharmacist shall be considered to be temporarily absent from the prescription department when not within the confines of the prescription department but remains on-site.

B. The pharmacist may be temporarily absent from the prescription department for breaks and meal periods without closing the prescription department and removing pharmacy personnel providing the following conditions are met:

1. at least one certified pharmacy technician or pharmacy intern remains in the prescription department;
2. the pharmacist is available for emergencies;
3. the temporary absence does not exceed 30 minutes at a time and a total of 60 minutes in a 12-hour period;
4. the pharmacist reasonably believes that the security of the prescription department will be maintained in his absence; and
5. a notice is posted that includes the following information:
 - a. the fact that the pharmacist is taking a break; and
 - b. the time the pharmacist will return.

C. If the pharmacist, in his professional judgment, determines it necessary, all personnel shall be removed from the pharmacy and the pharmacy shall be secured for the duration of the temporary absence, and notice shall be posted indicating the pharmacy is closed.

D. During a temporary absence, certified pharmacy technicians or pharmacy interns may continue to process prescription orders, provided that no orders processed during the pharmacist's temporary absence be removed from the prescription department prior to the final check by the pharmacist.

E. If the pharmacist is absent less than five minutes from the prescription department, this absence is not considered a "temporary absence" within the meaning of this Chapter and will not require a posted notice, provided the prescription department's security is not compromised.

F. If at any time the pharmacist deems it necessary to leave the on-site facility, the pharmacy shall be closed in accordance with §1111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:2237 (December 2001) effective January 1, 2002, amended LR 29:2088 (October 2003)

§1111. Pharmacist Absence

A. A pharmacist is considered absent from the prescription department when he is not in the prescription department and is off-site.

B. When a pharmacist is absent from the prescription department, the prescription department must be securely closed and made inaccessible. A sign shall be displayed in a conspicuous position in front of the prescription department giving notice of closure. The sign shall be at least 8 1/2 x 11 inches with the following wording in black letters at least one inch high: PRESCRIPTION DEPARTMENT CLOSED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 24:692 (April 1998), amended LR 29:2089 (October 2003).

§1113. Mechanical Drug Dispensing Devices

A. Dispensing of prescription drugs directly to a patient or caregiver by mechanical devices or machine is prohibited. This prohibition shall not apply to automated medication systems as defined and provided for in Chapter 12 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003).

§1115. Advertising

A. False, fraudulent, deceptive, or misleading advertising as prohibited by R.S. 37:1241 of the Pharmacy Practice Act and this Section shall include, but is not limited to, any public misrepresentation done or made with the knowledge, whether actual or constructive, that is untrue or illegal, or is said to be done falsely when the meaning is that the party is in fault for its error. Actual or constructive knowledge as used in this context shall include intentionally, negligently, mistakenly, or accidentally representing an untrue fact.

B. No person shall carry on, conduct, or transact business under a name which contains a part thereof the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "druggist", "drugs", or any word or words of similar or like import, or in any

manner by advertisement, circular, poster, sign, or otherwise describe or refer to a place of business by the terms of "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "drugs", or any word or words of similar or like import, unless the place of business is a pharmacy validly permitted by the board.

C. Pharmacies and pharmacists are prohibited from advertising professional ability, experience, integrity, professional qualifications, or soliciting professional practice by means of providing prescribers of prescriptions with prescription forms imprinted with any material referring to a pharmacy or pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003).

§1117. Centralized Prescription Processing

A. Centralized prescription processing is the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

B. Labeling. All drugs dispensed to a patient that have been filled via a centralized prescription processing system shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmacy primary care activities.

C. Requirements

1. A pharmacy may only perform or outsource centralized prescription processing services provided the parties involved:

a. have the same owner; or

b. have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract in compliance with federal and state laws and regulations, and share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

2. The parties performing or contracting for centralized prescription processing services shall maintain a policy and procedure manual and documentation that implementation is occurring in a manner that shall be made available to the board for review upon request and that includes the following:

a. the maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;

b. the maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;

c. the maintenance of a mechanism to identify on the prescription label all pharmacies involved in dispensing the prescription drug order; and

d. the provision of adequate security to protect the confidentiality and integrity of patient information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2089 (October 2003).

Subchapter B. Pharmacy Records

§1119. Availability and Inspection

A. Pharmacy records shall be available and readily retrievable upon request for board inspection and review.

B. All records required by the laws and regulations of the board shall be provided to the board, or its agent, within 72 hours of request, unless a shorter period is required, as determined by the board or its agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1121. General Record Keeping

A. Requirements. A pharmacy shall maintain complete, accurate, and readily retrievable prescription drug records. All prescription drug records shall be available for board review upon request.

B. Accountability. The holder of the pharmacy permit and the pharmacist-in-charge shall account for all prescription drug transactions, consisting of:

1. acquisition recordsCinvoice receipts of drugs acquired;
2. disposition recordsCprescription orders dispensed or drugs sold; and
3. inventory recordsCdrugs in current possession.

C. Retention. All records required in this Section and by Louisiana law shall be retained for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1123. Records

A. Acquisition Records. Prescription drug acquisition records shall be required, and shall consist of documented invoices from manufacturers, wholesalers, distributors, brokers, or other sources of supply.

B. Inventory Records. Accurate and readily retrievable records regarding prescription drug acquisition invoices, distribution, and inventories shall be maintained and available for accountability and retained at the pharmacy premises. Inventories of controlled dangerous substances shall be required, where applicable, and maintained at the pharmacy.

C. Prescription Records

1. Dispensing Prescription Files. Dispensed prescription orders shall be required and maintained for a minimum of two years from the last transaction/fill date by the pharmacy, constituting proof of dispensing by adequate prescription files properly documented with the proper medical practitioner's authority and the following information:

- a. patient's name, address, and telephone number;
- b. prescriber's name, address, telephone number, and if applicable, the Drug Enforcement Administration (DEA) registration number and signature;
- c. drug name, dosage form, strength, and quantity prescribed, as well as quantity dispensed when in variance with the original order;

d. number of prescription refills authorized by the prescriber;

- e. prescription number;
- f. original dispensing date; and
- g. pharmacist's name or initials.

2. Prescription Refill Records. The following information shall be readily retrievable from the electronic record keeping system:

- a. date of refill;
- b. quantity dispensed when in variance with original order; and
- c. pharmacist's name, initials, or identification code.

D. Electronic Record Keeping System. An electronic record keeping system shall be utilized in a pharmacy and shall be a complete, accurate, readily retrievable prescription record keeping and storage system. An electronic record keeping system shall meet the following requirements.

1. Retrieval. The system shall provide on-line retrieval via screen or hard-copy printout of original prescription order information for those prescription orders that are currently authorized for refilling.

2. Summary. The system shall be capable of producing a daily hard-copy summary of controlled dangerous substance transactions.

3. Refills. The system shall be capable of recording and providing the dates of prescription refills and the identity of the pharmacist refilling those prescriptions.

4. Patient Profile. The system shall be capable of producing a patient profile that shall contain the following minimum information: patient's name and address/location, name of drug, dosage form, strength, route and frequency of administration, and pharmacist's identification.

5. Original Prescription Records. The prescription hard copy shall represent the original written order or original oral prescription reduced to written form manually or electronically produced by the pharmacist, and shall meet the record keeping requirements of this Chapter.

6. Maintenance. The original written prescription, or the written form of an oral prescription, shall be retained on file, in numerical order, for a minimum of two years from the date of dispensing or the date of the last refill dispensed.

7. Prescription Refill Information. Records of refills shall be entered into the electronic record keeping system.

8. Record. A report of all original or refilled prescriptions dispensed shall be maintained, and shall include the following:

- a. prescription number;
- b. date of initial dispensing of the original prescription and the date(s) of refilling;
- c. total number of prescription refills dispensed to date or retrievable refill history on a visual mode of display as an alternative to appearing on the hard-copy printout;
- d. patient's name;
- e. patient's address, if required;
- f. the authorized prescriber's name;
- g. authorized prescriber's address, if required;
- h. the name, strength, dosage form, and quantity of the drug dispensed; and
- i. the last name and initial of the dispensing pharmacist.

9. Backup Support System. The electronic record keeping system shall be capable of being reconstructed in

the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein. To prevent the accidental loss of electronic records, an adequate backup system shall be maintained. Backup support systems shall be updated at least once daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1125. Security

A. The electronic record keeping system shall provide adequate safeguards against improper, illegal, or unauthorized manipulation or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2091 (October 2003).

§1127. Register

A. The pharmacy shall maintain a register in which each individual pharmacist dispensing a prescription shall sign a log each day, attesting to the fact that the information entered into the electronic record keeping system has been reviewed that day, and is correct as stated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2091 (October 2003).

§1129. Confidentiality

A. A pharmacist shall provide adequate security to prevent indiscriminate or unauthorized access to confidential information. If confidential health information is not transmitted directly between a pharmacist and a practitioner, but is transmitted through a data communication device, the confidential health information may not be accessed, maintained, or altered by the operator of the data communication device. Confidential information is privileged and may be released only subject to federal privacy laws and regulations, and subject to applicable Louisiana statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location Procedures

§1131. Pharmacy Opening Procedures

A. The board has established the following procedures as a prerequisite to the opening of any pharmacy.

1. Application Form. The applicant shall obtain a Pharmacy Permit Application and Louisiana Controlled Dangerous Substance License Application from the board. The completed form(s) shall be signed by the pharmacist-in-charge and returned to the board office, with appropriate fees, not less than 30 days prior to the anticipated opening of the pharmacy.

2. Inspection. After the board has reviewed and approved the application, a board compliance officer shall conduct an on-site inspection of the premises.

3. Compliance. Upon receipt of satisfactory evidence that the applicant is in complete compliance, the board shall issue a pharmacy permit and, if requested, a Louisiana Controlled Dangerous Substance License.

D. DEA Registration. If applicable, the applicant shall obtain the appropriate application from the DEA, and then return said form, with appropriate fees, to the DEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

§1133. Pharmacy Closing Procedures

A. A pharmacy permit holder shall notify the public and the board prior to discontinuing a prescription department operation, or upon petitioning for bankruptcy.

1. Public Notice. The holder of a pharmacy permit shall post a closing notice in a conspicuous place in the front of the prescription department, and at all public entrance doors to the pharmacy. The closing notice to the public shall be posted not less than ten days prior to the anticipated date of closure, and the notice shall contain the following minimum information:

a. the anticipated date of closure of the prescription department;

b. the anticipated date of transfer or relocation of prescription files, if different than closure date;

c. the name and address of the pharmacy to which the prescription files will be transferred; and

d. a statement that if a patient objects to the transfer of their prescription files to the intended recipient pharmacy, the patient shall make alternative arrangements for the transfer of their prescription files to another pharmacy prior to the anticipated file transfer date.

2. Board Notice. The holder of a pharmacy permit shall send written notice to the board not less than ten days prior to the anticipated date of closure, and the notice shall include the following minimum information:

a. the anticipated date of closure of the prescription department;

b. the name and address of the permitted pharmacy operating within a reasonably close proximity of the closing pharmacy that shall be the custodian of the transferred prescription files; and

c. any prescription drug sale or transfer, with a complete drug inventory including recipient's name and address and/or seizure action, sequestration, executory process, public auction, liquidation, creditor assignment, and bankruptcy.

3. Disposition of Inventory

a. Drugs Listed in Schedule II. These drugs shall be either returned to the supplier or transferred to an authorized registrant, accompanied by an executed DEA Form 222, or its successor. Alternatively, these drugs shall be inventoried on the DEA Form 41 (Registrants Inventory of Drugs Surrendered), or its successor, and then either returned to the regional DEA office, or destroyed pursuant to permission from the DEA or agent of the board. The permit holder shall retain triplicate copies of returns, transfers, and/or destructions.

b. Drugs Listed in Schedules III, IV, or V. These drugs shall be either returned to the supplier or transferred to

an authorized registrant, accompanied by appropriate inventory records. Alternatively, these drugs shall be inventoried on the DEA Form 41, or its successor, and then either returned to the regional DEA office, or destroyed pursuant to permission from the DEA or agent of the board.

c. All Other Prescription Drugs. These drugs shall be returned to the supplier, transferred to an authorized registrant, or destroyed.

4. Surrender of Pharmacy Permit and Louisiana Controlled Dangerous Substance License. The holder of the permit and license shall surrender same to the board upon closing, accompanied by written confirmation of the:

a. surrender of unused DEA order forms and the DEA registration certificate to the regional DEA office with a memorandum indicating the closing date of the prescription department;

b. location of applicable records of controlled dangerous substance and other prescription drugs, order forms, inventories, acquisitions, and purchase records, with commitment to store such records for not less than two years, and to make such records available for inspection by an agent of the board; and

c. removal of all pharmacy signage from the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

§1135. Pharmacy Change of Ownership Procedures

A. The holder of a pharmacy permit shall notify the board, in writing, prior to the transfer of ownership, in order for the board to complete an inspection of the pharmacy premises.

1. A change of ownership of a pharmacy is evident under the following conditions:

- a. sale of a pharmacy;
- b. death of a sole proprietor;
- c. the addition or deletion of one or more partners in a partnership;
- d. bankruptcy sale; or
- e. a 50 percent, or more, change in ownership of a corporation, limited liability company, or association since the issuance of the original permit or the last renewal application.

2. The new owner(s) of the pharmacy shall submit a properly completed pharmacy permit application, with appropriate fee, to the board.

3. Upon receipt of the new permit, the seller shall:

- a. notify the board of the transaction, including the identity of the new owner(s);
- b. surrender the DEA registration certificate to the regional DEA office, indicating the date of the change in ownership of the prescription department; and
- c. surrender the voided pharmacy permit and voided Louisiana Controlled Dangerous Substance License to the board.

4. Pharmacy permits are not transferable from the original holder(s) of the permit to the new owner(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003).

§1137. Pharmacy Change of Location Procedures

A. The board has established the following procedures for changing the location of any pharmacy that does not involve a change of ownership or divestiture of that pharmacy.

1. The permit holder shall notify the board in writing prior to relocating a prescription department operation.

2. The proper notice procedures for the relocation shall include the notice requirements applicable to pharmacy closing procedures noted in this subpart. However, a permit cancellation is not required for a permit holder that is moving to a location in reasonably close proximity to the original location and planning to continue pharmacy operations without a transfer of ownership. The permit holder shall notify the board for the proper re-designation of permit address and re-issuance of that same permit.

3. Inspection. A board compliance officer shall conduct an on-site inspection of the premises following receipt of written notice in the board office and prior to the opening of a prescription department in a new location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003).

Chapter 13. Community Pharmacy

§1301. Definition

A. A *community pharmacy* is a pharmacy located in a non-institutional environment, and is licensed by the board to conduct professional pharmacy practice activities in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

§1303. Permit

A. A community pharmacy permit shall be required to operate a pharmacy in this state, and to dispense prescription drugs to patients in Louisiana. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

§1305. Compliance

A. A community pharmacy shall comply with all applicable federal and state pharmacy laws and regulations, including Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

Chapter 15. Hospital Pharmacy

§1501. Cross References

A. For all regulations that apply to permitted hospital pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:808 (October 1988), amended LR 29:2093 (October 2003).

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Hospital Pharmacy A pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 et seq. For the purposes of this Chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

Registered Patient A person receiving health care services within a hospital facility.

Unit Dose The packaging of individual prescription doses in a suitable container that have been properly labeled as to the identity of the generic, chemical, or trade name of the drug; strength; lot number; and expiration date. All unit doses qualify as "prepackaging" as used in this Chapter. However, all prepackaging is not necessarily in "unit dose" packaging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in that hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1507. Pharmacist-in-Charge

A. The pharmacist-in-charge of a hospital pharmacy permit shall have had at least two years of experience as a licensed and practicing pharmacist prior to accepting the appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1509. Drug Distribution Control

A. The hospital pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs. The staff of the hospital facility shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering, administering, and accounting for pharmaceuticals.

1. Procedure Manual. The pharmacist-in-charge shall maintain written procedures for the safe and efficient distribution of pharmaceutical products and delivery of

pharmacy care. An updated copy shall be available for board inspection upon request.

2. Inventories. The pharmacist-in-charge shall:

a. perform an annual inventory on all controlled dangerous substances; and

b. maintain a perpetual inventory of Schedule I and II controlled dangerous substances.

3. Records. The pharmacist-in-charge shall maintain adequate records regarding the use and accountability of controlled dangerous substances. Proof of use records for controlled dangerous substances shall be maintained separately and in such a manner as to be readily retrievable. These records shall specify the following minimum information:

a. drug name, strength, and quantity;

b. dose;

c. full name of patient;

d. date and time of administration; and

e. name of person administering the drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1511. Prescription Drug Orders

A. The pharmacist shall review the practitioner's medical order prior to dispensing the initial dose of medication, except in cases of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1513. Labeling

A. All drugs dispensed by a hospital pharmacy, intended for use within the facility, shall be dispensed in appropriate containers and adequately labeled as to identify patient name and location, drug name(s) and strength, and medication dose(s). Additionally, compounded preparations and sterile preparations shall be labeled with the expiration or beyond-use date, initials of the preparer, and the pharmacist performing the final check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1515. Ambulance Service Drugs

A. Hospital pharmacies that supply prescription drugs, including any controlled dangerous substances, to any authorized ambulance service or emergency medical service shall maintain proper records to ensure control, proper utilization, inventory, and accountability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1517. Pharmacist Absence/Drug Cabinet

A. Pharmacist Absence. In the absence of a licensed pharmacist, admittance to the pharmacy by unauthorized persons is prohibited. When the pharmacy is closed, a pharmacist shall be on emergency call.

B. Drug Cabinets. In the absence of a licensed pharmacist, arrangements shall have been formulated in advance by the pharmacist-in-charge to provide drugs for the patients by the use of drug cabinets.

1. Emergency Use. A drug cabinet is solely intended for the proper and safe storage of needed drugs when the pharmacy is closed and shall be available for emergency use by authorized hospital personnel only.

2. Security. The drug cabinet shall be a securely constructed and locked enclosure located outside the permitted pharmacy ensuring access to authorized personnel only.

3. Inventory. The pharmacist-in-charge shall be responsible for the selection and quantity of the drugs to be maintained in the drug cabinet and shall maintain a perpetual inventory of any controlled dangerous substances stored in the drug cabinet.

4. Labeling. Medications stored in a drug cabinet shall be properly labeled.

5. Quantities. Prepackaged drugs shall be available in amounts sufficient for immediate therapeutic or emergency requirements.

6. Accessibility. Written medical practitioner's orders and proof of use, if applicable, shall be provided when a drug cabinet inventory is utilized.

7. Inspection. Medications stored in a drug cabinet shall be inspected every 30 days.

8. Policy Manual. A policy and procedure manual shall be maintained to implement the drug cabinet requirements and is to be made available to the board upon request for inspection and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1519. Drug Returns

A. In a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

§1521. Off-Site Pharmacy Services

A. Availability. Pharmacy services may be procured contractually from outside the hospital for inpatient administration.

B. Contractual agreements shall provide for:

1. emergencyCthe pharmacy provider shall be available for on-call for emergency pharmacy services;

2. storageCadequate drug storage facilities shall be provided to the pharmacy provider;

3. labelingCprescription drugs supplied to hospital inpatients shall be properly labeled to ensure that adequate control, supervision, and recall of medication are monitored;

4. contractual pharmacy serviceCoff-site contractual pharmacy services rendered to the hospital shall be in accordance with federal and state laws, rules, and regulations.

C. A pharmacy providing off-site contractual pharmacy services to a hospital shall not be considered a hospital pharmacy.

D. Medications. Prescription medications independently supplied to registered patients shall comply with all appropriate board regulations and statutes and/or hospital rules, regulations, and policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

§1523. Outpatient Pharmacy Dispensing

A. Hospital outpatient dispensing shall require a separate pharmacy permit for the specialty classification(s) under these regulations. All records including the annual inventory of controlled dangerous substances for the outpatient pharmacy shall be maintained and kept separate and apart from that of the inpatient pharmacy, as the outpatient pharmacy may not acquire drugs through the hospital pharmacy permit under the provisions of the Robinson-Patman Act, 15 U.S.C. §13(c).

B. Nothing in this Section shall prohibit the dispensing of certain prescriptions from the hospital pharmacy, as allowed under the Robinson-Patman Act, 15 U.S.C. §13, including:

1. dispensing to the hospital inpatient for use in his treatment at the hospital;

2. dispensing to the patient admitted to the hospital's emergency facility for use in the patient's treatment at that location;

3. dispensing to the hospital outpatient for personal use on the hospital premises;

4. dispensing in the context of a genuine take-home prescription, intended for a limited and reasonable time as a continuation of, or supplement to, the treatment that was administered at the hospital to the recipient while an inpatient, an outpatient, or an emergency facility patient if the patient needs that treatment; or

5. dispensing to the hospital's physicians, employees, or its students for their personal use or for the personal use of their dependents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1701. Cross References

A. For all regulations that apply to permitted institutional pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2094 (October 2003).

§1703. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Institutional Facility Any organization whose primary purpose is to provide a physical environment for a patient to obtain health care services, including but not limited to a(n):

- a. convalescent home;
- b. nursing home;
- c. extended care facility;
- d. mental health facility;
- e. rehabilitation center;
- f. psychiatric center;
- g. developmental disability center;
- h. drug abuse treatment center;
- i. family planning clinic;
- j. penal institution;
- k. hospice;
- l. public health facility;
- m. athletic facility.

Institutional Pharmacy That physical portion of an institutional facility where drugs, devices, and other materials used in the diagnosis and treatment of an injury, illness, and disease are dispensed, compounded, and distributed and pharmacy primary care is provided, and is permitted by the board and is devoted exclusively to providing professional services to a patient in that institutional setting, other than a hospital.

Long Term Care Facility A nursing home, retirement center, mental care, or other facility or institution that provides extended health care to a residential patient, including but not limited to health care facilities licensed by the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2094 (October 2003).

§1705. Institutional Pharmacy Permit

A. An institutional pharmacy permit shall be required to operate a pharmacy department located within an institutional facility, other than a hospital, for residents or patients of that institutional facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2095 (October 2003).

§1707. Drug Cabinet

A. In the absence of a licensed pharmacist, arrangements shall have been formulated in advance by the pharmacist-in-charge to provide drugs for the residents/patients by the use of drug cabinets. When the pharmacy is closed, a pharmacist shall be on emergency call.

1. **Emergency Use.** A drug cabinet is solely intended for the proper and safe storage of needed drugs when the pharmacy is closed and shall be available for emergency use by authorized facility personnel only.

2. **Security.** The drug cabinet shall be a securely constructed and locked enclosure located outside the permitted pharmacy area ensuring access by authorized personnel only.

3. **Inventory.** The pharmacist-in-charge shall be responsible for the selection and quantity of drugs to be maintained in the drug cabinet and shall maintain a perpetual

inventory of any controlled dangerous substances. Medications shall be available in quantities sufficient only for immediate therapeutic needs.

4. **Labeling.** Medications stored in a drug cabinet shall bear a label with the following minimum information:

- a. drug name;
- b. dosage form;
- c. strength;
- d. name of manufacturer and/or distributor;
- e. manufacturer's lot or batch number;
- f. pharmacist's initials; and
- g. expiration date, according to United States Pharmacopeia guidelines.

5. **Accountability.** Documented medical practitioner's orders and proof of use shall be provided when any of the drug cabinet inventory is utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

Subchapter B. Emergency Drug Kits

§1709. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Emergency Drug Kit (EDK) For long-term care facilities or other board-approved sites, other than a hospital, means a drug kit containing designated emergency drugs which may be required to meet the immediate therapeutic needs of a resident or patient.

Emergency Drugs Those drugs which may be required to meet the immediate therapeutic needs of patients and which are not available from any other authorized source in sufficient time to prevent risk of harm to patients or residents because of delay resulting from obtaining such medications from such other source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

§1711. Emergency Drug Kit Permit

A. A long-term care facility, institutional facility without an institutional pharmacy, or other board-approved site, other than a hospital, that desires to maintain an Emergency Drug Kit shall obtain an EDK permit from the board.

B. **Permit Application and Requirements.** Application for an EDK permit shall be made on a form provided by the board.

1. The provider pharmacy shall apply to the board for an EDK permit. The administrator of the applicant facility shall also sign the application for said permit. Upon compliance with the required provisions, the provider pharmacy shall be issued a permit by the board for the provider pharmacy to establish and maintain an EDK in the facility.

2. The provider pharmacy shall be a Louisiana-licensed pharmacy.

3. Only one provider pharmacy shall be assigned to and be responsible for each EDK.

4. EDK permits are institutional facility-specific and not transferable.

5. A separate permit is required for each EDK.

6. The original EDK permit shall be conspicuously displayed at the provider pharmacy. A copy of the EDK permit shall be maintained in the room where the EDK is located.

C. Pharmacist-in-Charge. The pharmacist-in-charge of the provider pharmacy shall be the pharmacist-in-charge of the EDK. The maintenance of the EDK shall at all times remain the responsibility of the pharmacist-in-charge.

D. Renewal. Each EDK permit issued by the board shall be renewed annually by the provider pharmacy, at the time designated by the board. If an EDK permit is not renewed by July 1 of each year, the existing permit shall expire and become null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

§1713. Emergency Drug Kit Requirements

A. Emergency Use. An EDK is solely intended for the immediate therapeutic emergency needs of a resident or patient.

B. Security. The EDK shall be tamper-evident and shall be maintained in a secure enclosure located within the institutional facility and shall be available for emergency use by authorized personnel only.

C. Exterior Identification and Labeling. The EDK shall be clearly labeled to indicate that it is an emergency drug kit. In addition, the attached exterior label shall have an inventory of contents and contact information of the provider pharmacy.

D. Labeling. Medications stored in an EDK shall bear a label with the following minimum information:

1. drug name;
2. dosage form;
3. strength;
4. name of manufacturer and/or distributor;
5. manufacturer's lot or batch number; and
6. expiration date, according to United States Pharmacopeia guidelines.

E. Storage. All drugs in an EDK shall be stored to ensure a proper environment for the preservation of the drugs. If federal or state laws or regulations require adequate storage outside the EDK, documentation shall be kept with the EDK properly identifying this special storage requirement and drug(s) involved.

F. Policies and Procedures. Policies and procedures shall be maintained by the provider pharmacy and the applicant facility to implement the EDK requirements.

G. Accountability. Documented medical practitioner's orders and proof of use shall be provided when an EDK inventory is utilized. Medication administered to patients from the EDK shall be documented with the following information, in accordance with the institutional facility policy manual, that shall be immediately reduced to writing and a copy delivered to the provider pharmacy:

1. name of the resident patient;
2. drug name, strength, and quantity;
3. nature of the emergency;
4. time and date of administration;
5. name of person administering the medication; and
6. name of prescriber authorizing the medication.

H. Records. Records shall be readily retrievable and comply with applicable federal and state laws and regulations.

I. Inspection

1. The provider pharmacy shall inspect the EDK every 30 days, plus or minus five days. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained and made available to the board upon request.

2. The EDK shall be available for inspection by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

Subchapter C. Drug Abuse Treatment Center Pharmacies

§1715. Purpose

A. The board may issue a pharmacy permit for a drug abuse treatment center operating in the state of Louisiana where drugs are dispensed and pharmacy primary care is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1717. Cross References

A. For all regulations that apply to drug abuse treatment center pharmacies concerning pharmacy practices not specifically stated in this Subchapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1719. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Administer or Administration Cthe direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or any other means.

Authorized Personnel Cindividuals who, within the scope of their authority granted by mutual agreement of the drug abuse treatment center's pharmacist-in-charge and director, are granted access to the drug abuse treatment center's pharmacy department as part of his duties.

Dispense or Dispensing Cthe interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. "Dispense" necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

Drug Abuse Treatment Center Cany establishment, facility, or institution, public or private, whether operated for profit or not, which primarily offers, or purports to offer, maintain, or operate facilities for the residential or outpatient diagnosis, care, treatment, or rehabilitation of two or more non-related individuals, who are patients as defined herein, excluding, however, any hospital or mental hospital

otherwise licensed by the Department of Health and Hospitals.

*Patient or Client*Ca person who is dependent on, or otherwise suffering physically or mentally from the use of, or abuse of, controlled dangerous substances and who requires continuing care of a drug abuse treatment center.

*Perpetual Inventory*Ca computer record of inventory kept continuously up to date by detailed entries of all incoming and outgoing items. This includes inventory on hand, purchases, and dispensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1721. Drug Abuse Treatment Center Pharmacy Permit

A. A drug abuse treatment center pharmacy permit shall be required to operate a pharmacy department located within a drug abuse treatment facility for patients of that facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

§1723. Minimum Security Controls for Drug Abuse Treatment Centers

A. Persons enrolled in a drug abuse treatment center shall wait for their prescriptions in an area physically separated from the controlled dangerous substance (CDS) storage and dispensing area. This requirement shall be enforced by the drug abuse treatment center physician(s), pharmacist(s), and employees.

B. All CDS used in a drug abuse treatment center shall be securely locked and accessible to authorized personnel within that facility only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

§1725. Records and Reports of Drug Abuse Treatment Centers

A. All persons licensed by the Department of Health and Hospitals to operate a drug abuse treatment center and who possess a Drug Enforcement Administration (DEA) registration to purchase, possess, and use CDS shall keep the following records:

1. records of CDS received by approved persons, including date of receipt, name and address of distributor, type and quantity of such drugs received, and the signature of the individual receiving the CDS. A duplicate invoice or separate itemized list furnished by the distributor will be sufficient to satisfy this record requirement, provided it includes all required information and is maintained in a separate file. In addition, duplicate copies of federal order forms for CDS listed in Schedule II must be retained; and

2. records of CDS administered or dispensed, including date of administration or dispensing, name of patient, signature of person administering or dispensing, type and quantity of drug, and such other information as may be required by state and federal laws and regulations.

B. Records of perpetual inventories shall be kept at the permitted site as prescribed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

Chapter 19. Nuclear Pharmacy

§1901. Cross References

A. For all regulations that apply to permitted nuclear pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1903. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

*Nuclear Pharmacy*Ca board-approved facility limited to procuring, possessing, compounding, or dispensing radiopharmaceuticals or any interventional drug used in conjunction with nuclear medicine procedures. This definition shall not apply to hospital nuclear medicine departments and nuclear medicine clinics operating under the auspices of a licensed practitioner of medicine.

*Radiation*Ca any electromagnetic or ionizing radiation including gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles.

*Radioactive Material*Ca any solid, liquid, or gas that emits radiation spontaneously.

*Radiopharmaceutical*Ca drug that is a radioactive material and includes any drug that is intended to be made radioactive, as defined by the appropriate federal agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1905. Nuclear Pharmacy Permit Requirements

A. A nuclear pharmacy permit shall be required to operate a nuclear pharmacy department. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

1. A nuclear pharmacy shall have a Louisiana Radioactive Material License.

2. Nuclear Pharmacist-in-Charge. A pharmacist-in-charge of a nuclear pharmacy operation shall be a qualified nuclear pharmacist, as defined in §1907, and shall be responsible for the entire nuclear pharmacy operation.

3. Structural Requirements. A nuclear pharmacy shall provide adequate space separate and apart from other areas commensurate with the scope of service and with the following space requirements.

a. Dispensing Area. The radiopharmaceutical compounding or preparation area shall be separate and apart from other facility areas and shall be not less than 300 square feet, which may include storage and decay areas. The pharmacy area shall be sufficient to provide a work environment for the safe handling, compounding, and

dispensing of radiopharmaceuticals. This area shall be separate and inaccessible to non-pharmacy personnel.

b. Delivery and Receipt Area. An area designated for the delivery and receipt of materials requiring after-hours handling by non-pharmacy personnel. This area shall be separate from the dispensing area of the pharmacy.

c. Storage Area. A storage area sufficient to maintain the scope and content of unused and returned material for decay and disposal commensurate with the compounding and dispensing requirements of the facility.

d. Maintenance. A nuclear pharmacy shall be well maintained, clean, orderly, lighted, and properly ventilated.

e. Plumbing. A sink equipped with hot and cold running water shall be located within the nuclear pharmacy. A sink located in a pharmacy lavatory or restroom shall not be sufficient to satisfy this requirement.

4. Equipment. There shall be adequate equipment commensurate with the scope of services required and provided by the facility.

5. Supplies. There shall be adequate supplies commensurate with the compounding and dispensing needs of the facility, as well as any other services provided for by the facility, including appropriate shielding and safety devices and any other supplies necessary for the safe and legal transport of materials compounded or dispensed from the facility. There shall be appropriate supplies for the safe handling and disposal of used and unused material by employees and staff of the facility. The appropriateness of personal protective equipment shall be reviewed on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1907. Qualified Nuclear Pharmacist

A. A qualified nuclear pharmacist shall be a currently licensed pharmacist in the state of Louisiana who is listed on a Louisiana Radioactive Material License.

B. Continuing Education. Nuclear pharmacists shall obtain at least five hours of the total required hours of American Council on Pharmaceutical Education (ACPE) or board-approved continuing education on those applications and procedures specific to nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§1909. Labeling

A. Immediate Container. The immediate container that comes into direct contact with the radiopharmaceutical shall be labeled with:

1. the standard radiation symbol;
2. the words "Caution Radioactive Material";
3. the prescription control number;
4. the name of the radionuclide; and
5. the amount of radioactive material contained, in the appropriate unit of measure.

B. Outer Container. In addition to any labeling requirements of the board for non-radiopharmaceuticals, the outer container of a radiopharmaceutical to be dispensed shall also be labeled with:

1. the standard radiation symbol;
2. the words "Caution Radioactive Material";
3. the name of the radionuclide;
4. the chemical form;
5. the amount of material contained, in the appropriate unit of measure;
6. the liquid volume expressed in cubic centimeters or milliliters, where applicable; and
7. the calibration time and date for the amount of radioactivity contained.

C. The labeling requirements in this Section shall not apply to transport containers.

D. Practitioner Administered Compounds Labeling. All practitioner administered compounds, as defined in Chapter 25 of these regulations, shall be dispensed or delivered in a suitable container with a label containing the following information:

1. pharmacist's name or initials;
2. pharmacy's name, address, and telephone number;
3. preparation name;
4. prescription number or pharmacy-assigned identification number;
5. lot number;
6. beyond-use date;
7. strength and concentration;
8. practitioner's name; and
9. special storage requirements, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§1911. Quality Control and Quality Assurance

A. Quality control of radiopharmaceuticals is required on all radiopharmaceuticals compounded in a nuclear pharmacy. Appropriate quality assurance procedures shall be developed and followed for the procurement, compounding, and dispensing of all pharmaceuticals in a nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

Chapter 21. Charitable Pharmacy

§2101. Cross References

A. For all regulations that apply to permitted charitable pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§2103. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Charitable Pharmacy The practice of pharmacy at a site where prescriptions are dispensed by a charitable organization free of charge to appropriately screened and qualified patients. For the purposes of the Louisiana Administrative Code and the Pharmacy Practice Act, a "charitable pharmacy" may at times also be referred to as a "provisional permitted pharmacy."

Qualified Patients Those patients who are without sufficient funds to obtain medications as determined by strict screening guidelines based on needs assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§2105. Charitable Pharmacy Permit Requirements

A. A charitable pharmacy permit shall be required to operate a pharmacy in the state to dispense free prescription drugs to qualified patients in Louisiana. This permit shall only be granted to an organization qualified as a charitable organization by the U. S. Internal Revenue Code under 26 U.S.C. §501(c)(3), or its successor.

B. Compliance. The charitable pharmacy shall be in compliance with applicable federal, state, and local laws and/or regulations pertaining to the practice of pharmacy.

C. Guidelines. Strict screening guidelines based on needs assessment shall be developed by the charitable pharmacy to determine who is eligible as a qualified patient.

D. Review. All screening guidelines, needs assessments, and revisions shall be submitted to the board upon request.

E. Patient Dispensing. Prescriptions filled in a charitable pharmacy may only be dispensed to qualified patients of that pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2099 (October 2003).

§2107. Prescription Drug Samples

A. A charitable pharmacy shall not sell, purchase, or trade prescription drug samples.

B. A charitable pharmacy shall only possess and dispense prescription drug samples if the following conditions are satisfied:

1. the prescription drug samples are dispensed at no charge to qualified patients of that charitable pharmacy; and
2. the prescription drug samples are possessed in compliance with the Federal Prescription Drug Marketing Act of 1987, 21 U.S.C. §301 et seq., or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1307 (October 1997), amended LR 29:2099 (October 2003).

§2109. Medication Transfers

A. In facilities licensed by the Department of Health and Hospitals where United States Pharmacopeia (USP) storage requirements can be assured, prescription drugs, except controlled dangerous substances, dispensed in unit dose or in individually sealed doses may be transferred to a permitted charitable pharmacy for relabeling and dispensing to indigent patients, free of charge, pursuant to a valid prescription order.

1. The pharmacist-in-charge of the permitted charitable pharmacy shall be responsible for determination of suitability of the product for reuse.

a. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

b. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

c. No product shall be re-dispensed more than one time.

2. Pursuant to a voluntary agreement between the facility licensed by the Department of Health and Hospitals and a pharmacy holding a charitable pharmacy permit from the board, prescription drugs, except controlled dangerous substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied.

a. The physical transfer shall be accomplished by an individual authorized to do so by the charitable pharmacy.

b. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file at the facility.

c. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.

d. The drug name, strength, and expiration date shall remain on the medication package or label.

e. An inventory list of the drugs shall accompany the drugs being transferred. The list shall contain, at a minimum, the medication name, strength, quantity, and expiration date.

f. Expired drugs shall not be transferred. In the event expired drugs are received by a charitable pharmacy, the pharmacist-in-charge shall destroy them as required by law.

B. Under no circumstances may these transferred medications be re-distributed to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2099 (October 2003).

§2111. Prohibitions

A. A charitable pharmacy shall not purchase, possess, trade, distribute, or dispense controlled dangerous substances.

B. A charitable pharmacy shall not be operated, or in any way associated, with any for-profit pharmacy permitted in this state or any other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2099 (October 2003).

Chapter 23. Out-of-State Pharmacy

§2301. Purpose

A. Out-of-state pharmacies shall comply with the provisions of this Chapter in order to be and remain permitted to operate in Louisiana as an out-of-state pharmacy.

B. This Chapter applies to any place physically located outside the state of Louisiana that provides services in the state of Louisiana where prescription drugs are dispensed and/or pharmacy care is provided to residents of the state of Louisiana. This includes, but is not limited to, pharmacies providing goods and services via U.S. mail carrier, commercial carrier, the Internet, and/or directly to Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992) effective January 1, 1993, amended LR 29:2099 (October 2003).

§2303. Out-of-State Pharmacy Requirements

A. The out-of-state pharmacy shall hold a current pharmacy permit in good standing in the state(s) in which it is located and/or practicing pharmacy.

B. Each pharmacist dispensing drugs into Louisiana shall be licensed as a pharmacist in good standing in the state(s) where he practices.

C. Every out-of-state pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to Louisiana residents shall designate a resident agent and a registered office in Louisiana for the service of process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992) effective January 1, 1993, amended LR 29:2100 (October 2003).

§2305. Out-of-State Pharmacy Permit Requirements

A. The out-of-state pharmacy shall apply for a permit and annual permit renewals on forms provided by the board. The board may require such information as reasonably necessary to carry out the provisions of R.S. 37:1232, including, without limitation, the name, address, and position of each officer and director of a corporation or of the owners, if the pharmacy is not a corporation.

B. The out-of-state pharmacy shall pay an annual permit fee as defined in R.S. 37:1184.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992), LR 29:2100 (October 2003).

§2307. Pharmacist-in-Charge

A. Designation. A pharmacist licensed by the Louisiana Board of Pharmacy shall be named in the application as the pharmacy's pharmacist-in-charge for the Louisiana permit and shall be responsible for the pharmacy permit's compliance.

B. The pharmacist-in-charge shall have an active and current license in the state in which he is practicing, and further, shall not have any restrictions that prohibit the position of pharmacist-in-charge.

C. Authority and Accountability. The designated pharmacist-in-charge of the pharmacy and the pharmacy owner(s), or partners, or corporate officer(s) of the permit holder, where applicable, shall be responsible for the complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department. This responsibility necessarily includes accountability for any violation involving federal or state laws or regulations occurring within the prescription department supervised by a pharmacist-in-charge.

D. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the development and maintenance of policies regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

E. Circumvention. It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

F. Records. The pharmacist-in-charge is responsible for the proper maintenance of all prescription records. This necessarily includes electronic prescription records and the system's compliance and capacity to produce the required records.

G. Recall. The pharmacist-in-charge shall be responsible for the implementation of a recall procedure that can be readily activated to assure patient safety.

H. Discontinued or Outdated Drugs. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures to ensure that discontinued drugs, outdated drugs, or drug containers with worn, illegible, or missing labels are withdrawn from the pharmacy inventory.

I. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 10 days of the prior pharmacist-in-charge's departure date. The permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 10 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least 10 days prior to this voluntary departure, unless replaced in a shorter period of time.

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This notarized document shall be submitted to the board for inclusion in the pharmacy's record in the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2100 (October 2003).

§2309. Applicable Laws and Regulations

A. Louisiana pharmacy laws and regulations shall be applicable to regulate the practice of pharmacy for that portion of the out-of-state pharmacy's Louisiana pharmacy practice or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2100 (October 2003).

§2311. Inspection

A. The facilities and records of the out-of-state pharmacy shall be subject to inspection by the board or its designated agent(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2313. Records

A. Records shall be maintained for not less than two years.

B. The pharmacy shall maintain records of drugs dispensed to Louisiana residents in such a manner so as to be identifiable, readily retrievable, and available upon request. Said records shall be made available for inspection by the board. The pharmacy permit holder or the pharmacist-in-charge shall produce within 72 hours any information, documentation, and/or records requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2315. Counseling Services

A. The pharmacy shall maintain an incoming toll-free telephone number for use by Louisiana consumers during regular office hours. Readily available telephone counseling services shall be provided that are consistent with the reasonable standard of due care. This telephone number, plus other numbers available for use, shall be printed on each container of drugs dispensed to Louisiana residents. The toll-free telephone number shall have sufficient extensions to provide reasonable access to incoming callers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2317. Out-of-State Pharmacy Closure Procedures

A. Notice. Notice shall be afforded the board not less than ten days prior to the anticipated closure date of an out-of-state pharmacy. Said notice shall include the location of all transferred prescription files for Louisiana residents.

B. Permit. The out-of-state pharmacy permit holder shall surrender the pharmacy permit to the board upon closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2319. Jurisdiction

A. Out-of-state pharmacies soliciting, receiving, and dispensing and delivering prescription drugs and devices, including controlled dangerous substances as defined in 21 U.S.C. 1, et seq. and 21 CFR 1 et seq., or their successors, and delivered to residents in Louisiana constitutes doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2501. Prescription Drugs and Devices

A. Prescription Drugs or Devices. A prescription drug or device is a medication or mechanism that may only be dispensed by a pharmacist on the order of a licensed practitioner and shall bear the "Rx Only" notation or any other designation of similar import required by law on the label of a commercial container.

1. Dispensing. Prescription drugs or devices shall be dispensed only by a Louisiana-licensed pharmacist.

2. Possession. Prescription drugs or devices shall be procured and possessed in the course of the practice of pharmacy by a permitted pharmacy.

3. Storage. Prescription drugs or devices shall be stored in a permitted pharmacy under the immediate control and responsibility of a pharmacist.

B. Misbranded Drugs

1. Misbranded drugs are:

a. those drugs whose labeling is false or misleading in any particular manner; or

b. those drugs whose label does not bear the name and address of the manufacturer, packer, or distributor, and does not have an accurate statement of the quantities of the active ingredients; or

c. those drugs without an accurate monograph; or

d. those drugs meeting the qualifications for misbranded drugs as noted in the Federal Food, Drug, and Cosmetic Act, or its successor.

2. It is unlawful to possess or dispense misbranded drugs.

C. Adulterated Drugs

1. Adulterated drugs are contaminated medicinal substances having deleterious foreign or injurious materials, which fail to meet safety, quality, and/or purity standards.

2. It is unlawful to possess or dispense adulterated drugs.

D. Expired Drugs. Expired drugs shall not be dispensed and shall be removed from the pharmacy drug inventory.

E. Recalled Drugs. Recalled drugs shall be removed from the pharmacy inventory immediately upon notice. Recalls are classified as:

1. Class ICa situation in which there is a strong likelihood that the use of, or exposure to, a violative product will cause serious adverse health consequences or death;

2. Class IICa situation in which use of, or exposure to, a violative product may cause temporary or medically reversible adverse health consequences or where the probability of serious adverse health consequences is remote;

3. Class IIICa situation in which the use of, or exposure to, a violative product is not likely to cause adverse health consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2101 (October 2003).

§2503. Drug Returns

A. Drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2505. Investigational Drugs

A. All investigational drugs stored or dispensed by any pharmacy shall conform to appropriate and applicable federal and state laws and regulations pertaining to their use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2507. Veterinary Prescription Drugs

A. Veterinary prescription drugs are prescription medications for animal use prescribed by a licensed veterinarian pursuant to a valid veterinarian-client-patient relationship and dispensed by a licensed pharmacist to the veterinarian's client, for a legitimate medical purpose, that are unsafe for unsupervised use as defined in 21 CFR §201.105, or its successor.

B. Dispensing Requirements. Veterinary prescription drugs shall be exclusively dispensed by a duly licensed pharmacist upon the order of a licensed veterinarian, unless otherwise provided by law.

C. Labeling Requirements. Veterinary prescription drugs shall be dispensed in an appropriate container, and in addition to the labeling requirements in Chapter 11 of these regulations, shall contain the following information:

1. the commercial label inscription "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; and
2. the client's name and patient's animal species.

D. Prescription Form Requirements. Prescriptions issued by a licensed veterinarian shall conform to §2511 of these regulations.

E. Storage. Veterinary prescription drugs shall be maintained in the prescription department of a pharmacy, and shall be kept separate and apart from drugs intended for human use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2509. Prescription Devices

A. In the interest of public health, safety, and welfare, the board may, from time to time, restrict the sale of certain devices to be dispensed only by a licensed pharmacist after a legitimate medical need has been demonstrated. A legitimate medical need includes the prevention of the transmission of communicable diseases.

B. Pharmacy Device. A pharmacy device is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component or accessory, which is required

under federal law to bear the label "Caution: Federal or State law requires dispensing by or on the order of a physician," and/or "Rx Only", or other designation of similar import.

1. Hypodermic Apparatus. Hypodermic means any syringe, needle, instrument, device, or implement intended or capable of being adopted for the purpose of administering drugs by subcutaneous, intramuscular, or intravenous injection.

a. Sale. Hypodermic syringes and/or needles shall be sold or distributed only by a licensed pharmacist, physician, dentist, veterinarian, podiatrist, embalmer, drug wholesaler, surgical supplier, or other legally authorized distributor.

b. Storage. Hypodermic syringes and/or needles shall be stored in the prescription department or in another secure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

Subchapter B. Prescriptions

§2511. Prescriptions

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

*Electronic Prescription*Ca prescription transmitted in electronic form.

*Practice Affiliation*Ca practice relationship, collaboration, or practice under the supervision of a physician licensed to practice medicine.

*Prescription or Prescription Drug Order*Can order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation.

B. Written Prescriptions. A written prescription shall conform to the following format.

1. The prescription form shall not be less than four inches by five inches, and shall bear a single printed signature line.

2. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, Drug Enforcement Administration (DEA) registration number. In the event that multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including but not limited to, a marked check box next to, or circling the authorizing prescriber's printed name.

3. If the authorized prescriber is a non-physician, the prescription form shall clearly indicate the authorized prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

4. No prescription form shall contain more than four prescription drug orders. Each prescription drug order on the form shall provide the following:

a. check box labeled "Dispense as Written", or "DAW", or both; and

b. the number of refills, if any.

5. Forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

6. Equivalent Drug Product Interchange

a. The pharmacist shall not select an equivalent drug product when the prescriber handwrites a mark in the check box labeled "Dispense as Written", or "DAW", or both, and personally handwrites his signature on a printed single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

b. In the event an authorized prescriber has indicated that an equivalent drug product interchange is prohibited by handwriting a mark in the check box labeled "Dispense as Written", or "DAW", or both, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

c. For prescriptions reimbursable by Medicaid or Medicare, the authorized prescriber may only prohibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a sheet attached to the prescription order.

C. Oral Prescriptions

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist shall reduce the order to a written form prior to dispensing the medication.

2. The pharmacist shall not select an equivalent drug product when the authorized prescriber or his agent has verbally indicated a specific brand name drug or product is ordered.

3. The pharmacist may select an equivalent drug product if the authorized prescriber or his agent has given his approval to the equivalent drug product interchange. The patient shall be informed of, and consent to, the proposed cost saving interchange.

D. Electronic Prescriptions

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and if applicable, DEA registration number.

2. If the authorized prescriber is a non-physician, the prescription form shall clearly indicate the authorized prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

3. The pharmacist shall not select an equivalent drug product when the prescriber indicates in the check box labeled "Dispense as Written", or "DAW", or both, and electronically transmits his signature on the formatted single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and consents to, the proposed cost saving interchange.

4. Facsimile Prescription

a. The receiving facsimile machine of a prescription transmitted by facsimile shall be located within the pharmacy department.

b. The prescription transmitted by facsimile shall be on a non-fading legible medium.

c. All requirements applicable to written prescriptions in Subsection B shall apply to facsimile prescriptions, except Subparagraph B.6.c.

E. Exclusion. The provisions of this Section shall not apply to medical orders written for patients in facilities licensed by the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2513. Prescription Receipt and Verification

A. Receipt of a Prescription

1. Written. A pharmacist may receive and dispense a prescription that has been written and/or signed by the practitioner.

2. Oral. A pharmacist may receive and dispense a prescription that has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. Electronic Transmission. A pharmacist may receive a prescription via electronic or other means, and then reduce to hard copy, if necessary.

B. Verification. Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2103 (October 2003).

§2515. Prescriptions Based Upon Electronic Questionnaires

A. A prescription issued solely on the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, is issued outside the context of a valid physician-patient relationship, and is not a valid prescription.

B. If a pharmacist has reasons to suspect that a prescription was authorized solely on the results of an electronic questionnaire and in the absence of a documented patient evaluation including a physical examination, the pharmacist shall ascertain if that practitioner's standard of practice allows that practitioner to authorize a prescription under such circumstances. Reasons to suspect that a prescription may have been authorized in the absence of a valid physician-patient relationship, or in violation of the practitioner's standard of practice, include:

1. the number of prescriptions authorized on a daily basis by the practitioner;

2. the manner in which the prescriptions are authorized by the practitioner or received by the pharmacy, i.e., electronically;

3. the geographical distance between the practitioner and the patient(s);

4. knowledge by the pharmacist that the prescription was issued solely as a result of answers to an electronic questionnaire; or

5. knowledge by the pharmacist that the pharmacy he works for directly or indirectly participates in an internet site that markets prescription drugs to the public.

C. A pharmacist who has reasons to suspect that a prescription may have been authorized in the absence of a

valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription until he has obtained proof to a reasonable certainty of the validity of such prescription.

D. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2103 (October 2003).

§2517. Prescription Dispensing

A. Prescription dispensing means the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:

1. receiving and interpretation of the prescription order;
2. assembling the drug products and an appropriate container;
3. preparing the prescription by compounding, mixing, counting, or pouring;
4. affixing the proper label to the final container;
5. patient counseling as required; and
6. transfer of possession.

B. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2519. Prescription Refills

A. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing.

B. Controlled Dangerous Substances

1. The refilling of a prescription for a drug listed in Schedule II is prohibited.
2. A prescription for a drug listed in Schedule III, IV, or V may be refilled up to five times, if so indicated at the time issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2521. Emergency Refills

A. Using sound professional judgment, a pharmacist may refill adequate medication for a 72-hour regimen when an

emergency for medication has been adequately demonstrated and the prescribing practitioner is not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2523. Transfer of Prescription Information

A. The transfer of original and subsequent prescription information, for the purpose of refill dispensing, is permissible between pharmacies, subject to the following requirements and/or limitations.

1. The transfer of original prescription information for controlled dangerous substances listed in Schedules III, IV, or V between pharmacies is permissible on a one-time basis.

2. The transfer of prescription information for drugs not listed on Schedules II, III, IV, or V is permissible between pharmacies.

B. The required electronic record keeping system shall have a mechanism to prohibit the transfer of prescriptions for controlled dangerous substances that have been previously transferred, unless the pharmacy can electronically access the prescription drug records at the pharmacy from which the transfer is requested.

C. The original prescription that has been transferred shall be invalidated in the system for purposes of refilling, unless other pharmacies may electronically access the prescription drug records for purposes of transfer. All required information shall be maintained for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2525. Prescription Expiration

A. A prescription for a drug other than a controlled dangerous substance shall expire one year after the date written.

B. A prescription for a controlled dangerous substance listed in Schedule II, III, IV, or V shall expire six months after the date written.

C. Expired prescriptions shall not be refillable or renewable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2527. Prescription Labeling

A. An appropriate label shall be affixed to a proper container, and shall bear the following minimum information:

1. pharmacy's name, address, and telephone number;
2. prescription number;
3. authorized prescriber's name;
4. patient's name;
5. date dispensed;
6. drug name and strength;
7. directions for use, as indicated;
8. pharmacist's name or initials; and
9. cautionary auxiliary labels, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2529. Pharmacy Prepackaging

A. *Prepackaging* is the preparation of medication in a unit-of-use container by a pharmacist in a pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

B. Labeling. The label on the prepackaged container shall contain the following minimum information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's initials; and
9. expiration date according to United States

Pharmacopeia (USP) guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

Subchapter C. Compounding of Drugs

§2531. Purpose and Scope

A. Purpose. The rules of this Subchapter describe the requirements of minimum current good compounding practices for the preparation of drug products by Louisiana-licensed pharmacists for dispensing and/or administration to patients.

B. Scope. These requirements are intended to apply to all compounded products, sterile and non-sterile, regardless of the location of the patient, e.g., home, hospital, nursing home, hospice, or physician's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

§2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

Biological Safety Cabinet Ca containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, according to National Sanitation Foundation (NSF) Standard 49, or its successor.

Class 100 Environment Can atmospheric environment that contains fewer than 100 particles, of the size 0.5 microns or less in diameter, per cubic foot of air, according to Federal Standard 209E, or its successor.

Component Can ingredient used in the compounding of a drug product.

Compounding Cthe preparation, mixing, assembling, packaging, or labeling of a drug or device by a pharmacist for his patient as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or including the preparation of drugs

or devices in anticipation of prescription orders to be received by the compounding pharmacist based on routine, regularly observed prescribing patterns. Compounding does not include the compounding of drug products that are essentially copies of a commercially available product.

Cytotoxic Cany pharmaceutical that has the capability of killing living cells.

Practitioner Administered Compounds Cproducts compounded by a licensed pharmacist, upon the medical order of a licensed prescriber for administration by a prescriber for diagnostic or therapeutic purposes.

Sterile Compounding Ccompounding performed using established aseptic technique and utilizing a laminar air flow hood or other device capable of providing a sterile compounding environment. Sterile compounding shall be used when compounding parenteral medications or products, ophthalmic preparations, or any other preparation requiring sterile techniques.

Sterile Product Cany dosage form devoid of viable microorganisms including, but not limited to, parenterals, injectables, and ophthalmics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. A pharmacy shall have written procedures as necessary for the compounding of drug products to assure that the finished products have the identity, strength, quality, and purity they are represented to possess.

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment.

3. Products or duplicates of products removed from the market for the purposes of safety shall not be used to compound prescriptions for human use.

B. Beyond Use Date. Compounded medications shall be labeled with a beyond use date of no more than 180 days, unless documentation on file supports a longer beyond use date.

C. Records and Reports. Any procedures or other records required to comply with this Section shall be maintained for a minimum of two years.

D. Compounding for Prescriber's Use. Pharmacists may prepare practitioner administered compounds for a prescriber's use with the following requirements:

1. an order by the prescriber indicating the formula and quantity ordered to be compounded by the pharmacist;

2. the product is to be administered by the prescriber and not dispensed to the patient; and

3. the pharmacist shall generate a label and sequential identification number for the compounded drug.

E. Anticipated Use Products. The pharmacist shall label any excess compounded product so as to reference it to the formula used and the assigned lot number and estimated beyond use date based on the pharmacist's professional judgment and/or other appropriate testing or published data.

F. Labeling of Compounded Products

1. For patient-specific compounded products, the labeling requirements of R.S. 37:1225, or its successor, as well as this Chapter, shall apply.

2. All practitioner administered compounds shall be packaged in a suitable container with a label containing, at a minimum, the following information:

1. pharmacy's name, address, and telephone number;
2. practitioner's name;
3. name of preparation;
4. strength and concentration;
5. lot number;
6. beyond use date;
7. special storage requirements, if applicable;
8. assigned identification number; and
9. pharmacist's name or initials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003).

§2537. Requirements for Compounding of Sterile Products

A. Board Notification. An applicant or pharmacy permit holder who wishes to engage in the practice of sterile product compounding shall notify the board prior to beginning that practice, and shall receive approval from the board.

B. Personnel

1. The pharmacist-in-charge shall be responsible for the following:

a. procurement, storage, compounding, labeling, dispensing, and distribution of all prescription drugs, devices, and related materials necessary in compounding and dispensing sterile products;

b. establishment of policies and procedures for the compounding and dispensing of sterile products. The policy and procedure manual shall be current, accessible to all staff, and available for inspection by the board upon request. The policy and procedure manual shall, at a minimum, include:

- i. policies and procedures for the compounding and dispensing of sterile products;
- ii. a quality assurance program for the purpose of monitoring patient care, adverse drug reactions, personnel qualifications, training and performance, product integrity, equipment, record keeping, facilities, infection control;
- iii. guidelines regarding patient education; and
- iv. procedures for the handling and disposal of cytotoxic agents, waste, and spills;

c. documentation of competency in aseptic techniques. The aseptic technique of each individual compounding and dispensing sterile products shall be observed and evaluated as satisfactory during orientation and training, and at least on an annual basis thereafter.

2. Training and Education. All individuals compounding and preparing sterile products shall:

- a. obtain practical and/or academic training in the compounding and dispensing of sterile products;
- b. complete a minimum of one hour of American Council on Pharmaceutical Education (ACPE) or board-approved continuing education, on an annual basis, related to sterile product compounding, dispensing, and utilization;

c. use proper aseptic technique in all sterile product compounding as defined by the pharmacy practice site's policy and procedure manual;

d. qualify through an appropriate combination of specific training and experience to operate or manipulate any item of equipment, apparatus, or device to which such persons will be assigned to use to compound and dispense sterile products; and

e. maintain in the pharmacy practice site a written record of initial and subsequent training and competency evaluations. The record shall contain the following minimum information:

- i. name of the individual receiving the training/evaluation;
- ii. date of the training/evaluation;
- iii. general description of the topics covered;
- iv. signature of the individual receiving the training/evaluation; and
- v. name and signature of the individual providing the training/evaluation.

C. Physical Requirements

1. The pharmacy shall have a designated area with entry restricted to designated personnel for preparing sterile products, and the designated area shall be:

a. structurally isolated from other areas with restricted entry or access and shall be configured in such a manner so as to avoid unnecessary traffic and airflow disturbances from activity within the controlled facility;

b. used only for the preparation of these sterile products; and

c. sufficient in size to accommodate a laminar air flow hood or other device capable of providing a sterile compounding environment and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

2. The pharmacy where sterile products are prepared shall have:

a. a sink with hot and cold running water that shall be located in, or adjacent to, the area where sterile products are compounded;

b. appropriate environmental control devices capable of maintaining at least Class 100 environment in the workplace where critical objects are exposed and critical operations are performed. These devices, e.g., laminar air flow hoods, and other zonal laminar flow hoods utilizing High Efficiency Particulate Air (HEPA) filters, shall be capable of maintaining Class 100 conditions during normal activity;

c. appropriate refrigeration for storing supplies and sterile products requiring refrigeration subsequent to their preparation and prior to their dispensing or administration to patients. The pharmacy shall maintain documentation of refrigeration integrity, in accordance with its policies and procedures;

d. appropriate disposal containers for used needles, syringes, and other sharps, and if applicable, for cytotoxic waste from the preparation of chemotherapy agents and infectious wastes from patients' homes; and

e. temperature-controlled delivery containers, when required.

3. The pharmacy shall maintain supplies adequate to ensure an environment suitable for the aseptic preparation of sterile products. Within the sterile compounding area, prescription drugs, devices, and related materials shall not be stored in shipping containers constructed of corrugated cardboard or other high particulate-producing materials.

4. The pharmacy shall maintain current reference materials related to sterile products accessible to all personnel.

D. Drug Handling. Any sterile compounded product shall be shipped or delivered to a patient in appropriate temperature-controlled delivery containers as defined by USP standards and appropriately stored.

E. Cytotoxic Drugs. In addition to the minimum standards for a pharmacy established by the board, the following requirements are established for pharmacies that prepare cytotoxic drugs, to insure the protection of the personnel involved.

1. All cytotoxic drugs shall be compounded in a vertical flow, Class II Biological Safety Cabinet. Other products shall not be compounded in this cabinet.

2. Personnel compounding cytotoxic drugs shall wear protective apparel, including disposable masks, gloves, and gowns with tight cuffs.

3. Personnel compounding cytotoxic drugs shall use appropriate safety and containment techniques.

4. Prepared doses of cytotoxic drugs shall:

a. be dispensed and labeled with proper precautions on the inner and outer containers or other device capable of providing a sterile environment; and

b. be shipped in a manner to minimize the risk of accidental rupture of the primary container.

5. Disposal of cytotoxic waste shall comply with all applicable federal, state, and local requirements.

6. A "Chemo Spill Kit" shall be readily available in the work area, and shall consist of appropriate materials needed to clean up spills of hazardous drugs. Personnel shall be trained in its appropriate use for handling both minor and major spills of cytotoxic agents.

F. Quality Control

1. An ongoing quality control program shall be maintained and documented that monitors personnel performance, equipment, and facilities. Appropriate samples of finished products shall be examined to assure that the pharmacy is capable of consistently preparing sterile products meeting specifications.

a. All clean rooms and laminar flow hoods shall be certified by an independent contractor according to federal standards for operational efficiency at least every six months. Appropriate certification records shall be maintained.

b. Written procedures shall be developed requiring sampling if/when microbial contamination is suspected.

c. When bulk compounding of sterile solutions is performed using non-sterile chemicals, extensive end-product testing shall be documented prior to the release of the product from quarantine. This process shall include appropriate tests for particulate matter and testing for pyrogens.

d. Written justification shall be maintained of the chosen "beyond use" dates for compounded products.

e. Documentation shall be maintained of quality control audits at regular, planned intervals, including infection control and sterile technique audits.

G. Labeling

1. All practitioner administered sterile compounds shall be packaged in a suitable container, and shall bear a label with the following minimum information:

a. pharmacy's name, address, and telephone number;

b. preparation name;

c. strength and concentration;

d. lot number;

e. beyond use date;

f. practitioner's name;

g. assigned identification number;

h. special storage requirements, if applicable; and

i. pharmacist's name or initials.

2. The labeling for all other sterile compounds shall be in accordance with the prescription labeling requirements in §1125 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2106 (October 2003).

Subchapter D. Controlled Dangerous Substances

§2539. Controlled Dangerous Substances (CDS)

A. Purpose. The purpose of this Section is to prevent the diversion of controlled dangerous substances by prohibiting the manufacturing, distributing, dispensing, or administering of controlled dangerous substances not in the usual course of professional practice.

B. Classification. Controlled dangerous substances are specifically identified by reference, as provided in R.S. 40:961 et seq., or its successor, and 21 CFR §1308 et seq., or its successor. Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S. 40:961 et seq., or its successor, consist of the drugs or other substances, by whatever official name, common or usual name, chemical name, or trade name designated, listed in R.S. 40:961 et seq., or its successor.

C. Definition and Composition. Controlled dangerous substances are categorized into various schedules based upon the degrees of potential for abuse, as follows:

1. Schedule I:

a. the drug or other substance has a high potential for abuse;

b. the drug or other substance has no currently accepted medical use in treatment in the United States; and

c. there is a lack of accepted safety for use of the drug or other substance under medical supervision.

2. Schedule II:

a. the drug or other substance has a high potential for abuse;

b. the drug or other substance has a currently accepted medical use in treatment in the United States, or a currently accepted medical use with severe restrictions; and

c. abuse of the drug or other substance may lead to severe psychological or physical dependence.

3. Schedule III:
a. the drug or other substance has a potential for abuse less than the drugs or other substances listed in Schedules I and II;

b. the drug or other substance has a currently accepted medical use in treatment in the United States; and

c. abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

4. Schedule IV:

a. the drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

b. the drug or other substance has a currently accepted medical use in treatment in the United States; and

c. abuse of the drug or other substance may lead to limited psychological or physical dependence relative to the drugs or other substances listed in Schedule III.

5. Schedule V:

a. the drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV;

b. the drug or other substance has a currently accepted medical use in treatment in the United States; and

c. abuse of the drug or other substance may lead to limited psychological or physical dependence relative to the drugs or other substances listed in Schedule IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2107 (October 2003).

§2541. CDS License Requirements

A. A pharmacy shall apply to the board in order to receive a license to dispense controlled dangerous substances.

1. Initial Application. The Louisiana Board of Pharmacy Controlled Dangerous Substance license shall be applied for by an applicant on the board application form and approved by the board prior to opening any pharmacy having controlled dangerous substances.

2. Renewal. The CDS license shall be renewed annually. A CDS license that has not been renewed by December 31 of each year shall expire and be null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2108 (October 2003).

§2543. CDS Prescription/Order Requirements

A. Controlled Dangerous Substance Prescription Form.

1. Prescriptions for controlled dangerous substances shall be written or reduced to writing with ink, indelible pencil, printed, or electronically generated, and shall bear the following minimum information:

a. patient information:

i. full name; and

ii. address and telephone number;

b. practitioner information:

i. full name;

ii. address and telephone number;

iii. Drug Enforcement Administration (DEA) registration number; and

iv. original handwritten signature for drugs listed in Schedule II;

c. drug information:

i. name;

ii. dosage form;

iii. strength;

iv. quantity prescribed; and

v. directions for use.

2. All prescriptions for controlled dangerous substances shall be dated as of, and signed on, the day when issued.

B. Prescriptions for Drugs Listed in Schedule II

1. Prescriptions for drugs listed in Schedule II shall be signed by an authorized practitioner.

2. Prescriptions for drugs listed in Schedule II shall not be filled beyond six months after the date of issue.

3. Authorization for Emergency Dispensing. A pharmacist may dispense a prescription for a drug listed in Schedule II in the case of an emergency situation upon a prescribing practitioner's verbal authorization within the following limitations.

a. Emergency. An emergency situation exists when:

i. administration is necessary for immediate treatment;

ii. an appropriate alternate treatment is not available; and

iii. the prescribing practitioner cannot reasonably provide a written prescription.

b. Adequate Regimen. The pharmacist shall dispense a limited amount of the drug required to treat the patient during the emergency period.

c. Reduced to Writing. An oral prescription in an emergency situation shall be immediately reduced to writing, in proper form, with the required information, by the dispensing pharmacist with the dispensing pharmacist's signature.

d. Verification. A pharmacist shall verify the authenticity of an oral prescription for a drug listed in Schedule II. If the prescribing practitioner is not known to the pharmacist, he shall make a reasonable effort to determine that the oral authorization came from an authorized practitioner. Such efforts may include, but are not limited to, a callback to the prescribing practitioner, and/or other good faith efforts to insure the practitioner's authority is valid.

e. Prescription Retrieval. A written prescription for the drug listed in Schedule II, signed by the authorized practitioner, in proper form with the required information, shall be delivered to the dispensing pharmacist from the practitioner within seven days from the date the oral prescription was issued. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription that had earlier been reduced to writing. The pharmacist shall notify the nearest office of the DEA if the prescribing practitioner fails to deliver a written prescription within the specified time frame.

4. Refills Prohibited. The refilling of a prescription for a drug listed in Schedule II is prohibited.

5. Prescriptions Received Via Facsimile. A practitioner or the practitioner's agent may transmit a prescription written for a drug listed in Schedule II to a pharmacy via facsimile equipment, provided that the original signed prescription is presented to the pharmacist for review prior to the actual dispensing of the prescription, unless one of the following exceptions applies.

a. A prescription written for a drug listed in Schedule II to be compounded for direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy by facsimile. The facsimile may serve as the original written prescription.

b. A prescription written for a drug listed in Schedule II for a resident of a long-term care facility may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy by facsimile. The facsimile may serve as the original written prescription.

c. A prescription written for a drug listed in Schedule II for a hospice or terminally ill patient may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice or terminally ill patient. The facsimile may serve as the original written prescription.

6. Partial Filling. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity prescribed in a written or emergency oral prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription or written record of the oral emergency prescription.

a. The remaining portion of the prescription may be filled within 72 hours of the first partial filling. However, if the remaining portion is not filled within the 72 hour period, the pharmacist shall notify the prescribing practitioner.

b. No further quantity may be supplied beyond 72 hours without a new prescription.

c. Partial Filling for Patient of Long-Term Care Facility or for Patient with Terminal Illness. A prescription for a drug listed in Schedule II for a patient in a long-term care facility or for a patient with a terminal illness may be filled in partial quantities.

i. For each partial filling, the dispensing pharmacist shall record on the prescription whether the patient resides in a long-term care facility or has a terminal illness, and then record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the following information:

(a). the date of the partial filling;

(b). quantity dispensed; and

(c). name or initials of the dispensing pharmacist.

ii. The remaining portion may be filled within 60 days of the first partial filling. However, if the remaining portion is not filled within the 60-day period, the pharmacist shall notify the prescribing practitioner.

iii. No further quantity may be supplied beyond the 60-day period without a new prescription.

7. Completion of Prescription. After consultation with the prescribing practitioner, and the appropriate documentation thereof, a pharmacist may complete, but not alter, a prescription.

a. A pharmacist may complete the following information on a prescription:

i. patient's address;

ii. drug strength;

iii. drug quantity; and/or

iv. directions for use.

b. A pharmacist may add the following information to a prescription:

i. patient's address;

ii. drug dosage form; and/or

iii. prescriber's DEA registration number.

c. A pharmacist shall not make changes to the following information on a prescription:

i. patient's name;

ii. date of issue;

iii. drug name, except for generic interchange as allowed by law; or

iv. practitioner signature.

C. Prescriptions for Drugs Listed in Schedules III, IV, or V. Prescriptions for drugs listed in Schedules III, IV, or V may be dispensed upon receipt of oral, written, or electronic prescriptions of an authorized practitioner.

1. Oral Prescriptions for Drugs Listed in Schedules III, IV, or V. Oral prescriptions shall be promptly reduced to writing with the required information.

2. Refilling of Prescriptions for Drugs Listed in Schedules III, IV, or V. Such prescriptions are refillable, with appropriate authorization.

3. Prescription Form for Drugs Listed in Schedules III, IV, or V. Such prescriptions shall conform to the following requirements.

a. Refill Authority. A practitioner shall orally approve or inscribe refill instructions on the face of the prescription. In the absence of specific refill instructions, the prescription is not refillable.

b. Refill Period. Such prescriptions shall not be refilled more than the number of times authorized by the prescribing practitioner, and in no case shall they be refilled more than five times within six months of the date of issue. Such prescriptions shall expire and become null and void six months after the date of issue, or after five authorized refills, whichever occurs first.

c. Partial Filling. Partial filling of such prescriptions is permissible, provided that:

i. each partial filling is recorded in the same manner as a refill;

ii. the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and

iii. no dispensing shall occur after six months beyond the date of issue.

d. Refill Records. The dispensing pharmacist shall note in the required electronic record keeping system refill information, indicating the date, with quantity or variation of quantity dispensed, and pharmacist's name or initials.

D. Labeling of Dispensed Controlled Dangerous Substances. In addition to the labeling requirements enumerated in Chapter 11 of these regulations, a prescription

label for a controlled dangerous substance shall include the federal transfer caution label.

E. CDS Prescription Files. Prescription files for controlled dangerous substances shall be maintained on the pharmacy premises.

1. Prescription Files for Drugs Listed in Schedule II. Such prescriptions shall be maintained separately from other prescriptions, and shall contain the name or initials of the dispensing pharmacist.

2. Prescription Files for Drugs Listed in Schedules III, IV, or V. Such prescriptions shall be maintained separately from other prescriptions, or in the alternative, may be filed in numerical sequence with either prescriptions for drugs listed in Schedule II, or all other prescriptions. The name, or initials, of the dispensing pharmacist, as well as the dispensing date, shall be placed on, or attached to, the prescription.

3. Prescription files for all controlled dangerous substances shall be maintained in readily available and retrievable manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2108 (October 2003).

§2545. CDS Dispensing

A. Controlled dangerous substances shall only be dispensed by a licensed pharmacist at a permitted pharmacy in the usual course of professional practice pursuant to a valid prescription or order. A valid prescription or order is a prescription or order issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice.

B. Professional Conduct. A license, registration, certification, permit, or any other designation deemed necessary to practice, or assist in the practice, of pharmacy may be subject to discipline when deviating from primary or corresponding responsibility to avert the following prohibited acts.

1. Primary Responsibility

a. Drug Diversion. Attempted, actual or conspired dispensing, distributing, administering, or manufacturing of a controlled dangerous substance not pursuant to a valid prescription or order while acting in the course of professional pharmacy practice is prohibited.

b. Possession. Actual or conspired possession of a controlled dangerous substance not pursuant to a valid prescription or order issued for a legitimate medical purpose by an authorized practitioner in the usual course of professional practice.

2. Corresponding Responsibility

a. Medical Purpose. The prescribing practitioner has the primary responsibility to issue a prescription for a controlled dangerous substance for a legitimate medical purpose, but a corresponding responsibility rests with the pharmacist dispensing said prescription to ascertain that said prescription was issued for a legitimate medical purpose in the usual course of professional practice.

b. Authenticity. A pharmacist shall exercise sound professional judgment to ascertain the validity of prescriptions for controlled dangerous substances. If, in the

pharmacist's professional judgment, a prescription is not valid, that pharmacist shall not dispense said prescription.

3. Forged Prescriptions. It is unlawful for a pharmacist to forge a prescription, or to dispense a forged prescription, for a controlled dangerous substance. The pharmacist shall exercise professional diligence in determining the validity of a prescription as to the practitioner's authority and/or patient's identity, in order to prevent misrepresentation, fraud, deception, subterfuge, conspiracy, or diversion of controlled dangerous substances.

4. Altered Prescriptions. It is unlawful for a pharmacist to personally alter a prescription, or to dispense an altered prescription, for a controlled dangerous substance, except as provided by law or this Chapter.

C. Accountability. The pharmacist-in-charge, the registrant/permittee, and/or other designated responsible parties, shall be accountable for shortages of controlled dangerous substances or inconsistencies indicated in an audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2110 (October 2003).

§2547. CDS Record Keeping

A. The permittee shall maintain readily retrievable, complete, and accurate transaction records, as follows:

1. DEA order forms;

2. receiving invoices such that invoices for drugs listed in Schedule II shall be maintained separately, but invoices for drugs listed in Schedules III, IV, and V may be maintained with general records provided they are readily retrievable;

3. prescription files; and

4. inventory records of all controlled dangerous substances, including the initial, annual, and current inventory.

B. Inventory Records. Such records shall be complete and reflect an accurate accounting of all transactions involving controlled dangerous substances.

1. Content. The record shall reflect the following information:

a. drug name, strength, and correct accounting supported with invoices, prescriptions, and/or transfers;

b. permittee name and address;

c. permittee's DEA registration number;

d. date of inventory, including whether taken at opening or close of business;

e. time period;

f. available prior inventory;

g. signature of pharmacist-in-charge; and

h. inventory records shall be maintained for two years.

2. Initial Inventory Record. An initial inventory of all controlled dangerous substances shall be conducted when the permittee commences to dispense prescriptions for controlled dangerous substances.

3. Annual Inventory Record

a. A complete and accurate physical inventory shall be conducted of all drugs listed in Schedule II.

b. An estimated physical inventory shall be conducted of all drugs listed in Schedules III, IV, and V,

unless the container holds more than 1,000 tablets or capsules, in which case an exact inventory shall be made.

c. The annual inventory may be taken on any date that is within one year of the previous inventory date.

4. Business Termination Inventory. An inventory of all controlled dangerous substances shall be taken when a permittee's pharmacy is sold, exchanged, assigned, closed, or transferred, with a copy of said inventory mailed to the board and the DEA.

5. Pharmacist-in-Charge Termination Inventory. An inventory of all controlled dangerous substances shall be conducted by the departing pharmacist-in-charge and verified by the succeeding pharmacist-in-charge.

6. Central Records. A central records depository shall be permitted, if approved by both the DEA and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2110 (October 2003).

§2549. CDS Theft or Loss

A. The unexplained substantial loss, disappearance, or theft of controlled dangerous substances from a pharmacy shall be documented by the permittee.

1. Inventory. The permittee shall conduct a physical inventory of all controlled dangerous substances.

2. Report. The permittee shall substantiate the loss or theft of controlled dangerous substances by completing the DEA Form 106C Report of Theft or Loss of Controlled Substances, or its successor.

3. Notice. The permittee shall file the above-referenced report to the DEA and to the board within 10 days of discovery of the theft or loss.

4. Drug Diversion. The permittee shall report diversion of controlled dangerous substances to the board within ten days of discovery of the diversion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2551. CDS Returns

A. A permittee is authorized to return drugs listed in Schedule II to a legally authorized supplier or reverse distributor, provided that an executed DEA 222 form, or its successor, shall be completed by said supplier or reverse distributor and maintained by the permittee.

B. A permittee is authorized to return drugs listed in Schedules III, IV, or V to a legally authorized supplies or reverse distributor, provided that a written record is maintained, including the following information:

1. the date of the transaction;
2. the drug name, dosage form, strength, and quantity;
3. the name, address, and DEA registration number of the supplier or reverse distributor; and
4. the name, address, and DEA registration number of the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2553. CDS Destruction

A. Destruction. Deteriorated, outdated, recalled, or nontransferable drugs shall be inventoried on DEA Form 41C Registrants Inventory of Drugs Surrendered, or its successor. The registrant shall forward three copies of the completed form to the regional DEA office and await DEA's instructions on proper procedures. A copy of the inventory sent to the regional DEA office shall be sent to the board.

B. Record Retention. The registrant shall maintain all applicable records for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2555. Pharmacy Termination or Transfer

A. A permittee discontinuing dispensing of controlled dangerous substances shall notify the board and then remove the drugs, through return or transfer, to legally authorized recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2557. CDS Transfers

A. Transfer to Practitioner's Office. A permittee may distribute controlled dangerous substances to a DEA-registered practitioner for the purpose of administering said drug for office use, provided that the following conditions are met.

1. The transfer of drugs listed in Schedule II to a DEA-registered practitioner for office use shall require the completion of a DEA Form 222, or its successor.

2. The transfer of drugs listed in Schedules III, IV, or V to a DEA-registered practitioner for office use shall require a written order, or an oral order reduced to written form, and the order shall be maintained with the receiving invoices for said drugs.

B. Transfer Between Pharmacies

1. The transfer of drugs listed in Schedule II to another pharmacy shall require the completion of a DEA Form 222, or its successor.

2. The transfer of drugs listed in Schedules III, IV, or V to another pharmacy shall require a written record, containing at a minimum, the drug name, strength, and dosage form; quantity of drug transferred; and the name, address, and DEA registration number of the recipient pharmacy.

C. Limitations. The total number of dosage units of all controlled dangerous substance distributed by a permittee during a calendar year shall not exceed five percent of the total number of dosage units of controlled dangerous substances procured by the permittee during the same calendar year. Should the permittee desire to exceed the 5 percent limitation, the permittee shall apply for a distributor's permit from the Louisiana Board of Wholesale Drug Distributors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:21111 (October 2003).

Chapter 27. Illegal Payments; Required Disclosures of Financial Interests

Subchapter A. General Information

§2701. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement, and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, or their successors, requiring disclosure of a pharmacist's financial interest in another health care provider to whom or to which the pharmacist refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Pharmacists owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, recommending, or referring patients for health care items or services. The purpose of these Rules and the laws they implement is to prevent payments by or to a pharmacist as a financial incentive for the referral of patients to a pharmacist or other health care provider for healthcare services or items. These Rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:21112 (October 2003).

§2703. Definitions

A. As used in this Chapter, the following terms have the meaning ascribed to them by this Section.

Board Cthe Louisiana Board of Pharmacy.

Financial Interest Ca significant ownership or investment interest established through debt, equity, or other means and held, directly or indirectly, by a pharmacist or a member of a pharmacist's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice Ca group of two or more pharmacists and/or other health care providers legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each pharmacist who is a member of the group provides substantially the full range of services which the pharmacist routinely provides;

b. for which substantially all of the services of the pharmacists who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which no pharmacist who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the pharmacist, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such pharmacist; and

d. in the case of a faculty practice plan associated with a hospital, institution of higher education, or pharmacy school with an approved training program in which pharmacist members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item Cany substance, product, device, equipment, supplies, or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider Cany person, partnership, corporation, or association licensed by a department, board, commission, or other agency of the state of Louisiana to provide, or which does in fact provide preventive, diagnostic, or therapeutic health care services or items.

Immediate Family Cas respects a pharmacist, the pharmacist's spouse, children, parents, siblings, stepchildren, stepparents, in-laws, grandchildren and grandparents.

Investment Interest Ca security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership or limited liability company, bonds, debentures, notes, or other debt instruments.

Payment Ctransfer or provision of money, goods, services, or anything of economic value.

Person Cas defined in R.S. 37:1164(33). or its successor.

Pharmacist Cany individual currently licensed by the board to engage in the practice of pharmacy in the state of Louisiana.

Pharmacy Cany place where drugs are dispensed and pharmacy primary care is provided.

Referral Cany direction, recommendation, or suggestion given by a health care provider to a patient, directly or indirectly, which is likely to determine, control, or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral Cany arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a pharmacist, or an immediate family member of such pharmacist, and another health care provider that is intended to induce referrals by the pharmacist to the health care provider or by the health care provider to the pharmacist, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

Significant Financial Interest Can ownership or investment interest shall be considered "significant," within the meaning of §2713, if such interest satisfies any of the following tests:

a. such interest, in dollar amount or value, represents five percent or more of the ownership or investment interests of the health care provider in which such interest is held; or

b. such interest represents 5 percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2112 (October 2003).

Subchapter B. Illegal Payments

§2705. Prohibition of Payments for Referrals

A. A pharmacist or pharmacy shall not knowingly and willfully make, or offer to make, any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the pharmacist for the furnishing, or arranging for the furnishing, of any health care item or service.

B. A pharmacist or pharmacy shall not knowingly and willfully solicit, receive, or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing, or arranging for the furnishing, of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2707. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a pharmacist or pharmacy knows or should know has a principal purpose of ensuring or inducing referrals by the pharmacist to another health care provider, which, if made directly by the pharmacist or pharmacy would be a violation of §2713, shall constitute a violation of §2713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2709. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership, shall not be deemed a payment prohibited by R.S. 37:1745(B), or its successor, or §2705 of these regulations.

B. General Exceptions. Any payment, remuneration, practice, or arrangement which is not prohibited by or unlawful under §1128(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), or its successor, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, or its successor, shall not be deemed a payment prohibited by R.S. 37:1745(B), or its successor, or by §2705 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2711. Effect of Violation

A. Any violation of, or failure of compliance with, the prohibitions and provision of §2705 of this Chapter shall be deemed a violation of the Pharmacy Practice Act, R.S. 37:1161 et seq, providing cause for the board to sanction a person culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

Subchapter C. Disclosure of Financial Interests in Third-Party Health Care Providers

§2713. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A pharmacist or pharmacy shall not make any referral of a patient outside the pharmacist's or pharmacy's group practice for the provision of health care items or services by another health care provider in which the referring pharmacist has a financial interest, unless, in advance of any such referral, the referring pharmacist or pharmacy discloses to the patient, in accordance with §2713 of this Chapter, the existence and nature of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 29:2113 (October 2003).

§2715. Form of Disclosure

A. Required Contents. The disclosure required by §2713 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the pharmacist's or pharmacy's name, address, and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the pharmacist or pharmacy;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the pharmacist's or pharmacy's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §2713 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to this rule shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2113 (October 2003).

§2717. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of, or failure of compliance with, the prohibitions and provision of §2713 of this Chapter shall be deemed a violation of the Pharmacy Practice Act, R.S. 37:1161 et seq., providing cause for the board to sanction a pharmacist or pharmacy culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by R.S. 37:1241, upon proof of violation of §2713 by a pharmacist or pharmacy, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payor on behalf of a patient, for health care items or services furnished upon a referral by the pharmacist or pharmacy in violation of §2713, be refunded by the pharmacist or pharmacy to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003).

§2719. Disclosure of Financial Interest

[Name of Pharmacist/Group]
[Address]
[Telephone Number]

DISCLOSURE OF FINANCIAL INTEREST
As Required by R.S. 37:1744 and LAC 46:LIII.613-615

TO: _____ DATE: _____

(Name of Patient to Be Referred)

(Patient Address)

Louisiana law requires pharmacists and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the pharmacist has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products, or items:

(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

Signature of Patient or Patient's Representative)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003).

Chapter 29. Severability

§2901. Severability

A. In the event any Rule, sentence, clause, or phrase or any of these Rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining Rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such Rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Louisiana Board of Pharmacy to establish Rules and regulations that are constitutional and enforceable so as to safeguard the health, safety, and welfare of the people of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2114 (October 2003).

Malcolm J. Broussard
Executive Director
0310#012

RULE

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

Medicaid Eligibility
Family Practice Examination

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 34:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fee for the family practice examination to \$100. The family practice examination consists of a medical examination and a written report describing the Medicaid applicant's medical condition. Reimbursement is only available to Medicaid enrolled physicians, clinics and hospitals.

David W. Hood
Secretary
0310#078

RULE

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

Pharmacy Benefits Management Program
Prescription Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the following regulations governing the provision of prescription drug benefits offered to Medicaid recipients under the Medicaid Pharmacy Benefits Management Program.

1. The Department of Health and Hospitals will pay for a maximum of eight prescriptions per calendar month for Medicaid recipients.
2. The following federally mandated recipient groups are exempt from the eight prescriptions per calendar month limitation:
 - a. persons under 21 years of age;
 - b. persons who are residents of long-term care institutions, such as nursing homes and ICF-MR facilities; and
 - c. pregnant women.
3. The eight prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:
 - a. "medically necessary override;" and
 - b. a valid ICD-9-CM Diagnosis Code that directly relates to each drug prescribed that is over the eight prescription limit (no ICD-9-CM literal description is acceptable).
4. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than eight prescriptions per calendar month is required by the recipient.
5. Printed statements without the prescribing practitioner's signature, check-off boxes or stamped signatures are not acceptable documentation.
6. An acceptable statement and ICD-9-CM are required for each prescription in excess of eight for that month.
7. Pharmacists and prescribers are required to maintain documentation to support the override of a prescription limitation.

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

David W. Hood
Secretary

0310#076

RULE

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

Private Hospital/Outpatient Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the December 20, 1997 Rule governing the reimbursement methodology for outpatient hospital services by adjusting the interim rate to a hospital specific cost to charge ratio calculation based on the latest filed cost report. These cost to charge ratio calculations will be reviewed on an ongoing basis as cost reports are filed and will be adjusted as necessary. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs.

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

David W. Hood
Secretary

0310#077

RULE

**Department of Revenue
Policy Services Division**

Collection of Tax on Vehicles (LAC 61:I.4307)

Under the authority of R.S. 47:303 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4307 relative to the collection of sales and use tax on the sale of vehicles.

This amendment repeals LAC 61:I.4307.B.4.h.ii.(a) through (d)(ii), which pertain to the Local Sales Tax Recovery Surcharge. This surcharge, provided for under R.S.

47:303(B)(6), allows automobile lessors or renters subject to the Automobile Rental Tax levied by R.S. 47:551 to transfer the cost of local sales and use tax paid on automobiles purchased for lease or rental to their customers by allocating the local taxes to each automobile rental contract. Previously, the Rule accomplished this by allowing dealers to charge \$2 per rental day per contract as reimbursement for the local sales and use tax paid on their rental fleet. Since 1996, automobiles have been excluded from local sales and use tax when purchased for subsequent lease or rental and therefore the Local Sales Tax Recovery Surcharge is obsolete.

The repealed Subclauses have been replaced with LAC 61:I.4307.B.5. This amendment also renumbered the remainder of Subsection B as LAC 61:I.4307.B.6 through 9.b.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4307. Collection

A. - B.4.h.ii. ...

5. R.S. 47:303(B)(6) allows automobile lessors or renters that are subject to the Automobile Rental Tax imposed by R.S. 47:551 to transfer to their customers any local sales or use tax paid on automobiles purchased for their rental fleet. However, since July 1, 1996, R.S. 47:301(10)(a)(iii) has excluded automobiles purchased for subsequent lease or rental from local sales or use tax. Therefore, the transfer of local sales and use tax allowed by R.S. 47:303(B)(6) is obsolete and automobile lease or rental dealers are no longer allowed to collect this surcharge.

6. The sales tax exemption for isolated or occasional sales of tangible personal property provided by R.S. 47:301(10)(c)(ii) does not apply to sales of motor vehicles. R.S. 47:303(4) provides that isolated or occasional sales of vehicles are specifically defined to be sales at retail and subject to the sales tax.

7. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-tractors, trailers, semi-trailers, motor buses, house trailers, or any other vehicle subject to the vehicle registration license tax law or the title registration law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. The statements shall include the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the

purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of this Subsection.

8. R.S. 47:303(A)(3) allows a credit against the use tax for taxes paid to another state provided the other state allows a similar credit for taxes paid to Louisiana.

9.a. Generally, a certificate of title or vehicle registration will not be issued to any purchaser for any vehicle on which the sales taxes have not been paid. However, R.S. 47:303(B)(5) provides an exception for purchasers who paid the proper taxes due to the vehicle dealer at the time the vehicle was purchased, but the dealer did not remit the taxes to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the secretary showing that:

i. all state and local sales taxes and fees due by the purchaser were paid in good faith to the motor vehicle dealer at the time of purchase;

ii. the motor vehicle dealer has not yet remitted the taxes and fees to the vehicle commissioner;

iii. the motor vehicle dealer has refused or is unable to respond to a written demand by the purchaser for payment of the taxes and fees to the vehicle commissioner; and

iv. the certificate of title or vehicle registration license has not been issued within the six months after the date of the sale.

b. If the purchaser's request appears reasonable and the facts represented are found to be accurate, the secretary may authorize the vehicle commissioner to issue a certificate of title or a vehicle registration license. If the secretary denies the purchaser's request, the denial will be in writing and the purchaser may file an appeal with the Board of Tax Appeals within 60 days after the date of denial by the secretary.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 20:316 (March 1994), amended by the Department of Revenue, Policy Services Division, LR 29:2116 (October 2003).

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0310#013