

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Restriction on Application of Certain Pesticides (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend an existing regulation for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels, have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops, particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana agricultural producers.

The department has, therefore, determined that these Rules implement further restrictions on the application of 2, 4-D, and products containing 2, 4-D.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of 1 quart or less or 2 pounds dry weight or less.

B. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

1. Registration Requirements

a. Prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i, the owner/operator must first register such intent by notifying the Louisiana Department of Agriculture and Forestry, Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. All permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of

the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations promulgated there under or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section may be subject to a stop order, subject to an appeal to the Advisory Commission on Pesticides.

3. 2, 4-D or Products Containing 2, 4-D

a. Application Restriction

i. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes: Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of LA Highway 104 and LA Highway 26 and north of U.S. Highway 190 between U.S. Highway 165 and LA. Highway 13 in the parishes of Allen and Evangeline, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or Products Containing 2, 4-D

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from DPEP. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from DPEP. Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;
- iii. field location and quantity of acreage;
- iv. time of application;
- v. grower name, address and phone number;
- vi. owner/operator firm name, address and phone number;
- vii. applicator name, address, phone number and certification number;
- viii. product name and EPA registration number;

- ix. any other relevant information.
- b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:
 - i. weather patterns and predictions;
 - ii. wind speed and direction;
 - iii. propensity for drift;
 - iv. distance to susceptible crops;
 - v. quantity of acreage to be treated;
 - vi. extent and presence of vegetation in the buffer zone;
 - vii. any other relevant data.
- 5. Monitoring of 2, 4-D or Products Containing 2, 4-D
 - a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.
 - b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:

Family Impact Statement

The proposed amendments to Rules XXV.143 governing the use of the pesticide 2, 4-D and products containing 2, 4-D should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

- 1. the stability of the family;
- 2. the authority and rights of parents regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on June 28, 2007, at 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding this Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Restriction on Application
of Certain Pesticides**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs or economic benefits to affected persons or non-governmental groups. Rules and regulations pertaining to restrictions on the application of 2, 4-D and products containing 2, 4-D are already in place. These rules simply amend these regulations to incorporate emergency rules which have been placed into effect on an annual basis.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0705#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
Board of Regents**

Proprietary Schools (LAC 28:III.Chapters 1-21)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., notice is hereby given that the State Board of Regents for advertisement to repeal the old rules and adopt new rules and regulations to LAC 28, Part III, Proprietary Schools.

**Title 28
EDUCATION**

Part III. Proprietary Schools

Chapter 1. General Provisions

§101. Citation and Abbreviation

A. These rules and regulations of the Board of Regents ("Board") govern the licensing and monitoring of proprietary schools operating in Louisiana upon the recommendation and advice of the Proprietary Schools Advisory Commission ("Commission").

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2) and (E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§103. Definitions

A. *Proprietary Schools*, hereinafter referred to as "school"—any business enterprise operated on a profit or on a nonprofit basis which maintains a place of business within

this state, or which sells or offers for sale any course of instruction in this state, either by correspondence using the mails or by any other means of communication, or by personal solicitation, at which place of business such course or course of instruction or study is available through classroom instruction, or both, to a person or persons for the purpose of training or preparing such person(s) for a field of endeavor in a business, trade, technical, or industrial occupation, except as hereinafter excluded. For purposes of this definition, a school that sells or offers for sale any course of instruction in this state through the internet or by correspondence is deemed a school only if it is also domiciled in the state or has a physical presence in the state. Physical presence shall include a mailing address in the state, a solicitor recruiting students in the state, or actual facilities in the state. The definition of a school shall not include:

1. a school or educational institution supported entirely or partly by public funds from either a local or state source. This provision only exempts from the board's regulation those schools that derive direct and significant support from public funds (such as through direct appropriation, and not schools that derive indirect benefit from public funds, such as through contractual payments from governmental agencies);

2. a parochial, denominational or eleemosynary school or institution that provides religious training or theological education; however, any such school or institution that also offers training in a secular field of endeavor shall be subject to the provisions of this Chapter;

3. a school or training program which offers instruction primarily in the field of recreation, health, entertainment or personal enrichment and which does not purport to prepare or qualify persons for employment as determined by the commission;

4. a course or courses of instruction or study sponsored by an employer exclusively for the training and preparation of its own employees when the employer is not primarily engaged in the business of selling or offering course of instruction or study. This includes those businesses that engage in contract training exclusively, and where admission/enrollment is not available to the general public;

5. a course or courses of study or instruction sponsored by a recognized trade, business or professional organization for the instruction of the members of such organization;

6. private colleges and universities which only award a baccalaureate or higher degree and which maintain and operate educational programs for which academic credits are given;

7. a private school which provides a basic academic education comparable to that provided in the public schools of the state;

8. a school offering a program only for children under six years of age;

9. a school which is otherwise regulated and licensed under the laws of this state;

10. a private tutor, teacher or individual engaged in giving private tutoring or lessons to five persons or less in non-school connected activities severed from the regular curriculum of a school as determined by the commission;

11. a day camp;

12. a training program that does not have attendance requirements in place for persons taking the courses and which offers for sale only non-sequential and non-continuous courses of one week duration or less which do not exceed 20 hours of training;

13. a manufacturer-certified training center that offers, at no additional charge to the person receiving training, manufacturer-authorized training that is included as part of the manufacturer's pricing package to prepare persons for certification conferred by the manufacturer and that uses course equipment and materials which are developed and sold by the manufacturer and course instructors and facilities which are certified by the manufacturer;

14. a school or business enterprise which offers instruction to prepare students for tests which are required for entry into a post secondary program of study; or

15. a business which engages in contract training and is reimbursed by the business.

B. *Branch School*—a separate facility established by a main school, under the main school's management, control and supervision. The branch may offer full student services and is under the supervision of a designated on-site employee responsible for the day-to-day operation of the branch. Each branch school shall be separately licensed and bonded.

C. *Commission Staff*—the staff of the board's Proprietary Schools Section, authorized to aid in the administration of the commission's functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.2(5).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§105. Proprietary Schools Law and the Administrative Procedure Act Incorporated

A. R.S. 17:3141.1 et seq., inclusive, known as the Proprietary Schools Law, and R.S. 49:951 et seq., known as the Administrative Procedure Act, in their currently existing form and as may be amended, are hereby incorporated herein. All remedies and procedures available to the public under these laws, as they pertain to this commission, are hereby made available herein as rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.1, R.S. 49:954.1(A), R.S. 17:3141.3(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§107. Computation of Time

A. In computing a period of time allowed or prescribed by these rules, by law or by order of the commission or of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday or a day of the weekend, in which event the period runs until the end of the next day, which is not a legal holiday or a day of the weekend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), La. C.C.P. art. 5059.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 3. Procedures

Subchapter A. General Procedural Rules

§301. Initiation of Proceedings

A. Proceedings. Proceedings for the adoption, amendment, or repeal of a rule may be commenced by the

board or commission upon its own initiative or pursuant to reasonable grounds therefore. The commission however, shall initiate procedures to adopt, amend or repeal a rule whenever the attorney general requests same.

B. Process for Initiation. Any interested person may petition the commission requesting the adoption, amendment, or repeal of a rule. The petition shall be filed in the office of the commission located at the Claiborne Building, the Louisiana Board of Regents, Proprietary Schools Section, 1201 N. Third St., Suite 6-200, Baton Rouge, LA, 70802 or P.O. Box 3677, Baton Rouge, LA 70821, or such other address in the event the commission relocates, at any time during normal office hours, from 8 a.m. to 4:30 pm, except for legal holidays and the weekend. Within 90 days after submission of a petition, the commission shall either deny the petition in writing stating reasons for the denial, or shall initiate rule-making proceedings in accordance with these rules. Any person whose petition is not deemed by the commission sufficient to warrant the holding of a rule-making proceeding will be promptly notified of that determination and may be given an opportunity to submit additional data.

C. Investigations and Conferences. In connection with any rule-making proceedings, the commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary.

D. Notice. Prior to the adoption, amendment, or repeal of any rule, the commission shall give notice of its intended action in accordance with R.S. 49:953(A)(1). The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made a timely request of the agency for advance notice of its rule-making proceedings and shall be published at least once in the official state journal.

E. Opportunity to be Heard. Prior to the adoption, amendment, or repeal of any rule, the commission shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, in accordance with R.S. 49:953(A)(2).

F. Emergency Rules. If the commission finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided above, it may proceed to adopt emergency rules in accordance with R.S. 49:953(B). The Emergency Rule thus adopted may be effective for a period not to exceed 60 days, but the adoption of an identical rule otherwise under these rules is not precluded.

G. Filing, Publication and Effective Date of Rule. The commission shall file with the Office of State Register a certified copy of any rule or regulation adopted upon the completion of a rule-making proceeding and publish the same in the official state journal in accordance with R.S. 49:954. Such rules or regulations shall become effective pursuant to R.S. 49:954(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953, R.S. 49:954.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter B. Pleadings

§303. Petition to Adopt, Amend or Repeal a Rule

A. Petition to Adopt, Amend, or Repeal a Rule—

1. a petition to adopt, amend, or repeal a rule shall be typed or printed on either standard letter size bond paper or on standard legal size bond paper;

2. the petition shall be dated and shall contain the following:

a. the title of the pleading (i.e., "petition");

b. the names of the petitioners;

c. the names of representatives and legal counselors of such petitioners (if applicable);

d. all pertinent allegations of fact, data, views, arguments and reasons supporting the action sought by the petition;

e. a statement or prayer expressing the exact action sought by the petition; and

f. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons;

3. the petition, in setting forth all pertinent allegations of fact, data, views, arguments, and reasons supporting the action sought by the petition, shall contain separate, numbered paragraphs, one for each fact, data, view, argument, and reason set forth;

4. the petition, in expressing the exact action sought by it, shall cite and quote the rule to be adopted, amended, or repealed; and if a rule is sought to be amended, the petition shall quote the rule as it would read after amendment, if it were in fact amended; and

5. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

B. Other Pleadings. Pleadings of any type may be submitted to the commission. They shall be similar in form to that of petitions, except that they may exclude those things peculiar to petitions and shall include those things to which they pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter C. Citation and Production of Evidence for Rule-Making Procedures

§305. Voluntary Submission of Evidence

A. Any interested person may voluntarily submit evidence, testimonial or real, to the commission, such evidence being relevant and material to any issue involved in the adoption, amendment or repeal of any rule, to the corroboration of or to the unreliability or inaccuracy of any witness or other source of evidence submitted, or to the credibility or non-credibility of any witness or other source of evidence submitted, in the same form and manner as otherwise provided herein or by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter D. Public Hearings

§307. Adjudication

A. Process. In any matter defined as adjudication in R.S. 49:951(1), notice shall be given, hearings held and a decision or order issued, all in accordance with the procedures provided for adjudications in R.S. 49:955-961. Upon the conclusion of the hearing and consideration of all evidence presented, the commission shall submit a recommended decision or order to the board for board approval.

B. Rules of evidence:

1. the commission may admit and give probative effect to evidence which possesses probative value and which is commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It shall 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 commission of which it desires to avail itself, 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. In case of incorporation by reference, the materials so incorporated shall be available for examination by all interested persons before being received in evidence; and

3. notice may be taken of judicially recognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the commission's specialized knowledge. All persons who have shown an interest therein shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The commission's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

C. Admission of Depositions. The presiding officer or any person interested in a proceeding before the commission may take the depositions of witnesses, within or without the state, in the same manner clothed with all the formalities as provided by law for the taking of depositions. Depositions so taken shall be admissible in any proceeding affected by this Chapter. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the presiding officer in accordance with the rules of evidence provided in this Chapter above.

D. Reopening Hearing and Rehearings. The commission may reopen any hearing for good cause shown, and may grant a rehearing in accordance with R.S. 49:959.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:955, R.S. 49:956, R.S. 49:959.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter E. Declaratory Orders and Rulings

§309. Declaratory Orders and Rulings

A. The commission shall consider petitions for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board, submitted pursuant to R.S. 49:962, hold hearings if necessary, and submit a recommended declaratory order or ruling. A petition for a declaratory order or ruling shall contain:

1. the title of the pleading (e.g., "Petition for Declaratory Order");
2. the names of the petitioners;
3. the names of representatives and legal counselors of such petitioners (if applicable);
4. a concise statement of the issue posed, along with citations to the statute, rule or order at issue;
5. a clearly organized statement of all pertinent allegations of fact and data, and if the petitioner takes a specific position on the issue, the arguments and reasons supporting such position;
6. a statement or prayer expressing the exact action sought by the petition;
7. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons; and
8. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 5. License Requirements

§501. Applications

A. General

1. All applications must comply with the provisions of R.S. 17:3141.4, as well as any applicable provisions of these regulations. All applications concerning licenses are to be submitted to the commission at the following address or such other address in the event the commission relocates:

Louisiana Board of Regents
Proprietary Schools Section
Post Office Box 3677
Baton Rouge, LA 70821-3677

2. All applicable fees, as provided below, must be by company, institutional, certified check, or by money order and must be made payable to the "Louisiana Board of Regent", with the exception of the Student Protection Fund which is to be made payable to the "Student Protection Fund." Except for overpayments toward the Student Protection Fund, no portion of any license fee shall be subject to refund.

B. Initial Application and License Fee. The initial license application fee shall be \$2,000. A payment of \$1,000 toward the student protection fund must be paid along with the license fee.

C. Renewal Application and Fee

1. The annual renewal application fee is based on the school's gross tuition revenues for the previous year as follows.

Under \$50,000	\$500
\$50,000 and up	Greater of \$1,000 or 0.25% of gross tuition income

2. If a complete license renewal application is not received at least 30 days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of \$500. In addition to the renewal application fee and any delinquent fee, a payment to the Student Protection Fund, if applicable, must be made in accordance with R.S. 17:3141.16.

D. License Fee for Solicitors. The annual license fee for each solicitor/sales representative of a school shall be \$100.

E. Reinstatement Licensure Fee. The reinstatement licensure fee for a suspended school shall be \$500.

F. Change of Ownership Application and License Fee. All changes of ownership are contingent upon approval from the board. Applications for a new license must be requested within 10 days of the change of ownership. No license shall be transferable. The application fee is \$2,000. A payment of \$1,000 toward the student protection fund must be made along with the application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.9(A)(1).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§503. Student Protection Fund

A. First Payment. Initial (new) schools and change-of-ownership schools shall be required to submit their first payment of \$1,000 made payable to the "Student Protection Fund" with their application.

B. Annual Payment. The required annual payments, if applicable, to the Student Protection Fund shall be collected based on the schedule provided in R.S. 17:3141.16.

C. Collection Schedule. Annual payments shall cease when the fund accumulates to \$800,000 but shall resume when the fund drops below \$750,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§505. Affidavits

A. Applications and renewal applications must be accompanied by affidavits (PSC-9 Form) by each owner, director, instructor, and all office and clerical personnel, unless previously approved, and Solicitor Permit Applications (PSC-4 Form) by each solicitor containing the information prescribed by Subsection C(11) or R.S. 17:3141.1 (for solicitor renewal, see Section 703). In the case of office and clerical personnel, in lieu of the affidavits of such personnel, the owner may submit an affidavit setting forth the information prescribed by Subsection C(11) of R.S. 17:3141.4 concerning such personnel. Such information shall be based on the owner's investigation and knowledge. For solicitor renewal, see Section 703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4(D).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§507. Surety Bond

A. Each license application must be accompanied by a surety bond in the amount of \$10,000 issued by a surety authorized to do business in Louisiana. The bond must meet the requirements set forth in R.S. 17:3141.5 and the PSC-3 Form. Bond releases and terminations shall be as provided in R.S. 17:3141.5(D) and (E), and suspension of operating license for lack of surety bond coverage is governed by R.S.17:3141.5(F). A school may be exempted from filing a surety bond if it meets all of the following requirements:

1. does not require students to pay tuition for course of study more than one month in advance;

2. has been in continuous operation for at least five years; and

3. has met all the requirements of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(D), R.S. 17:3141.5(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§509. Other Provisions Concerning License

A. A license shall be valid only for the school and shall not include other schools or branches operated by the owner. Each separate location or branch school shall be licensed and bonded. No new courses shall be offered by any school holding a license until it is approved by the commission staff in accordance with procedures to be established by the commission.

B. Each license must be displayed on the premises. No license shall be transferable. In the event of a change of ownership of the school, the license shall be revoked unless the new owner, within 10 days after the change of ownership, requests an application for a license to operate the school.

C. Any person who contemplates the purchase of a school may apply for a license. If the board grants such a license, it shall become a valid license only upon completion of the proposed sale.

D. All licenses shall be renewed annually, not less than 30 days prior to expiration date thereof. Updated information must contain all changes in staff, school programs, etc., including all additions and deletions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(B)(C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§511. Denial of Recommendation of License and Commission Hearing

A. If the commission or commissioner recommends the denial of a license, the commission shall hold a hearing upon the applicant's request, as provided in R.S. 17:3141.6. The applicant may appear in person or by counsel and may present evidence in support of granting the license. The decision or order resulting from a hearing before the commission is subject to rehearing, reopening, or reconsideration by the commission within 10 days from the date of its entry on the grounds set forth in R.S.49:959 and in accordance with the procedures therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§513. Revocation of License

A. Licenses may be revoked by the board in accordance with the standards and procedures set forth in R.S.17:3141.8 and statutory and regulatory provisions applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 7. Personnel Affidavits/Permits

§701. Completion of Affidavits by Non-Instructional Personnel/Instructional Personnel

A. Completion of Affidavit by Non-Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by the owner of each school (if a corporation, by each officer and by each director) and by each staff person, except solicitors:

- a. full name and address of said person and the capacity in which he/she serves the school;
- b. the city, parish/county, and state of said person's permanent residence and places of residence for the past five years;
- c. the names and addresses of said person's employer or employers for the past five years;
- d. whether or not said person has ever been convicted of a felony for a crime involving fraud or any misdemeanor other than a traffic violation; and
- e. three persons who may be contacted concerning such person's good moral character.

2. In the case of office and clerical personnel, in lieu of affidavits by the office and clerical personnel, the owner may submit the information in the form of an affidavit by the owner, based on the owner's investigation and knowledge. (Refer to §505.)

B. Completion of Affidavit by Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by each person who will be serving as an instructor at the school:

- a. full name and address of said person and the capacity in which he/she serves the school;
- b. the names and addresses of said person's employer or employers for the past five years; and
- c. three persons who may be contacted concerning such person's good moral character.

2. Minimum qualifications of an instructor include the following:

- a. an instructor in an academically-credentialed area shall have a baccalaureate degree from a bonafide, accredited college or university, and demonstrate appropriate familiarity with the subject matter taught as evidenced by an academic transcript and/or occupational experience;
- b. an instructor, in other than an academically-credentialed area, shall have a high school diploma or its equivalent; a license, diploma, certificate, or other degree from a recognized institution or organization in the area taught; and four years of documented occupational experience in the area taught;
- c. as used in this Subsection, a "recognized institution or organization" shall mean any bonafide, licensed, chartered or traditionally accredited business or association legally engaged in commerce, education, training, or advocacy. Recognized institutions or organizations shall include, but not be limited to,

governmental agencies, labor unions, trade and professional corporations, and retail, financial, and commercial entities. The commission shall reserve the right to use all reasonable means in verifying the validity of credentials;

d. at the board's discretion, the minimum four years experience required for instructors may be waived for those disciplines where teaching credentials are officially certified, licensed, or otherwise approved or granted by a federal agency; and

e. employees employed prior to May 30, 1989 will be exempted from occupational experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§703. Solicitor Application, Bonds, Renewal, Denial, and Revocation

All forms are prepared and provided by the Commission Staff.

A. Permits and Applications. No person shall sell any course of instruction or solicit students therefore in Louisiana for any school unless he has obtained a solicitor's permit from the commission. A separate permit is required for each school the solicitor represents. A separate application (PSC-4 Form) with required fee and bond must be submitted for each permit sought (i.e., for each school to be represented).

Louisiana Board of Regents
Proprietary Schools Section
Post Office Box 3677
Baton Rouge, LA 70821-3677

B. Bonds. Surety bonds for permits must be in the amount of \$1,000 for each permit issued. The bond must be continuous and must be issued by a solvent surety authorized to do business in Louisiana (see PSC-5 Form). The bond may be supplied as a blanket bond by a school covering each agent, \$1,000 in amount for each agent. This bond is set forth in PSC-6 Form. If a surety cancels a bond (as provided in R.S. 17:3141.9B) then a substitute bond (meeting all conditions for the original) must be furnished and the solicitor's permit shall be in a state of suspension for any period of time not covered by a proper bond.

C. Renewals. Each permit is valid for one year from date of issuance unless revoked and must be renewed not less than 30 days prior to expiration date. At the time of renewal, the owner/director must submit a PSC-4 Form, (unless the owner/director submits written notification of continued employment of solicitor); a \$100 renewal fee (made payable to the "Louisiana Board of Regents"); and proof of continuous bond coverage.

D. Denial of Permits. The commission may deny recommendations of issuance of a permit when proper grounds exist therefore. The procedures in such cases shall be in accordance with the applicable provision of R.S. 17:3141.1-3141.14 and R.S. 49:951-966.

E. Revocation of Permits. A permit may be revoked for any of the causes set forth in R.S. 17:3141.11. Notice of contemplated revocation must be given in writing at least 30 days prior to the effective date of revocation. At any time within 30 days prior to the revocation, upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. On or before 30 days prior to the date set for hearing, the commission shall notify the aggrieved solicitor of the date

and purpose of the hearing and the grounds for the contemplated revocation of the permit. The procedure for revocation shall be in accordance with those prescribed by R.S. 49:951-966 and by R.S.17:3141.1-14 as applicable to such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.8, R.S. 17:3141.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 9. Proprietary Schools Applications

§901. Initial License or Change of Ownership

A. Please refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§903. License Renewal

A. Renewal letters are mailed to the school owners annually. A license renewal application must be received in this office 30 days prior to the license expiration. If it is not, there shall be a \$500 delinquent fee. Failure to furnish all the renewal information prior to the license expiration date will cause the license to expire. There can be no exceptions or any other extension. The following paperwork must be submitted:

1. a completed PSC-1 Form;
2. the original verification from the bonding company that the surety bonds (\$10,000 for school and \$1,000 per solicitor) are still in effect must accompany the renewal application. The premium period must coincide with the school's licensure period. For example, August 26, 2006-August 26, 2007;
3. a completed PSC-12 form;
4. the renewal fee based upon the school's previous year's gross tuition revenues. The check is to be made payable to the "Louisiana Board of Regents." Refer to the PSC-12 form;
5. financial statements:
 - a. for those schools which participate in Title IV funding, an original set of financial statements that have been audited by an independent Certified Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), stating that it is true and correct; and
 - b. for those schools which do not participate in Title IV funding, an original set of financial statements that have been reviewed by a Independent Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation or sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s) stating that it is true and correct;
6. an internal compilation reflecting the school's most recent quarter, if the audit/review submitted with the renewal materials, reflects a business year that ended more than 120 days prior to the submission of the renewal materials;

7. a completed PSC-18 Form reflecting the application date listed on the PSC-1 Form;

8. a completed PSC-4 Form for any new solicitor employed with the school. The initial and/or renewal fee is \$100 per solicitor is to be made payable to the "Louisiana Board of Regents;"

9. a completed PSC-9 Form on all instructors and staff employed since the last school renewal, unless previously approved during the year;

10. a current school catalog;

11. a current copy of the Enrollment Agreement/Enrollment Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§905. Associate in Occupational Studies (AOS) Degree Application

A. Requirements. An eligible post-secondary school may award a non-academic degree entitled "The Associate in Occupational Studies."

1. The school must be licensed by the board, domiciled in the state of Louisiana, and accredited by a regional or national accrediting agency recognized by the United States Department of Education.

B. The board shall revoke the degree-granting status of any post-secondary school that loses or withdraws its accreditation.

C. No school shall be licensed to award the Associate of Arts or Associate of Science. All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a post-secondary school is non-academic and does not imply, promise, or guarantee transferability.

D. Each student admitted to an occupational degree program in an accredited post-secondary school shall be required to:

1. have a high school diploma or equivalent; and
2. complete a minimum of two years, four semesters, or six quarters of course work for each occupational degree program.

E. Each AOS degree program shall have a minimum of 75 percent of its course of study in a specific occupational area.

F. Each course of study shall have a minimum of 96 quarter hours if using quarter hours, a minimum of 1800 clock hours if using clock hours, and a minimum of 64 semester hours if using semester hours.

G. Application Enclosures. Enclose one original and eight copies, in binders with tabs, of the following:

1. a completed PSC-1 Form, including the title of the proposed AOS degree program;
2. the completed PSC-11 Form;
3. a blank copy of the diploma that would be awarded upon successful completion of the AOS degree program;
4. a detailed program outline including subject numbers, subject titles, clock hours, quarter hours or semester hours (whichever is used for each subject), and total clock hours, quarter hours, or semester hours (whichever is used for each program);
5. a description of each subject listed on the outline; and

6. an inventory list of equipment/supplies/furnishings available for the AOS degree program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 11. Student Protection Fund

§1101. Policies and Procedures

A. Student Protection Fund Policy

1. The Student Protection Fund is administered by the board and the commission; shall be subjected to audit and review by the legislative auditor's office.

2. Required refunds due from the Student Protection Fund will be provided on a pro rata basis, or other means as appropriate. Prior to any funds being released from the Student Protection Funds, the school's surety bond must be exhausted.

3. For students that have loans, the administrator of the Student Protection Fund will enter into an agreement with the state guaranty agency that any refunds will be allocated as follows:

a. present holder of the loan, whether lender or LOSFA, and any remaining balance to the borrower;

b. for students without loans, appropriate tuition repayment.

4. Administration of the Student Protection Fund is subject to review by the U.S. Department of Education and the state guaranty agency:

a. the commission staff shall retain all records pertaining to the determination of payment or denial of refunds for a period of not less than one year after the final determination has been made;

b. records shall be maintained in an organized manner; and

c. records shall be readily accessible to the U.S. Department of Education and guaranty agency auditors.

B. Student protection fund procedures:

1. the application for tuition recovery (PSC-15 Form), may be submitted after reasonable efforts to compensate the student from the following resources have been exhausted (see PSC-15 Form for instructions):

a. provide teach-out;

b. acquire refund from the school;

c. acquire refund from any other school resources;

and

d. acquire refund from U.S. Department of Education, Closed School Section;

2. lenders holding loans eligible for refunds under the Student Protection Fund may submit the claims to the commission without undertaking any additional collection activity, if the commission determines that the student has not submitted a claim. Submission of a claim by the lender will preclude the student from filing a claim at a later time;

3. refund calculations will be based upon copies of enrollment contracts, student ledger cards, and other pertinent documents submitted by the student; and

4. students and/or lenders applying for relief to the Student Protection Fund will be notified of the status of the request within 60 days of receipt of the application by the commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 13. Advertising Rules for Proprietary Schools

§1301. Advertising Rules

A. Advertising. All advertising shall forthrightly disclose the purpose of the advertising, that education or training, not a job, is offered, and that the advertiser is a school. Advertising includes any form of public notice however disseminated or utilized. Within this definition would be all publications, communications, promotional items, and efforts which could normally be expected to be seen or encountered by significant numbers of prospective students or their sponsors. Examples include catalogs and other school publications, signs, mailing pieces, radio, television, audio-visual, newspaper, internet or any other form of public notice resulting from the school's recruiting and promotional activities.

B. Solicitation. In the solicitation of students, a school shall not directly, or by implication, misrepresent the services it renders. All advertisements and promotional literature used shall be truthful, informative and constructive; and avoid conveying any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates. The true purpose and nature of a school's offerings shall be evident in all advertising. Every advertisement shall constitute to the reader a clear statement of a bonafide offer or announcement made in good faith. It shall be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, all solicitation must be truthful and conducted with extreme care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.13, R.S. 17:3141.5(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 15. Violations

§1501. Authority, Investigation, And Sanctions

A. Violations. The following is an illustrative, but not exclusive, list of actions constituting a violation:

1. failure to provide the commission with an item of information required by R.S. 17:3141.1 et seq.;

2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or solicitor;

4. failure to disclose to a student a necessary requirement for employment;

5. false or misleading advertising;

6. unethical behavior by a solicitor;

7. failure to disclose liability for repayment of a student loan;

8. failure to respond to student complaints as provided in the student complaint rule, R.S. 17:3141.3(D)(2)(b) and 17:3131.3(E);

9. employment of an instructor who is unqualified;

10. unsafe or unhealthy condition of a school;

11. unsafe, unhealthy, or inadequate instructional equipment;

12. failure to teach the number of hours claimed;

13. failure to maintain attendance records and to provide them for inspection;

14. failure to comply with a contractual relationship with a student;
15. failure to release the grades of a student;
16. failure to cooperate with an investigator from the commission;
17. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;
18. placement of classified advertisement under "employment" or other similar categories related to employment rather than "education" or "instruction;"
19. upon closure, failure to transfer student records to the board; and
20. failure to comply with the provision of R.S. 17:3141.1 et seq., or any written rule or regulation of the board.

B. Authority and Scope. The definition of "school" for the purpose of this rule shall include a licensed school and school owners, employees, operators, agents and solicitors. The commission shall use the following procedures prior to making a recommendation to the board under R.S. 17:3141.8(A) that a school license should be revoked, canceled, or suspended.

1. Any school found to be in violation of any provision of R.S. 17:3141 et seq., or any other state regulation adopted by the commission pursuant to the Administrative Procedure Act governing the administration or operation of a school may be sanctioned by one or more of the following remedies:

- a. restitution and remedial measures;
- b. civil money penalties (fines); and
- c. revocation, suspension, cancellation, or other restrictions on the license.

2. The commission's assessment of a sanction shall be based on the following considerations:

- a. whether the violation or substantially similar violation has previously occurred;
- b. the duration of the violation;
- c. the severity of the violation;
- d. the school's history of compliance with the regulations;
- e. what sanction is most likely to bring the school into compliance in the shortest time;
- f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and
- g. such other factors as the commission deems appropriate.

C. Investigation

1. When the commission's staff becomes aware of a violation, it may conduct an onsite investigation of a school. The inspection may or may not be announced at the discretion of the staff.

2. The agent conducting the investigation shall have the authority to:

- a. privately interview administrators, teachers, solicitors, and students;
- b. inspect school records, documents, catalogs, forms, and advertisements; and
- c. inspect the school facilities and equipment.

3. The school shall cooperate fully with the agent.

4. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the commission staff and the school. The report shall contain:

- a. factual findings relevant to the initial violation;
- b. factual findings of any additional violations;
- c. recommendations of remedial measures to be taken by the school; and
- d. recommendations of any sanctions to be taken by the commission including the commission's petition for an injunction to terminate the violation;
- e. the procedure by which an administrative hearing may be requested.

5. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

D. Notice of a Violation

1. When a violation of state statutes or regulations governing the administration or operation of a school has occurred, in accordance with R.S. 17:3141.8, the commission staff shall give notice of the violation to the school's director by certified mail, return receipt, and shall afford the school an opportunity to be heard in person or by counsel.

2. The written notice of the violation shall:

- a. specify the violation(s);
- b. cite the legal authority which establishes the violation(s);
- c. cite any sanctions assessed for each violation;
- d. inform the school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
- e. inform the school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

3. If the school requests a hearing, the commission staff shall hold a hearing and take evidence. Strict rules of evidence shall not apply. A tape recording of the hearing shall be made. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed. The school may present witnesses or documentary evidence in its defense bearing directly on the violation asserted. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat violations, reputation or remedial measures shall not be considered.

4. The commission staff shall have authority to determine for purposes of making a recommendation to the board, whether a violation is a repeat or continuing violation:

- a. a repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months;
- b. a continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial

violation is established, until such time as there is evidence establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the commission staff.

5. After holding a hearing, the commission shall submit its findings to the board, and may recommend any of the penalties listed in Paragraph 1501.B.1 and Subsection 1501.F, as it deems appropriate. The commission shall also forward a copy of its findings and recommendation to the school, notify the school of the date of the board meeting when the commission's recommendation will be considered, and advise the school of the opportunity to appear at the board's meeting by person or by counsel and be heard. After due consideration of the commission's recommendation and the school's arguments (if the school presents any arguments) and upon a vote of two-thirds of the authorized membership of the board, the board may revoke, cancel, suspend or restrict the school's license, or impose fines or refunds.

6. A sanction which requires monetary payments, either fines or restitution, shall be paid within a timeframe as determined by the board following its notification.

E. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

- a. rebate of all or a portion of the tuition to the students;
- b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;
- c. counseling of students when they have been misinformed about a material matter;
- d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;
- e. the distribution of an informational leaflet to the students informing them of their rights;
- f. the inclusion or exclusion of information from the student catalog to correct a misrepresentation;
- g. repairs or modification to a physical facility when health or safety is jeopardized;
- h. repairs or modification to equipment when health or safety or delivery of quality instruction is jeopardized;
- i. an order to terminate a gross violation of the statutes or regulations;
- j. an order to cease the enrollment of new students or to limit enrollment to those students who meet more restrictive admission standards; and
- k. modification of the curricula or methods of instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation. Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed, the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil

fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The commission may recommend the revocation of a school's license to the board.

F. Appeal Procedure. Any sanction may be administratively appealed as long as the appeal is timely filed in accordance with R.S. 17:3141.8(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2), R.S. 17:3141.8, R.S. 17:3141.14, R.S. 17:3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 17. Student Complaint Procedure

§1701. Policies, Conciliation, Conference, Hearing, and Review

A. General Policies

1. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints with the commission staff under the jurisdiction of the board;

2. The commission staff shall prepare and provide a copy of the complaint procedure to each licensed school; and

3. Each school shall include in either their catalog or enrollment agreement the following:

a. Complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, (225)342-4253.

B. Conciliation—

1. any student who believes he/she has been aggrieved by actions of school officials shall complain in writing to the commission staff at Louisiana Board of Regents, Proprietary Schools Section, Post Office Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253, only after having first filed a written and signed complaint with the school officials;

2. if the complaint is not resolved, the student may submit a written request for assistance to resolve the matter with the school after having first filed a written and signed complaint with that school's officials;

3. copies of this initial notice of the complaint will be sent to the school and to the complainant. A copy must also be retained in the commission staff files;

4. the notice of complaint will request that the student and the school meet and discuss the complaint in a conciliation effort and/or communicate in writing within 10 days after receipt of the notice;

5. if after 10 days, the complaint has not been satisfactorily resolved, the student may request further assistance from the commission staff; and

6. the commission staff may, at its discretion, eliminate the conciliation procedure where a student has already contacted the school regarding the problem and may proceed directly to the mediation conference.

C. Mediation Conference

1. If the student advises the Section that no satisfactory resolution has been achieved with the school through the conciliation procedure, at that point the commission staff may forward the complaint and all associated materials to the Louisiana Division of Administrative Law.

2. If no amicable resolution is achieved in the mediation process, either party may request, within seven days, a hearing before the commission. Within five working days following a request for a hearing, the commission staff shall send written notice to the parties containing the following:

- a. an explanation of the hearing procedures; and
- b. the date, time and place for the hearing.

D. Hearing:

1. a public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing;

2. the hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act; and

3. the commission shall prepare a report of its findings and recommendations and submit it to the board. The board shall render a decision accompanied by written reasons within 30 days following the conclusion of the hearing. This decision will be transmitted to all parties with a notice of the right to judicial review.

E. Judicial Review. Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 19. Student Records

§1901. General Policies

A. All schools shall maintain all student records as required under R.S. 17:3141.16(D)(3). All student records shall include, but are not limited to enrollment agreements, attendance records, financial and academic transcripts, and exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§1903. Transfer of Student Records

A. A school must make arrangements to transfer all student records to the Commissioner of Higher Education at the commission's address within 10 days of closing. If any of the records have been seized or confiscated by legal authorities, the board shall request the authorities for documentation regarding seizure of the records. However, the school remains responsible for turning over unseized records. Any closed school, that maintains student files and electronic files shall make arrangements to electronically transfer such records to the board. The records shall be prepared in the following manner:

1. they shall be filed in alphabetical order;

2. each container will be clearly marked "official records" and will show the alphabetical order within the container (e.g., aa to bc); and

3. the containers shall be sealed to prevent loss or damage and marked in succession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§1905. Penalties

A. Failure to maintain and/or turn over student records as provided above will result in the assessment of penalties.

B. If necessary, a claim shall be made against the surety bond posted at the time of submission of the license application to satisfy any penalties for failure to maintain and/or turn over student records pursuant to R.S. 17:3141.5(D)(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 21. Exceptions

§2101. Board Authority

A. The board retains the authority to waive or make exceptions to any provision of these regulations if it deems such waiver or exception to be in the public interest. This authority shall be exercised by majority vote of the Louisiana Board of Regents pursuant to request by a school, any interested party, recommendation of the commission, or upon its own motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Family Impact Statement

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

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

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

Interested Parties may submit written comments until 4:30 p.m. June 10, 2007, to Larry Tremblay, Board of Regents, P.O. Box 3677, Baton Rouge, LA 70821-3677.

Larry Tremblay
Deputy Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Proprietary Schools

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

There are no estimated implementation costs or savings to state or local governmental units as a result of these changes. The rule changes reflect a complete rewrite and update of the rules to reflect current BOR policy and procedures. There is no fiscal impact because the changes are technical in nature and do not fundamentally alter the regulation of proprietary schools in Louisiana.

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

This rule update has no effect on revenue collections of state or local governmental units. The rule update included no changes to fees, fines, or other charges.

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

This rule update has no costs and/or economic benefits to directly affected persons or non-governmental groups. The rule update included no changes to fees, fines, or other charges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no effect on competition and employment.

Larry Tremblay
Deputy Commissioner
0705#061

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Scholarship/Grant Programs—Eligibility
(LAC 28:IV.505, 507, and 703)**

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

This rulemaking corrects a typographical error in an example of how to apply the application deadline for students who return to an eligible Louisiana postsecondary institution after enrolling for the first time in an accredited out-of-state institution; extends the deadline for TOPS applicants to submit required supplemental documentation; and adds computer courses that can be substituted for the required computer courses in the TOPS core curriculum. (SG0785NI)

The text of this proposed Rule can be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 11, 2007, to Melanie

Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Scholarship/Grant Programs

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

The proposed changes are required to correct identified discrepancies in the Scholarship/Grant Program Rules and promulgate acceptable core curriculum substitutions recently adopted by BESE. This change incorporates into the rules recent BESE curriculum changes (with the concurrence of the Board of Regents) and LASFAC deadline changes already in effect. These changes will not significantly alter the eligibility criteria for a TOPS award and thus will have a minimal impact on TOPS expenditures.

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

Revenue collections of state and local governments will not be affected by the proposed changes.

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

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge
General Counsel
0705#055

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**START Savings Program—2006 Interest Rates
(LAC 28:VI.315)**

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

As required by R.S. 17:3093.D(1)(f), this rulemaking will provide the determination of the interest rates paid and approved by the State Treasurer for deposits in START accounts invested in fixed earnings and for the Earnings Enhancements Fund for the calendar year ending December 31, 2006. (ST0784NI)

The text of this proposed Rule can be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

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

Interested persons may submit written comments on the proposed changes (ST0784NI) until 4:30 p.m., June 11, 2007, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: START Savings Program
2006 Interest Rates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs or savings to state or local governmental units as a result of these changes. This amendment reflects the actual earning realized by START account owners who invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. This increase in START funds belongs to the account owner (it is not state general fund money), and no expenditure of state general funds is required. No cost to the state will result from this change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state and local governments will not be affected by the proposed changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These changes adopt the actual interest rates for deposits made to the START Louisiana Principal Protection investment option and earnings enhancements for the year ending December 31, 2006.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment resulting from these measurements.

George Eldredge
General Counsel
0705#056

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**CAIR NO_x Annual and Ozone Season Trading Programs
(LAC 33:III.506)(AQ285)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506 (Log #AQ285).

This proposed rule defines the state's methodology under the Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Annual and Ozone Season Trading Programs for allocating NO_x allowances to electrical generating units (EGUs) subject to CAIR. Section 51.123 of the federal CAIR allows states some flexibility in implementation of certain rule

provisions related to methods for allocating NO_x allowances. This rule substitutes for 40 CFR Part 97, Subpart EE (CAIR NO_x Allowance Allocations), §97.141 and §97.142, and for 40 CFR Part 97, Subpart EEEE (CAIR NO_x Ozone Season Allowance Allocations), §97.341 and §97.342. This rule is concurrently being proposed as a revision to the Louisiana State Implementation Plan for air quality.

The CAIR was promulgated by the U.S. EPA on May 12, 2005. The federal rule addresses ozone and fine particulate air pollution by regulating emissions of sulfur dioxide (SO₂) and NO_x from EGUs in certain states and the District of Columbia. The federal rule establishes a budget cap for each state for emissions of these pollutants and allows for emissions trading. Following promulgation of CAIR in 2005, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006. The FIP, which became effective on June 27, 2006, includes the federal methodology for allocation of NO_x allowances. The FIP provides states with an option to submit an abbreviated State Implementation Plan (SIP), and some limited flexibility in implementation of certain federal rule provisions related to CAIR. Louisiana will remain under the provisions of the FIP for the CAIR NO_x annual and ozone season trading programs with the exception of the provisions established in this rule. Should this rule not be promulgated, the state will remain under the allocation method as set forth in the FIP.

To determine the impact of CAIR implementation on Louisiana electricity ratepayers, DEQ requested assistance from the Louisiana Public Service Commission (LPSC). Pursuant to this request, the LPSC contracted for the service of the Louisiana State University Center of Energy Studies. Recommendations concerning the implementation of CAIR in Louisiana were provided to DEQ from the LPSC in the "Staff Report" and "Supplement to Primary Staff Recommendations." The provisions of this rule are consistent with the LPSC recommendations. Upon promulgation, this rule will be submitted to EPA as a revision to the air quality SIP for Louisiana. The submittal of an approvable abbreviated SIP revision for the CAIR NO_x annual and ozone season trading programs will satisfy Louisiana's obligations under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). The basis and rationale for this proposed rule are to improve air quality through a reduction of intrastate and interstate emissions of NO_x from EGUs subject to CAIR.

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

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

**Chapter 5. Permit Procedures
§506. Clean Air Interstate Rule Requirements**

A. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Annual Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR Federal Implementation Plan (FIP) NO_x Annual Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AA – HH, continue to apply,

with the exception of §97.141 (Timing Requirements for CAIR NO_x Allowance Allocations) and §97.142 (CAIR NO_x Allowance Allocations). The provisions of this Subsection state how the CAIR NO_x annual allowances shall be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), except for those terms defined herein:

Certified Unit or Contract—an electricity-generating unit or contract that has been certified by the LPSC or approved by a municipal authority but was not in operation on, or approved by, December 31, 2004.

Department—the Louisiana Department of Environmental Quality.

LPSC—the Louisiana Public Service Commission.

LPSC or Municipal Certification—the process under which the LPSC certifies, or the relevant municipal authority approves, an electricity-generating facility and/or all of its component units, additions, and up-rated or re-powered units as being in the public convenience and necessity. This process includes the certification or approval of long-term contracts that dedicate a portion of the electrical output of any generation facility to a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

Municipal Authority—a municipal corporation, public power authority, or other political subdivision including, but not limited to, the Louisiana Energy and Power Authority.

Non-Utility Unit—an electricity-generating unit that has not been certified by the LPSC or approved by a municipal authority. This includes, but is not limited to, units owned by independent power producers (IPPs) that are the owners or operators of electricity-generating units that produce electricity for sale, and *cogenerators* as defined in 40 CFR Part 97.

Utility Unit—a certified unit that is in operation, a previously-operational certified unit, or a non-utility unit that has an effective and active long-term contract with a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

2. Allocation of CAIR NO_x Annual Allowances. Total NO_x allowances allocated per control period shall not be in excess of the CAIR NO_x annual budget as found in 40 CFR 97.140 (35,512 tons per control period from 2009-2014 and 29,593 tons per control period thereafter).

a. Non-Utility Units. For each CAIR non-utility unit, the NO_x allowances shall be equal to the average of the actual NO_x annual emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The actual NO_x annual emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO_x emissions for calendar years 2002, 2003, and 2004. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO_x annual emissions data are available for only

two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO_x annual emissions data for those two years shall be used. When actual reported NO_x annual emissions data are available for only one of the three calendar years, the actual reported NO_x annual emissions data for that one year shall be used. When no actual reported NO_x annual emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.

b. Certified Units. A certified unit subject to CAIR shall be allocated NO_x allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO_x allowances have been previously allocated until operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three calendar years of operating data immediately preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The certified unit shall be treated as a utility unit for the purposes of this allocation, except that converted heat input shall be used instead of adjusted heat input. Converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. Utility Units. The department shall allocate CAIR NO_x allowances to each CAIR utility unit by multiplying the CAIR NO_x budget for Louisiana (40 CFR 97.140), minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted baseline heat input of the CAIR utility unit and/or converted heat input of a certified unit to the total amount of adjusted baseline heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The adjusted baseline heat input (in MMBTU) used with respect to the CAIR NO_x annual allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately

preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and 2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, status as coal-fired or oil-fired, and total tons of NO_x emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. Timing Requirements for CAIR NO_x Annual Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR NO_x annual allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator CAIR NO_x annual allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Ozone Season Program. This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO_x Ozone Season Trading Program on April 28, 2006, at 71 FR 25328. All provisions of 40 CFR Part 97, Subparts AAAA – HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO_x Ozone Season Allowance Allocations) and §97.342 (CAIR NO_x Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO_x ozone season allowances shall be allocated in accordance with this Section and 40 CFR 97.343(a).

1. Definitions. The terms used in Subsection B of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), and in Paragraph A.1 of this Section.

2. Allocation of CAIR NO_x Ozone Season Allowances. Total NO_x ozone season allowances allocated per control period shall not be in excess of the CAIR NO_x ozone season budget as found in 40 CFR 97.340 (17,085 tons per control period from 2009-2014 and 14,238 tons per control period thereafter).

a. Non-Utility Units. For each CAIR non-utility unit, the NO_x allowances shall be equal to the average of the actual NO_x ozone season emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The

actual NO_x ozone season emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO_x emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO_x ozone season emissions data are available for only two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO_x ozone season emissions data for those two years shall be used. When actual reported NO_x ozone season emissions data are available for only one of the three calendar years, the actual reported NO_x ozone season emissions data for that one year shall be used. When no actual reported NO_x ozone season emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.

b. Certified Units. A certified unit subject to CAIR shall be allocated NO_x allowances for the ozone season of the control period in which the unit will begin operation, and for each successive ozone season in a control period, for which no NO_x allowances have been previously allocated until ozone season operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The certified unit shall be treated as a utility unit for purposes of this allocation, except that ozone season converted heat input shall be used instead of ozone season adjusted heat input. Ozone season converted heat input is calculated as follows.

i. For a coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. Utility Units. The department shall allocate CAIR NO_x ozone season allowances to each CAIR utility unit by multiplying the CAIR NO_x ozone season budget for Louisiana (40 CFR 97.340), minus the allowances allocated

under Subparagraph B.2.a of this Section, by the ratio of the ozone season adjusted baseline heat input of the CAIR utility unit and/or converted heat input of a certified unit to the total amount of ozone season adjusted baseline heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The ozone season adjusted baseline heat input (in MMBTU) used with respect to the CAIR NO_x ozone season allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is coal-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is oil-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, status as coal-fired or oil-fired, and total tons of NO_x ozone season emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. Timing Requirements for CAIR NO_x Ozone Season Allowance Allocations

a. By April 30, 2007, the department shall submit to the administrator the CAIR NO_x ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control periods in 2009, 2010, and 2011.

b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator the CAIR NO_x ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:

A public hearing on the proposed rule and SIP revision will be held on June 26, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed rule and SIP revision. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at

(225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed rule and SIP revision. Persons commenting should reference this proposed regulation by AQ285. Such comments must be received no later than July 3, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ285. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: CAIR NO_x Annual and Ozone Season Trading Programs

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

Implementation costs or savings are expected to be minimal from promulgation of this rule. Local governments that own municipal electrical generating units (EGUs) may incur increased costs to comply with the federal Clean Air Interstate Rule (CAIR) from purchasing additional emission allowances if needed to operate. State and local governmental units as electrical ratepayers may incur additional minimal costs for electricity.

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

Impact on revenue collections is estimated to be nil for state or local governmental units that do not own EGUs subject to the federal rule. Impact on revenue collections of local governmental units owning municipal EGUs is expected to be minimal. These local governmental units may pass costs or savings to their electrical ratepayers.

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

Implementation of this proposed rule is estimated to increase the average ratepayer's annual electrical cost by \$10.11, which represents a savings of \$0.69 annually when compared to the estimated increase in electrical cost under implementation of the federal CAIR rule, which would be an estimated cost to the average ratepayer of \$10.80 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the allowance allocation method in this proposed rule will gradually cause a change in electrical production from older, inefficient gas-fired units to newer, more efficient facilities. This may result in some minimal impact on employment for workers at gas-fired EGUs.

However, new employment opportunities may arise from the operation of new or replacement EGUs.

Herman Robinson, CPM
Executive Counsel
0705#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Hazardous Waste Corrections
(LAC 33:V.109, 305, 323, 517, 2309, 3013,
3719, 4339, 4357, 4501, and 4901)(HW097)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.109, 305, 323, 517, 2309, 3013, 3719, 4339, 4357, 4501, and 4901 (Log #HW097).

This proposed rule makes minor corrections to several sections of the hazardous waste regulations. The corrections include missing and out-of-place words, incorrect citations, formatting errors, missing capitalizations, and a modified definition. These corrections must be made to ensure the hazardous waste regulations are not misinterpreted. The definition of groundwater is being modified to ensure consistency throughout the Environmental Quality regulations. The basis and rationale for this rule are to ensure the proper management of hazardous waste.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Groundwater—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218,

220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

A. - D.2.e. ...

f. submits a complete report within five days of receiving any hazardous waste on an unmanifested basis;

g. complies with all recordkeeping requirements of LAC 33:V.Subpart 1; and

D.2.h. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3116 (December 2005), LR 33:

§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits

A. ...

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division, in accordance with R.S. 30:2050.21.

1. - 4.e....

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005), LR 33:

Chapter 5. Permit Application Contents
Subchapter C. Permit Applications: Parts I and II

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

A. - T.4.c. ...

i. delineates the extent of the plume on the topographic map such as required under LAC 33:V.515.A.15; and

T.4.c.ii. - W. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), LR 25:1799 (October 1999), repromulgated LR 26:1608 (August 2000), repromulgated LR 26:2003 (September 2000), amended LR 27:287 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 23. Waste Piles

§2309. Monitoring and Inspection

A. - B.1. ...

2. proper functioning of wind dispersal control systems, where present;

3. the presence of leachate in and proper functioning of leachate collection and removal systems, where present. Leachate must be disposed of properly; and

B.4. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3013. Standards to Control Metals Emissions

A. - B.2.b.ii. ...

3. Terrain-Adjusted Effective Stack Height (TESH)

B.3.a. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

A. A trust agreement for a trust fund as specified in LAC 33:V.3707.A or 3711.A or 4403.A or 4407.A must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

1. The wording of the trust agreement is as follows.

Trust Agreement

[See Prior Text in Trust Agreement]

A.2. - N.2, certification ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:

Chapter 43. Interim Status

Subchapter C. Contingency Plan and Emergency Procedures

§4339. Purpose and Implementation of Contingency Plan

A. Interim status facilities must comply with LAC 33:V.1513.A.1 and 3.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

A. - B.2. ...

3. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1 of this Section:

Table 1. Units For Reporting	
Units of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
British thermal units per Hour	I

¹ Single digit symbols are used here for data processing purposes.

4. - 16. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Subchapter M. Landfills

§4501. Closure and Post-Closure

A. ...

B. In the closure and post-closure plans, the owner or operator must address the following objectives and indicate how they will be achieved:

1. control pollutant migration from the facility via groundwater, surface water, and air;
2. control surface water infiltration, including prevention of pooling;

B.3. - D.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4901. Category I Hazardous Wastes

A. - B.2.b.i.(c). ...

(d). high-rate aeration, which is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhancing biological activity, and:

- (i). the unit employs a minimum of 6 hp per million gallons of treatment volume; and either
- (ii). the hydraulic retention time of the unit is no longer than five days; or
- (iii). the hydraulic retention time is no longer than 30 days, and the unit does not generate a sludge that is a hazardous waste by the Toxicity Characteristic;

ii. generators and treatment, storage, and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage, and disposal facilities must maintain, in their operating or other onsite records, documents and data sufficient to prove that:

(a). the unit is an aggressive biological treatment unit as described in Clause B.2.b.i of this Section; and

(b). the sludges sought to be exempted from the definitions of F037 and/or F038 were actually generated in the aggressive biological treatment unit.

B.2.c. - G, Table 6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:

A public hearing will be held on June 26, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting

should reference this proposed regulation by HW097. Such comments must be received no later than July 3, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW097. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hazardous Waste Corrections**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no expected implementation costs or savings to state or local governmental units by the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units by the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment by the proposed rule.

Herman Robinson
Executive Counsel
0705#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Notification Requirements and Reportable Quantity List
(LAC 33:I.3905, 3919, 3925, and 3931)(OS078)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3905, 3919, 3925, and 3931 (Log #OS078).

This proposed rule modifies the table of reportable quantities (RQs) in LAC 33:I.3931 to retain RQs for the highly reactive volatile organic compounds (HRVOC) ethylene, propylene, and combinations of ethylene and propylene or "total" HRVOC. RQs are added for some toxic air pollutants (TAPs) and revised for other TAPs. The department has reviewed new information concerning the frequency and amounts of HRVOC unauthorized discharges and will retain the current RQs for ethylene, propylene, and combinations of ethylene and propylene. The RQs for the other HRVOCs will return to their previous values. The rule will clarify LAC 33:I.3919 regarding the timing for notification of unauthorized discharges related to groundwater contamination, and provide for submittal of periodic update reports concerning unauthorized discharges in which an ongoing investigation is being conducted until the investigation is completed and the required information is submitted. Based on comments received, the rule will incorporate the unauthorized discharge reporting requirements currently in LAC 33:III.5107.B into LAC 33:I.Chapter 39, thereby streamlining reporting requirements and removing duplicative reporting language from the regulations. In order to complete this streamlining process, some TAP RQs are added to the table at LAC 33:I.3931, and some TAP RQs in the table are lowered. The definition of groundwater is being modified to ensure consistency throughout the Environmental Quality regulations. The basis and rationale for this proposed rule are to update the RQs in the regulations, streamline existing requirements, and provide for submittal of periodic update reports concerning unauthorized discharges.

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

**Title 33
ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary
Subpart 2. Notification**

**Chapter 39. Notification Regulations and Procedures
for Unauthorized Discharges**

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.
* * *

Groundwater—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.
* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33:

Subchapter C. Requirements for Prompt Notification
§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven days.

B. Dischargers shall submit written notification in accordance with LAC 33:I.3925 or any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

Subchapter D. Notification Procedures
§3925. Written Notification Procedures

A. - A.2. ...

3. For information required by Subsection B of this Section that is not available at the time of submittal of the written notification report due to an ongoing investigation, updates of the status of the ongoing investigation of the unauthorized discharge shall be submitted every 60 days until the investigation has been completed and the required information has been submitted.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges
§3931. Reportable Quantity List for Pollutants

A. - A.2. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants. If a pollutant is listed with more than one reportable quantity, the lower-value reportable quantity shall be used.

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Acetaldehyde	Acetic aldehyde	75070	U001	700
Acrylamide	Acrylic amide	79061	U007	25 ⁶
Acrylic acid	Acroleic acid, propene acid	79107		400 ⁶
Acrylonitrile		107131	U009	35 ⁶
Allyl chloride	3-Chloropropene	107051		1000/10 [@]
Aniline	Aminobenzene	62533	U012	5000/600 [@]
Antimony*		7440360		5000/38 [@]
Antimony compounds		20008		100/38 [@]
Barium*		7440393		100/38 [@]
Barium compounds		20020		100/38 [@]
Biphenyl	1,1-biphenyl, xenene	92524		98 ⁶
n-Butyl alcohol	1-Butanol	71363	U031	5000/1000 [@]
Carbonic dichloride	Phosgene	75445	P095	10/1 [@]
Chlorinated dibenzo furans, all isomers				1/1 [@]
Chlorinated dibenzo-p-dioxins, TCDD and OCDD isomers				1 ⁶
Chlorine dioxide	Chlorine oxide	10049044		1
Chlorobenzene	Benzene chloride	108907	U037	25 ⁶
Chromium ³ *		7440473		5000/25 [@]
Chromium compounds		20064		100/25 [@]
Copper ³		7440508		5000/25 [@]
Copper compounds		20086		25
Cumene	Isopropyl benzene	98828	U055	5000/1000 [@]
1,2-Dichloroethane	Ethylene dichloride, EDC	107062	U077	49 ⁶
Dichloromethane	Methylene chloride, DCM	75092	U080	540 ⁶
Ethyl acrylate	2-Propenoic acid, ethyl ester	140885	U113	1000/10 [@]
Ethylene	Ethene	74851		5000 [#] or 100 ⁺
Glycol ethers**				100
Hexane	Hexyl hydride	110543		5000/1000 [@]
Hydrogen chloride	Hydrochloric acid	7647010		5000/500 [@]
Hydrogen fluoride	Hydrofluoric acid	7664393	U134	100/10 [@]
Maleic anhydride	cis-Butenedioic anhydride	108316	U147	70 ⁶
Manganese*	Colloidal manganese	7439965		100/75 [@]

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Manganese compounds				100/75 [@]
Methyl acrylate	2-Propenoic acid methyl ester	96333		10
Methyl ethyl ketone (MEK)	2-Butanone	78933	U159	5000/1000 [@]
Methyl isobutyl ketone	4-Methyl-2-pentanone	108101	U161	5000/1000 [@]
Methylmercaptan	Methanethiol	74931	U153	100/25 [@]
Methyl methacrylate	2-Methylacrylic acid methyl ester	80626	U162	1000/100 [@]
Methylene diphenyl diisocyanate	Methylene bisphenyl isocyanate	101688		1000
Nickel		7440020		25 ⁶
Nickel compounds				25 ⁶
Nitric acid	Hydrogen nitrate	7697372		1000/100 [@]
Nitrobenzene	Nitrobenzol	98953	U169	400 ⁶
Oil				1 barrel
Phthalic anhydride	1,3-Isobenzofurandione	85449	U190	5000/400 [@]
Polynuclear aromatic hydrocarbons ***				1
Produced water				1 barrel
Propionaldehyde	Propionic aldehyde	123386		1000/100 [@]
Propylene	Propene	115071		100 ⁺
Selenium		7782492		25 ⁶
Sulfur dioxide				500
Sulfuric acid		7664939		75 ⁶
Sweet pipeline gas (Methane/Ethane)				42000 (1,000,000 scf)
Toluene-2,4-diisocyanate		584849	U223	25 ⁶
Toluene-2,6-diisocyanate		91087	U223	25 ⁶
Vinyl acetate	Vinyl acetate monomer	108054		5000/100 [@]
Zinc		7440666		200 ⁶
Zinc compounds				200 ⁶
Volatile organic compounds not otherwise listed ⁴				5000
Only those highly reactive volatile organic compounds listed below: ethylene and propylene ⁵				100 ⁺
F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F003	100
Methyl isobutyl ketone		108101		5000/1000 [@]
n-Butyl alcohol		71363		5000/1000 [@]
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F005	100
Methyl ethyl ketone		78933	U159	5000/1000 [@]

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** The emissions of glycol ethers in one of the following three categories shall be totaled to determine if a reportable quantity has been exceeded.

1. Glycol ethers with an RQ of 100 refer only to the following compounds and not the general class of compounds: ethylene glycol monomethyl ether (CAS Number 109864), ethylene glycol monomethyl ether acetate (CAS Number 110496), ethylene glycol monoethyl ether (CAS Number 110805), ethylene glycol monoethyl ether acetate (CAS Number 111159), diethylene glycol dimethyl ether (CAS Number 111966), and ethylene glycol dimethyl ether (CAS Number 110714).

2. The federal RQ applies to any other mono- or di-ether of ethylene glycol, diethylene glycol, or triethylene glycol: R(OCH₂CH₂)_n-OR', where, n=1, 2, or 3; R = alkyl or aryl groups; and R' = R, H, or any group which, when removed, yields glycol ether with the structure: R(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol ether category.

3. For all other glycol ethers there is no RQ assigned.

*** The emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111, and exempt compounds are listed in LAC 33:III.2117.

⁵ The emissions of these highly reactive VOCs shall be totaled to determine if an RQ has been exceeded.

⁶ Only emissions to the atmosphere are applicable.

[@] The first RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

[†] The RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere for facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

^{*} RQ for the state except the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2005), LR 33:640 (April 2007), LR 33:

A public hearing will be held on June 26, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS078. Such comments must be received no later than July 3, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS078. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Notification Requirements and
Reportable Quantity**

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

There are no expected implementation costs or savings to state or local governmental units by the proposed rule.

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

There is no estimated effect on revenue collections of state or local governmental units by the proposed rule.

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

The proposed rule revision may result in some increase in reporting workload and costs for affected facilities due to the addition of approximately 30 toxic air pollutants to the reportable quantity (RQ) table at LAC 33:I.3931.

Based upon the number of RQ decreases in the table at LAC 33:I.3931 and a review of the amounts of the toxic air pollutants that are routinely emitted statewide per the Toxics Emissions Data Inventory (TEDI), it is estimated that approximately 10 of the 30 RQ decreases may cause an increase in reporting. The department estimates a total cost to all affected facilities of less than \$100,000 for increased reporting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The owners or operators of facilities that use or produce any of the 30 or so toxic air pollutants, who maintain their facilities and minimize unauthorized discharges, may gain a very slight advantage over their competitors who do not.

Herman Robinson
Executive Counsel
0705#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Recreational and Used Motor Vehicle Commission**

Recreational and Used Motor Vehicles
(LAC 46:V.Chapters 27-36, 44, 47, and 48)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Recreational and Used Motor Vehicle Commission, notice is hereby given that the Recreational and Used Motor Vehicle Commission proposes to amend current rules and regulations governing Chapter 27, The Recreational and Used Motor Vehicle Commission; Chapter 28, Definitions; Chapter 29, Licenses to be Issued by the Recreational and Used Motor Vehicle Commission; Chapter 31, License for a Salesman; Chapter 35, Buyer Identification Card; Chapter 36, Recreational Products Trade Shows; Motor Vehicle Trade Shows and Off -Site Displays; Chapter 37, Changes to be Reported to Commission; Chapter 39, Business Transactions; Chapter 43, License Renewal; Chapter 44, Educational Seminar; Chapter 45, Complaints; Chapter 47, Procedure for Adjudications before the Recreational and Used Motor Vehicle Commission; Chapter 48, Uniform Procedures to Designate the Territory Assigned to a Marine Dealer; and Chapter 49, Independent Marine Surveyor; and adopt proposed rules and regulations §4710 governing Hearing Procedures for Hearings on Cease and Desists Orders in accordance with R.S.786(D)(1).

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Recreational and Used Motor Vehicles

Chapter 27. The Recreational and Used Motor Vehicle Commission

§2701. Meetings of the Commission

A. - B. ...

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes. Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2703. Quorum of the Commission

A. Eight members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(A).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2705. Executive Director

A. The Executive Director of the Louisiana Recreational and Used Motor Vehicle Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2707. Correspondence with the Commission

A. ...

B. Louisiana Recreational and Used Motor Vehicle Commission forms, applications and dealer aids are

recognized as the commission official forms for licensing and communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2709. Official Seal

A. The official seal of the Louisiana Recreational and Used Motor Vehicle Commission shall be as follows. The outline of the state of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana Recreational and Used Motor Vehicle Commission.

B. The executive director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Louisiana Recreational and Used Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 28. Definitions

§2801. Definitions

A. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation, trust partnership, limited liability company or any other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 29. Licenses to be Issued by the Recreational and Used Motor Vehicle Commission

§2901. Dealers to be Licensed

A. ...

B. Automotive dismantlers and parts recyclers, motor vehicle crushers, and dealers in used parts and accessories.

C. Used motor vehicle auctions and salvage pools are considered used motor vehicle dealers and must comply with licensing regulations contained herein.

D. Dealers, manufacturers, and distributors of new recreational products as defined at R.S. 32:781(22).

E. Brokers of used motor vehicles, used parts, and recreational products are considered to be dealers and must comply with licensing regulations contained therein.

F. Any person who rents or who sells on a rent with option to purchase program used motor vehicles not of the current or immediate prior year or new and used recreational products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July

2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2903. Dealer Licenses

A. The dealer license will be issued in the legal name of the person as identified on the application for dealer license.

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business.

C. Used motor vehicle dealers will be assigned a license number to be prefixed with a "UD" designation.

D. Automotive dismantlers and parts recyclers will be assigned a license number to be prefixed with a "AD" designation.

E. Crushers will be assigned a license number to be prefixed with a "CS" designation.

F. Dealers in used parts and accessories will be assigned a license number to be prefixed with a "UP" designation.

G. Beginning with licenses to be issued for 2008, dealers, manufacturers and distributors of recreational products will be assigned a license number to prefixed as follows.

- | | |
|----------------------------------|----|
| 1. Motorcycle and ATV Dealers | MA |
| 2. Marine Products Dealers | MP |
| 3. Recreational Vehicles Dealers | RV |
| 4. Utility Trailer Dealers | UT |
| 5. Manufacturers | MS |
| 6. Distributors | DT |

H. Beginning with licenses to be issued for 2008, dealers who rent or who sell on a rent with option to purchase program will be assigned a license number to be prefixed with a "RD" number.

I. Each said license shall stand on its own, and for each said license, the dealer shall pay a separate licensing fee.

J. The valid dealer's license permits the dealer to transfer and assign titles, purchase and sell used motor vehicles without paying Louisiana general sales tax.

K. A dealer who has multiple locations will be allowed from his salesman's license to sell at all locations owned by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§2904. Additional Licensing, Requirements for the Automotive Dismantler and Parts Recycler and Used Parts and Accessories Dealers

A. Every automotive dismantler and recycler issued an automotive dismantler's license and number will be permitted to purchase and sell salvage vehicles and transfer motor vehicle titles for the purpose of dismantling and selling the parts thereof to include the salvaged vehicle with title.

B. An automotive dismantler and parts recycler may offer a rebuilt, wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor

vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycle must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$20,000.

C. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in R.S. 781(33).

D. Used parts and accessories are broadly defined as any item removed from a used motor vehicle for the purpose of resale, except used batteries, wheel covers and hubcaps, and tires. Used parts and accessories do not include rebuilt or remanufactured parts and accessories.

E. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S.32:802(A).

F. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in R.S. 32:802.

G. A surety bond will not be required for dealers whose principal business is selling used parts.

H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:802.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), promulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:

§2905. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. All dealers, except those who deal solely with trailers, are required to keep in force a garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of

the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:

§2907. Established Place of Business

A. An established place of business shall mean a permanently enclosed building or structure either owned in fee, leased or rented, which meets local zoning or the municipal requirements, and regularly occupied by a person, firm or corporation, easily accessible to the public at which a regular business of selling used motor vehicles will be carried on in good faith; and, at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business; and, shall not mean tents, temporary stands, lots, or other temporary quarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - B. ...

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Recreational and Used Motor Vehicle Commission within 10 days.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 781(33).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:

Chapter 33. Automotive Dismantler and Recycler

§3301. License for Automotive Dismantler

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), repealed by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§3303. Qualifications and Eligibility for Licensure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:775 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), repealed by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§3305. Place of Business of an Automotive Dismantler and Recycler

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), repealed by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 35. Buyer Identification Card
§3503. Qualifications and Eligibility for Buyer Identification Card

A. - A.1. ...

2. Completion of Official Recreational and Used Motor Vehicle Commission Application Forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and applicant must certify that applicant will faithfully adhere to this requirement.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:808.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:

Chapter 36. Recreational Products Trade Shows
Subchapter A. Recreational Products

§3601. Definitions

Exhibitor—a nonresident dealer who meets the definition of a recreational products dealer subject to license under R.S. 32:811(A), but holds a current dealer license in another state and whose Louisiana business is limited to participation in vehicle trade shows or expositions in this state.

Manufacturer or Distributor—any person, resident or nonresident who fabricates, manufactures, or assembles new and unused vehicles or who in whole or in part maintains distributor representatives licensed under R.S.32:784.

Permit—a temporary license issued to a licensed used motor vehicle dealer, exhibitor, manufacturer or distributor, to display vehicles at a vehicle trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

Promoter—any person of Louisiana residence who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:784.

Recreational Products Dealer—any person subject to license under R.S. 32:784 and 811.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§3603. License, Fees and Applications

A. Promoters of recreational products trade shows shall be required to obtain a license from the Louisiana Recreational and Used Motor Vehicle Commission and the license application shall consist of the following:

1. - 3. ...

4. a promoter shall also be required to obtain a permit for any trade show or exposition from the LRUMVC;

A.5 - B.5. ...

C. A recreational products dealer shall be required to obtain a permit to display recreational products in trade shows or expositions and consist of the following:

1. ...

2. A licensed recreational products dealer who participates in a recreational products show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§3605. Qualifications and Eligibility of Recreational Products Trade Shows

A. Promoters of recreational products trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:784 and 811, displays vehicles, are required to obtain a permit from the LRUMVC no later than 60 days prior to the start date of the recreational products trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 10 days of the start of the event, the promoter shall also furnish a complete list of all licensed Louisiana dealers who will participate. This list shall also include the dealer's current dealer number.

C. A promoter may invite exhibitors to attend the trade show or exposition by providing proof to this commission that:

1. all Louisiana dealers, who are in Orleans or Jefferson Parish, who sell the type vehicles being promoted, starting within a thirty mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available. A 50-mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available;

2. all Louisiana dealers, who are not in Orleans or Jefferson Parish, who sell the type vehicles being promoted, starting within a 50 mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available;

3. that the exhibitor invited is a greater distance away than a Louisiana dealer selling the same make, model or brand and that the Louisiana dealer has declined to attend; or

4. that the exhibitor invited will only display a make, model, or brand not sold by any Louisiana dealer.

D. - G. ...

H. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:788.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Subchapter B. Motor Vehicle Trade Shows and Off-Site Displays

§3606. Off-Site Displays—Marine Products

A. - F. ...

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:814(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§3607. Off-Site Displays—Motorcycles, ATV's and RV's

A. - E. ...

F. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:814(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1).

HISTORICAL NOTE: Promulgated by the Office of Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On or after January 1, 2005, every applicant for a license issued by the Recreational and Used Motor Vehicle Commission except those excluded by statute must attend a four-hour educational seminar approved and conducted by the Recreational and Used Motor Vehicle Commission.

1. The seminar will be conducted by employees of the Recreational and Used Motor Vehicle Commission and will be held at such place to be determined by the commission upon reasonable notice.

2. The seminar will be held once a month on a date and at a time to be determined by the commission upon reasonable notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§4403. Certification

A. Upon applying for a license from the commission, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative

of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name, name and address of the dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§4405. Educational Program

A. The educational seminar will consist of information pertaining to the Recreational and Used Motor Vehicle Commission, Department of Revenue, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LRUMVC—background of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, and non-delivery of titles;

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

Chapter 47. Procedure for Adjudications before the Recreational and Used Motor Vehicle Commission

§4701. Hearing Officer

A. - B.4. ...

5. shall issue and enforce subpoenas in accordance with R.S. 32:785;

6. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:246 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006), LR 33:

§4707. General Provisions on Hearings

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(C) and R.S. 49:955.

B. - D. ...

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(C)(3).

E.2. - F.5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:

§4709. Hearings on Application Appeals

A. Any person whose application for license has been denied in accordance with R.S. 32:785(A)(1) shall be provided written notice by certified or registered mail that

the application has been denied, the grounds for which the application has been denied and that the applicant has the right to appeal to the commission by making a written request for the appeal within 30 days following the receipt of the denial. No appeals will be considered beyond 30 days from receipt of the denial.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:

§4710. Hearings on Cease and Desist Orders

A. A rule to show cause why a cease and desist order should not be issued shall be made in accordance with R.S.786(D)(1), and the notice shall be provided at least 10 days prior to the hearing either by certified or registered mail or by actual service made by a field investigator.

B. An interlocutory cease and desist order shall only be issued by the hearing officer based on the request of a consumer, licensed dealer or licensed manufacturer.

C. On a request for an interlocutory cease and desist order made pursuant to R.S. 32:786(D)(1), the hearing officer shall issue the order based on the evidence and information submitted by the party, and should the evidence fail to provide the grounds as required in R.S. 32:786(D)(1)(a) through (d), the interlocutory cease and desist order shall be denied and converted to a rule to show cause why a cease and desist order should not be issued.

D. Should the interlocutory cease and desist order be signed and issued, the hearing officer may require that the requesting party issue a bond in an amount commensurate with the activity sought to be enjoined.

E. The interlocutory cease and desist order shall notify the party against whom the order is issued that the order will remain in effect until the next available commission meeting date.

F. An interlocutory cease and desist order shall be noticed for hearing in which the commission shall consider whether to vacate the order or incorporate the order into a final commission order. Said notice shall be served on all parties at least five days prior to the hearing.

G. In accordance with R.S. 32:786(D)(2), the interlocutory cease and desist order shall notify the party against whom the order is issued of its right to appeal the order to the commission and that said appeal shall be heard at the next available commission meeting date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:

§4711. Hearings on Area of Responsibility Disputes

A. Before a dealer can file a notice of intent under R.S. 32:815 or 817 to establish itself as a new dealer, it must provide to the commission written approval from the manufacturer and that the manufacturer has notified its existing dealer that it intends to establish a new dealer.

B. When the commission receives a timely objection in accordance with either R.S. 32:815 or 817 the commission shall notice the dispute for hearing within 30 days following receipt of the objection; however, the hearing shall not be set any sooner than 10 days prior to the hearing date.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:

§4713. Hearings on a Repurchase Demands

A. Prior to noticing a repurchase demand for hearing, pursuant to R.S. 32:816, 818, 821 or 822, the hearing officer will determine the following:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:

Chapter 48. Designation of Area of Responsibility for Marine Products

§4801. Procedure of Designation of Area of Responsibility

A. Beginning August 16, 2004, the commission shall notify by certified mail each marine product manufacturer/distributor, who has prior to that date failed to designate an area of responsibility for each of its existing dealers, that they must designate an area of responsibility for each dealer within 30 days following receipt of the notifications. Failure to respond to the commission within 30 days shall constitute an absence of designation thereby mandating the areas of responsibility provided for in R.S. 32:781(2)(b).

B. ...

C. Thereafter, any marine product manufacturer/distributor which was not licensed with the commission prior to August 16, 2004, shall be notified by the commission by certified mail of their responsibility to designate an area of responsibility for their dealers. Failure to designate an area of responsibility for each dealer within 30 days following receipt of the notification shall constitute an absence of designation thereby mandating the area of responsibility provided for in R.S. 32:817(C).

D. Any changes in the area of responsibility once designated must meet criteria as set forth in R.S. 32:817(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:2481 (November 2004), amended LR 33:

§4803. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer

A. On any occasion in which the marine product manufacturer/distributor has designated, an area of responsibility smaller in size to that provided for in R.S. 32:781(2)(b) the marine product manufacturer and/or distributor must furnish with the designation the uniform procedure to establish the community or territory that is assigned to a marine dealer. If the manufacturer/distributor fails to furnish a uniform procedure with its designation, the commission shall reject the designation and shall so notify the manufacturer/distributor of the rejection by certified mail. With the notice of rejection, the commission shall provide the manufacturer/distributor the opportunity to appeal the rejection to the commission in a hearing at the commission's monthly meeting.

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Prescriptive and Distributing Authority Clinical Practice
Requirements for Licensed APRNs or APRNs
(LAC 46:XLVII.4513)**

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII. 4513 in accordance with R.S. 37:918, R.S. 37:919 and R.S 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendments to LAC 46:XLVII.4513, Authorized Practice, revises the requirements of 500 hours of clinical practice as a licensed APRN or APRN for granting of prescriptive and distributing authority. The proposed amendments require that the applicant shall provide evidence of 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement; or 500 hours of clinical practice in medical management of patients in a preceptorship (student experience) in which the APRN applicant is precepted by a physician or another advanced practice registered nurse who has approval for medical management/prescriptive authority by the Board of Nursing. The student experience must occur in a formal board approved educational program preparing graduates to sit for the respective advanced practice specialty licensure exam and certification process.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

**Chapter 45. Advanced Practice Registered Nurses
§4513. Authorized Practice**

A. - C.8. ...

D. Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3). An APRN may be granted prescriptive authority to prescribe assessment studies, including pharmaceutical diagnostic testing (e.g., dobutamine stress testing) legend and certain controlled drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37.913(3)(b).

1. The applicant shall:

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004), amended LR 33:

Family Impact Statement

The proposed Rules of the Louisiana Recreational and Used Motor Vehicle Commission should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments no later than 4:30 p.m. on June 10, 2007 to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Recreational and Used Motor Vehicles

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

The proposed rule change will have no impact on costs(savings) to state or local governmental units.

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

The proposed rule change will result in additional applications for licensure submitted to the Recreational and Used Motor Vehicle Commission in order for licensee to continue to operate at the previous level. The total number of licenses available will increase from five to ten with the implementation of this rule. The cost of each license will be \$200. The total increase in revenue is indeterminable and will be dependent upon the applications for licensure received.

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

The proposed rule change will require applicants to pay \$200 per license for the maximum number of licenses offered. The total amount of additional costs to licensees is indeterminable as the number of licences per applicant is unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not effect competition and employment.

John M. Torrance
Executive Director
0705#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

b. hold a current, unencumbered, unrestricted and valid APRN license;

c. submit a notarized application on a form provided by the board with a non-refundable fee as set forth in LAC 46:XLVII.3341;

d. provide evidence of:

i. 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement; or

ii. 500 hours of clinical practice in medical management of patients in a preceptorship (student experience) in which the APRN applicant is precepted by a physician or another advanced practice registered nurse who has approval for medical management/prescriptive authority by the Board of Nursing. The student experience must occur in a formal board approved educational program preparing graduates to sit for the respective advanced practice specialty licensure exam and certification process; and

iii. successful completion of a minimum of 45 contact hours of education (3 credit hour academic course) in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice, approved by the board;

iv. successful completion of a minimum of 45 contact hours (3 credit hour academic course) in physiology/pathophysiology in a formal educational program approved by the board for preparation for advanced practice registered nurses;

v. any deviation from Clause 1.d.i, ii or iii shall be submitted to the board for review and approval; and

vi. a collaborative practice agreement as defined in §4513.B.1, 2 and 3, with one or more licensed collaborating physicians which shall include, but not be limited to:

(a) a plan of accountability among the parties that:

(i) defines the prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;

(ii) delineates a plan for hospital and other healthcare institution admissions and privileges which includes a statement that the collaborating physician must have said privileges at the same institution before an APRN can receive this determination at said institution;

(iii) delineates mechanisms and arrangements for diagnostic and laboratory requests for testing; and

(iv) delineates a plan for documentation of medical records;

(b) clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic substitution for prescription and be in accordance with current standards of care and evidence-based practice for the APRN specialty and functional role and be:

(i) mutually agreed upon by the APRN and collaborating physician;

- (ii). specific to the practice setting;
- (iii). maintained on site; and
- (iv). reviewed and signed at least annually by the APRN and physician to reflect current practice;

(c). documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. Physicians shall be available to provide consultation as needed:

(i). physician shall be available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral, as delineated in the collaborative practice agreement; and

(ii). the secondary (back-up) physician or physicians shall be in good standing and approved by the Louisiana State Board of Medical Examiners and sign the collaborative practice agreement;

(iii). in the event the collaborating physician and any secondary (back-up) collaborating physician(s) are unavailable, the APRN will not prescribe;

(d). documentation shall be shown that patients are informed about how to access care when both the APRN and/or the collaborating physicians are absent from the practice setting; and

(e). an acknowledgement of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of prescriptive authority are properly documented.

2. - 14.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR), amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002) repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), amended LR 33:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

Interested persons may submit written comments on the proposed Rule until 5 p.m., June 10, 2007, to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA, 70809.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Prescriptive and Distributing
Authority Clinical Practice Requirements
for Licensed APRNs or APRNs**

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

There is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 06-07.

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

There is no estimated effect on revenue collections.

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

The proposed amendments to Rule LAC 46:XLVII. §4513. Authorized Practice revises the requirements of 500 hours of clinical practice as a licensed APRN or APRN for granting of prescriptive and distributing authority. The proposed amendments require that the applicant shall provide evidence of 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement; or 500 hours of clinical practice in medical management of patients in a preceptorship (student experience) in which the APRN applicant is precepted by a physician or another advanced practice registered nurse who has approved for medical management/prescriptive authority by the Board of Nursing. The student experience must occur in a formal Board approved educational program preparing graduates to sit for the respective advanced practice specialty licensure exam and certification process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. This change will allow Advanced Practice Registered Nurses (APRNs) to enter full practice more quickly, as the proposed rule allows APRNs (approximately 200 per year) to accumulate the 500 hours during training.

Barbara L. Morvant, M.N., R.N.
Executive Director
0705#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities—Reimbursement Methodology
Fair Rental Value, Property Tax and Property Insurance
Payments (LAC 50:VII.1312)

Editor's Note: The following Notice of Intent is being repromulgated due to an error upon submission. The original Notice of Intent may be viewed in the April 20, 2007 edition of the *Louisiana Register* on pages 718-719.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt §1312 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to: 1) incorporate new definitions and revise current definitions; 2) provide clarifications on cost report submissions; and 3) adopt provisions governing verification of minimum data set assessments (MDS) and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12). The bureau amended the December 20, 2005 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for fair rental value, property tax and property insurance when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement Methodology

§1312. Additional Fair Rental Value, Property Tax and Property Insurance Payments

A. On or after July 20, 2007, a Louisiana Medicaid participating nursing facility, buyer(s), that purchases and closes an existing Louisiana Medicaid participating nursing facility (seller) will be eligible to receive additional fair rental value, property tax and property insurance payments for five years after the legal transfer of ownership and closure of the seller's nursing facility.

B. Qualifying Buyer(s). In order for the buying facility to qualify for the additional payments in §1312.C, the following conditions must be met.

1. The buyer(s) must close the purchased nursing facility (seller) within 90 days after the legal transfer of ownership.

2. After closing the facility, all buyers must permanently surrender their interest in the seller's bed license and the Facility Need Review bed approvals to the state.

3. The buyer(s) must be a certified nursing facility at the time of purchase and continue their Medicaid participation throughout the entire five year payment period.

a. A change in ownership of a buyer facility will not be considered a break in Medicaid participation provided that the new owner of the nursing facility continues to

participate in the Medicaid Program as a certified nursing facility.

4. The buyer(s) must provide the following information in writing to the department within 30 days after the legal transfer of ownership:

- a. a list of all buyers;
- b. a list of all sellers;
- c. the date of the legal transfer of ownership; and
- d. each buyer's percentage share of the purchased facility.

5. The buyer(s) must provide the following information in writing to the department within 110 days after the legal transfer of ownership:

a. a list of the nursing facility residents that transferred from the seller facility and were residents of the buyer facility as of 90 days after the legal transfer of ownership date; and

b. the date that the seller's facility was officially closed and no longer operating as a nursing facility.

C. The buyer's Medicaid payment determinations will be as follows.

1. Buyer's Additional Fair Rental Value Payments. Each buyer's additional fair rental value payment will be calculated as the seller's annual Medicaid fair rental value payment multiplied by each buyer's reported percentage share in the purchase of the seller. The seller's annual Medicaid fair rental value payment will be calculated as the seller's most recent fair rental value per diem as determined under §1305.D.3.b.iii multiplied by the total Medicaid days reported on the seller's most recent base year cost report as determined in §1305.B.

2. Buyer's Additional Property Tax and Insurance Payments. Each buyer's additional property tax and insurance payment will be calculated as the seller's annual Medicaid property tax and insurance payment multiplied by each buyer's reported percentage share in the purchase of the seller. The seller's annual Medicaid property tax and insurance pass-through payment will be calculated as the seller's most recent property tax and insurance per diem as determined under §1305.D.4.a multiplied by the total Medicaid days reported on the seller's most recent base year cost report as determined in §1305.B.

3. Re-Base of Buyers' Fair Rental Value, Property Tax, and Property Insurance per Diems. All buyers will have their fair rental value, property tax, and property insurance per diems re-based using the number of residents reported by each buyer under §1312.B.5.a. The calculation will be as follow.

a. The number of total resident days used in the calculation of each buyer's current fair rental value per diem under §1305.D.3.b.iii will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the number of current calendar year days.

b. The number of total resident days used in the calculation of each buyer's current pass through property tax and insurance per diem under §1305.D.4.a will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the number of calendar days included in the buyer's most recent base-year cost report.

c. The resident day adjustment to each buyer's fair rental value, property tax, and property insurance per diem will continue until the buyer's base-year cost report, as

defined under §1305.B, includes a full 12 months of resident day data following the closure of the acquired facility (seller). If a buyer's base year cost report overlaps the closure date of the acquired facility, a proportional adjustment to that buyer's resident days will be made for use in the fair rental value, property tax, and property insurance per diem calculations.

D. Payments. The additional fair rental value, property tax, and property insurance payments will be paid to the buyer(s) in equal quarterly installments for five years (20 quarters) effective the calendar quarter that the seller's facility is closed and the seller's licensed beds are surrendered to the department.

1. The revised fair rental value per diem and revised property tax and insurance per diem for the buyer(s) will be effective the first day of the month following the closure of the acquired facility (seller).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

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

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 29, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—Reimbursement Methodology Fair Rental Value, Property Tax and Property Insurance Payments

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$272 for FY 06-07, \$218,705 for FY 07-08, and \$218,705 for FY 08-09. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule. The cost to the state during the first five years may be less than estimated depending on the distribution of the patients following the closure of the selling facility. After the fifth year the state should realize a savings by the reduction of beds of the selling facility and this saving would be equal to the annual cost of the Fair Rental Value and the Property Tax and Insurance cost of the selling facility.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$272 for FY 06-07, \$556,295 for FY 07-08, and \$556,295 for FY 08-09. It is anticipated that \$272 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for an additional fair rental value payment when a Medicaid participating nursing facility purchases and closes an existing Medicaid participating nursing facility (5 facilities are expected to participate). It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facilities by approximately \$775,000 for FY 07-08 and \$775,000 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will promote quality care and increase efficiency and encourage nursing homes to operate at an occupancy level of ninety-five percent.

Jerry Phillips
Medicaid Director
0705#098

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities—Reimbursement Methodology Private Room Conversions (LAC 50:VII.1310)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt §1310 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to: 1) incorporate new definitions and revise current definitions; 2) provide clarifications on cost report submissions; and 3) adopt provisions governing verification of minimum data set assessments (MDS) and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12). The bureau amended the December 20, 2005 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for private room conversions when a Medicaid participating nursing facility converts one or more semi-private rooms to private rooms for occupancy by Medicaid recipients.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement Methodology

§1310. Additional Payments and Square Footage

Adjustments for Private Room Conversion

A. Effective for dates of service on or after September 1, 2007, Medicaid participating nursing facilities that convert a semi-private room to a Medicaid-occupied private room are eligible to receive an additional \$5 per diem payment. Facilities that participate will have their fair rental value per diem revised based on the change in licensed beds.

B. Qualifying Facilities

1. In order for a nursing facility's beds to qualify for an additional \$5 per diem payment, a revised fair rental value (FRV), a revised property tax pass-through, and revised property insurance pass-through, all of the following conditions must be met.

a. The nursing facility must convert one or more semi-private rooms to private rooms on or after September 1, 2007.

b. The converted private room(s) must be occupied by a Medicaid resident(s) to receive the \$5 per diem payment.

c. The nursing facility must surrender their bed licenses equal to the number of converted private rooms.

d. The nursing facility must submit the following information to the department within 30 days of the private room conversion:

- i. the number of rooms converted from semi-private to private;
- ii. the revised bed license;
- iii. a resident listing by payer type for the converted private rooms; and
- iv. the date of the conversions.

C. The additional \$5 per diem payment determination will be as follows.

1. An additional \$5 will be added to the nursing facility's case-mix rate for each Medicaid resident day in a converted private room.

2. The payment will begin the first day of the following calendar quarter, after the facility meets all of the qualifying criteria in §1310.B.1.

3. A change in ownership, major renovation, or replacement facility will not impact the \$5 additional per diem payment provided that all other provisions of this Section have been met.

D. The revised fair rental value per diem will be calculated as follows.

1. After a qualifying conversion of semi-private rooms to private rooms, the nursing facility's square footage

will be divided by the remaining licensed nursing facility beds to calculate a revised square footage per bed.

2. After a qualifying private room conversion, the allowable square footage per bed used in §1305.D.3.b. will be determined as follows.

a. No Change in Total Square Footage. The total allowable square footage after a qualifying private room conversion will be equal to the total allowable square footage immediately prior to the conversion, provided no other facility renovations or alterations changing total square footage occur concurrently or subsequently to the private room conversion.

b. Square Footage Changes to Existing Buildings. If a change in total nursing square footage occurs in a building existing on the effective date of this rule and that change is concurrent or subsequent to a private room conversion, the allowable square footage will be determined in accordance with §1305.D.3.b.i as if the private room conversion did not occur.

c. Square Footage Changes Due to New Buildings. Replacement buildings constructed or first occupied after the effective date of this rule will have their allowable square footage calculated in accordance with §1305.D.3.b.i.

3. Resident days used in the fair rental value per diem calculation will be the greater of the annualized actual resident days from the base year cost report or 70 percent of the revised annual bed days available after the change in licensed beds.

4. A revised fair rental value per diem will be calculated under §1305.D.3.b. using the allowable square footage according to §1310.D.2, remaining licensed beds, and the revised minimum occupancy calculation.

5. The revised fair rental value per diem will be effective the first of the following calendar quarter, after the facility meets all qualifying criteria in paragraph §1310.B.1.

E. Reporting

1. To remain eligible for the conversion payments and the allowable square footage calculations, facilities must report Medicaid-occupied private rooms with every annual cost report.

2. The department may also require an alternate billing procedure for providers to receive the additional \$5 private room rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

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

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 26, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that

time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Reimbursement Methodology
Private Room Conversions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that the implementation of this proposed rule will result in an estimated cost to the state of \$2,295,317 for FY 07-08 and \$2,837,012 for FY 08-09. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$5,838,336 for FY 07-08 and \$7,216,183 for FY 08-09. It is anticipated that \$204 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule proposes to amend the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for private room conversions when a Medicaid participating nursing facility converts one or more semi-private rooms to private rooms for occupancy by Medicaid recipients. It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facilities by approximately \$8,133,653 for FY 07-08 and \$10,053,195 for FY 08-09.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0705#099

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver
Service Cap Increase and Clarification of Services
(LAC 50:XXI.13701 and Chapters 139-143)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.13701 and Chapters 139-143 under the Medical Assistance Program as

authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a new home and community based services waiver, the New Opportunities Waiver (NOW) designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amended the June 20, 2004 Rule to remove the requirement that direct support staff providing Individual and Family Supports-Night services be awake and alert and replace it with language that would allow the direct support staff to sleep under certain conditions and to allow the billing of two one-way trips per day in lieu of one round trip per day under the Transportation for Day Habilitation and Supported Employment Models (*Louisiana Register*, Volume 32, Number 11). The department now proposes to amend the provisions governing the New Opportunities Waiver to increase the service caps for designated services and redefine the services available through the waiver in order to more adequately address the current needs of waiver recipients.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive effect on family functioning, stability or autonomy as described in R.S. 49:972 as it will allow more flexibility and utilization of services for recipients in the New Opportunities Waiver.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13701. Introduction

- A. ...
- B. All NOW services are accessed through the case management agency of the recipient's choice. All services must be prior authorized and delivered in accordance with the approved comprehensive plan of care (CPOC). The CPOC shall be developed using a person-centered process coordinated by the individual's case manager.
- C. Providers must maintain adequate documentation to support service delivery and compliance with the approved plan of care and will provide said documentation at the request of the department.
- D. - F. ...
- G. Providers shall follow the regulations and requirements as specified in the NOW provider manual.
- H. Home and community-based services shall not be reimbursed while the recipient is a patient in an inpatient facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004),

amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 139. Covered Services

§13901. Individualized and Family Support Services

A. Individualized and Family Support (IFS) services are direct support and assistance services provided in the home or the community that allow the recipient to achieve and/or maintain increased independence, productivity, enhanced family functioning and inclusion in the community or for the relief of the primary caregiver. Transportation is included in the reimbursement for these services. Reimbursement for these services includes the development of a service plan for the provision of these services, based on the approved CPOC.

1. ...

a. Additional hours of IFS day services beyond the 16 hours can be approved based on documented need, which can include medical or behavioral and specified in the approved CPOC.

2. - 2.e. ...

B. IFS services may be shared by up to three waiver recipients who may or may not live together and who have a common direct service provider agency. Waiver recipients may share IFS services staff when agreed to by the recipients and health and welfare can be assured for each individual. The decision to share staff must be reflected on the CPOC and based on an individual-by-individual determination. Reimbursement rates are adjusted accordingly. Shared IFS services, hereafter referred to as shared support services, may be either day or night services.

C. - C.5. ...

6. accompanying the recipient to the hospital and remaining until admission or a responsible representative arrives, whichever occurs first. IFS services may resume at the time of discharge.

D. - D.1. ...

2. IFS-D and IFS-N services shall not include services provided in the IFS-D or IFS-N worker's residence, regardless of the relationship, unless the worker's residence is a certified foster care home.

D.3. - E.2. ...

3. An IFS-D or N worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the approved CPOC. An IFS-D or N shared supports worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the approved CPOC.

F. ...

1. IFS services shall be provided in the state of Louisiana. IFS services may be performed outside the state for a time-limited period or for emergencies. The provision of services outside of the state must be approved by the department.

2. ...

3. The provision of IFS services in licensed congregated settings shall be excluded from coverage.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:2063 (November 2006), LR 33:

§13903. Center-Based Respite Care

A. Center-Based Respite (CBR) Care is temporary, short-term care provided to a recipient with developmental disabilities who requires support and/or supervision in his/her day-to-day life due to the absence or relief of the primary caregiver. While receiving center-based respite care, the recipient's routine is maintained in order to attend school, work or other community activities/outings. The respite center is responsible for providing transportation for community outings, as that is included as part of their reimbursement. Individual and family support services (both day and night) will not be reimbursed while the recipient is in a center-based respite facility.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13905. Community Integration Development

A. Community Integration Development (CID) facilitates the development of opportunities to assist recipients in becoming involved in their community through the creation of natural supports. The purpose of CID is to encourage and foster the development of meaningful relationships in the community reflecting the recipient's choices and values. Objectives outlined in the Comprehensive Plan of Care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. Reimbursement for this service includes the development of a service plan. To utilize this service, the recipient may or may not be present as identified in the approved CID service plan. CID services may be performed by shared staff for up to three waiver recipients who have a common direct service provider agency. The shared staff shall be reflected on the CPOC and based on an individual-by-individual determination. Rates shall be adjusted accordingly.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13907. Residential Habilitation-Supported Independent Living

A. - B. ...

C. Exclusions

1. Legally responsible relatives may not be SIL providers. Payment for SIL does not include payments made

directly or indirectly to members of the individual's immediate family.

2.a. - c. ...

d. routine care and supervision which could be expected to be provided by a family member; or

e. activities or supervision for which a payment is made by a source other than Medicaid, e.g., Office for Citizens with Developmental Disabilities, etc.

f. Repealed.

D. ...

E. Provider Qualifications. The provider must possess a current, valid license for the Supervised Independent Living module.

F. - F.2. ...

3. Residential habilitation services shall be coordinated with any services listed in the approved CPOC, and may serve to reinforce skills or lessons taught in school, therapy or other settings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13913. Supported Employment

A. - D.1. ...

2. Follow along services are designed for individuals who are in supported employment and have been placed in a work site and only require minimum oversight for follow along at the job site.

D.3. - F.3. ...

G. Licensing Requirements. The provider must possess a valid certificate of compliance as a Community Rehabilitation Provider (CRP) from Louisiana Rehabilitation Services.

1. Existing providers of supported employment services shall be allowed 12 months after the effective date of the final Rule to comply with the licensing and accreditation requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13917. Employment-Related Training

A. Employment-related training consists of paid employment for recipients for whom competitive employment at or above the minimum wage is unlikely, and who need intensive ongoing support to perform in a work setting because of their disabilities. Services are aimed at providing recipients with opportunities for employment and related training in work environments one to eight hours a day, one to five days a week at a commensurate wage in accordance with United States Department of Labor regulations and guidelines. Employment-related training services include training designed to improve and maintain the recipient's capacity to perform productive work and to function adaptively in the work environment. The recipient must be 18 years or older in order to receive employment-

related training services. Reimbursement for these services includes transportation and requires an individualized service plan.

B. - D. ...

E. Licensing Requirements. The provider must possess a current, valid license as an adult day care center and a valid certificate of compliance as a Community Rehabilitation Provider (CRP) from Louisiana Rehabilitation Services.

1. Existing providers of employment-related training services shall be allowed 12 months after the effective date of the final Rule to comply with the licensing requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13919. Environmental Accessibility Adaptations

A. - C. ...

1. Any service covered under the Medicaid State Plan shall not be authorized by NOW. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the CPOC year in which it was approved. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modification, must be obtained and submitted for prior authorization. Modifications may be applied to rental or leased property with the written approval of the landlord. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the recipient.

2. Upon completion of the work and prior to payment, the provider shall give the recipient a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

3. - 5. ...

6. Excluded are those vehicle adaptations which are of general utility or for maintenance of the vehicle or repairs to adaptations. Car seats are not considered a vehicle adaptation.

D. Service Limits. There is a cap of \$7,000 per recipient for environmental accessibility adaptations. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$7,000. Any additional environmental accessibility expenditures during the dormant period reset the three-year time frame. On a case-by-case basis, with supporting documentation and based on need, an individual may be able to exceed this cap with the approved CPOC and if they have the requested funds available in Specialized Medical Equipment and Supplies service cap. An individual may access up to the available maximum in the service cap for Specialized Equipment and Supplies.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider and comply with applicable state and local laws governing licensure and/or certification.

1. All providers of environmental accessibility adaptations must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor, with the exception of providers of vehicle adaptations.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

3. Existing providers of environmental accessibility adaptations to vehicles shall be allowed 12 months after the effective date of the final Rule to comply with the licensing and accreditation requirements of §13919.E.2.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1206 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13921. Specialized Medical Equipment and Supplies

A. - D. ...

E. Service Limitations. There is a cap of \$1,000 per individual for specialized equipment and supplies. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$1,000. Any additional specialized equipment and supplies expenditures during the dormant period reset the three-year time frame. On a case-by-case basis, with supporting documentation and based on need, an individual may be able to exceed this cap with the approved CPOC and if they have the requested funds available in Environmental Accessibility Adaptations. An individual may access up to the available maximum in the service cap for Environmental Accessibility Adaptations.

F. Provider Qualifications. All agencies who are vendors of technological equipment and supplies must be enrolled in the Medicaid Program as a durable medical equipment provider and must meet all applicable vendor standards and requirements for manufacturing, design and installation of technological equipment and supplies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13923. Personal Emergency Response Systems

A. - B. ...

1. have a demonstrated need for quick emergency back-up;

2. are unable to use other communication systems as they are not adequate to summon emergency assistance; or

3. do not have 24 hour direct supervision.

4. - 5. Repealed.

C. - D. ...

E. Provider Qualifications. The provider must be an enrolled Medicaid provider of the Personal Emergency Response System. The provider shall install and support PERS equipment in compliance with all applicable federal, state, parish and local laws and meet manufacturer's specifications, response requirements, maintenance records and recipient education.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Editor's Note: §13925, Professional Consultation, has been repealed and new text has been inserted into §13925.

§13925. Professional Services

A. Professional services are services designed to increase the individual's independence, participation and productivity in the home, work and community. Recipients, up to the age of 21, who participate in NOW must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Professional services may only be furnished and reimbursed through NOW when the services are not covered under the Medicaid State Plan. Professional services must be delivered with the recipient present and be provided based on the approved CPOC and an individualized service plan. Service intensity, frequency and duration will be determined by individual need. Professional services may be utilized to:

1. perform assessments and/or re-assessments and recommendations;

2. provide consultative services and recommendations;

3. provide training or therapy to an individual and/or their natural and formal supports necessary to either develop critical skills that may be self-managed by the individual or maintained according to the individual's needs;

4. intervene in and stabilize a crisis situation, behavioral or medical, that could result in the loss of home and community-based services; or

5. provide necessary information to the individual, family, caregivers and/or team to assist in the implementation of plans according to the approved CPOC.

B. Professional Services are limited to the following services.

1. Psychological services are direct services performed by a licensed psychologist, as specified by state law and licensure. These services are for the treatment of a behavioral or mental condition that addresses personal outcomes and goals desired by the recipient and his or her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Service intensity, frequency, and duration will be determined by individual need.

2. Social work services are highly specialized direct counseling services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personnel outcomes and goals listed in the approved CPOC.

3. Nutritional/Dietary services are medically necessary direct services provided by a licensed registered dietician or licensed nutritionist. Services must be ordered by a physician. Direct services may address health care and nutritional needs related to prevention and primary care activities, treatment and diet. Reimbursement is only available for the direct service performed by a dietitian or

nutritionist, and not for the supervision of a dietician or nutritionist performing the hands-on direct service.

C. Service Limits. There shall be a \$2,250 cap per recipient per CPOC year for the combined range of professional services in the same day but not at the same time.

D. Provider Qualifications. The provider of professional services must be a Medicaid enrolled provider. Each professional must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in their area of expertise.

E. Non-Reimbursable Activities. The following activities are not reimbursable:

1. friendly visiting, attending meetings;
2. time spent on paperwork or travel;
3. time spent writing reports and progress notes;
4. time spent on the billing of services; and
5. other non-Medicaid reimbursable activities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13927. Skilled Nursing Services

A. Skilled Nursing services are medically necessary nursing services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse. Skilled nursing services shall be provided by a licensed, enrolled home health agency and require an individual nursing service plan. These services must be included in the individual's approved CPOC. All Medicaid State Plan services must be utilized before accessing this service. Recipients, up to the age of 21, must access these services as outlined on their CPOC through the Home Health Program.

B. When there is more than one recipient in the home receiving skilled nursing services, services may be shared and payment must be coordinated with the service authorization system and each recipient's approved CPOC. Nursing consultations are offered on an individual basis only.

C. Provider Qualifications. The provider must possess a current valid license as a home health agency.

D. - D.6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13929. One Time Transitional Expenses

A. One time transitional expenses are those allowable expenses incurred by recipients who are being transitioned from an ICF-MR to their own home or apartment in the community of their choice. "Own home" shall mean the recipient's own place of residence and does not include any family members home or substitute family care homes.

B. Allowable transitional expenses include:

1. the purchase of essential furnishings such as:
 - a. bedroom and living room furniture;

- b. table and chairs;
- c. window blinds;
- d. eating utensils; and
- e. food preparation items;

2. moving expenses required to occupy and use a community domicile;

3. health and safety assurances, such as pest eradication, allergen control or one-time cleaning prior to occupancy; and

4. nonrefundable security deposits.

5. - 9. Repealed.

C. Service Limits. Set-up expenses are capped at \$3,000 over a recipient's lifetime.

D. Service Exclusion. Transitional expenses shall not constitute payment for housing, rent, or refundable security deposits.

E. Provider Qualifications. This service shall only be provided by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) with coordination of appropriate entities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13931. One Time Transitional Expenses

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), repealed by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13933. Transitional Professional Support Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), repealed by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

§13935. Consumer Directed Service

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), repealed by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 141. Self-Direction Initiative

§14101. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the recipient to coordinate the delivery of designated NOW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option

requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

1. - 10. Repealed.

B. Recipient Responsibilities. Waiver recipients choosing the self-directed services option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the recipient is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the recipient or authorized representative include:

1. completion of mandatory trainings, including the rights and responsibilities of managing their own services and supports and individual budget;

2. participation in the self-direction service option without a lapse in or decline in quality of care or an increased risk to health and welfare, and:

a. adhere to the health and welfare safeguards identified by the team, including the application of a comprehensive monitoring strategy and risk assessment and management systems;

3. participation in the development and management of the approved Personal Purchasing Plan:

a. this annual budget is determined by the recommended service hours listed in the recipient's CPOC to meet his needs;

b. the recipient's individual budget includes a potential amount of dollars within which the recipient or his authorized representative exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of the Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the CPOC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver recipient may chose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary Termination. The department may terminate the self-direction service option for a recipient and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the recipient is compromised by continued participation in the self-directed option;

b. the recipient is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the recipient or the authorized representative; or

d. over three consecutive payment cycles, the recipient or authorized representative:

i. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;

ii. fails to follow the Personal Purchasing Plan;

iii. fails to provide required documentation of expenditures and related items; or

iv. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures.

3. Repealed.

D. - E.1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. Reimbursement for services shall be a prospective flat rate for each approved unit of service provided to the recipient. One quarter hour (15 minutes) is the standard unit of service, which covers both service provision and administrative costs for the following services:

1. Center-Based Respite;

2. Community Integration Development:

a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient;

b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;

3. Day Habilitation;

4. Employment Related Training;

5. Individualized and Family Support-Day and Night:

a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient;

b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;

6. Professional Services;

7. Skilled Nursing Services, and:

a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient;

b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;

c. nursing consultations are offered on an individual basis only;

8. Supported Employment, One-to-One Intensive and Mobile Crew/Enclave.

B. The following services are to be paid at cost, based on the need of the individual and when the service has been prior authorized and on the CPOC:

1. environmental accessibility adaptations;

2. specialized medical equipment and supplies; and

3. transitional expenses.

C. The following services are paid through a per diem:

1. substitute family care;

2. residential habitation-supported independent living; and

3. supported employment-follow along.

D. Maintenance of the personal emergency response system is paid through a monthly rate.

E. Installation of the personal emergency response system is paid through a one time fixed cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

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

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 26, 2007 at 9:30 a.m. in Room 188, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services
Waivers—New Opportunities Waiver
Service Cap Increase and Clarification of Services**

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$2,040 for FY 06-07, \$1,857,379 for FY 07-08, and \$2,228,855 for FY 08-09. It is anticipated that \$4,080 (\$2,040 SGF and \$2,040 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,040 for FY 06-07, \$4,724,404 for FY 07-08, and \$5,669,285 for FY 08-09. It is anticipated that \$2,040 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend the provisions governing the New Opportunities Waiver to redefine the services available through the waiver in order to more adequately address the current needs of waiver recipients by increasing service CAP amounts for approximately 2,600 exiting recipients. It is anticipated that implementation of this proposed rule will increase program expenditures for the New Opportunities Waiver by approximately \$6,581,783 for FY 07-08 and \$7,898,140 for FY 08-09.

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

This rule will have no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0705#100

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 81—Military Personnel—Automobile
Liability Insurance Premium Discount
and Insurer Premium Tax Credit Program
(LAC 37:XIII.9511 and 9519)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Insurance ("LDOI") gives notice that rulemaking procedures have been initiated to amend the "Louisiana Application for Military Discount" form that acts as the documentary proof required for a person to verify eligibility for the discount. The amended form would still require the name of the insured's unit commander for verification purposes, but would no longer require the signature of the unit commander.

Pursuant to R.S. 49:953.A.(1)(a)(vii) the Commissioner for the LDOI states that he has prepared a preamble that explains the basis and rationale for the amendment to Regulation 81 and summarizes the information and data supporting the amendment to Regulation 81. To facilitate public access to this preamble the commissioner hereby restates the preamble herein, to wit: The amendment to Regulation 81 is taken under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to R.S. 49:953.A.(1)(a). The LDOI amends Regulation 81 to implement changes to the Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program that automobile insurance carriers are required under R.S. 22:1425 to provide to active military personnel based in Louisiana. Regulation 81 provided an application form for active military personnel based in Louisiana that acts as the documentary proof required for a person to verify eligibility for the discount. The amended form would still require the name of the insured's unit commander for verification purposes, but would no longer require the signature of the unit commander. Thus, in furtherance of the amended requirements of R.S. 49:953.A.(1)(a) the commissioner intends to amend Regulation 81 to implement a new form that will no longer require the signature of the unit commander to clarify the documentary evidence that active military personnel are required to provide to the insurance carrier to demonstrate eligibility for the discount as well as the record retention requirements of the insurance carrier to facilitate any subsequent investigation and compliance audit by the LDOI of the military discount program.

A copy of the amendment to Regulation 81 may be obtained from the LDOI by contacting Walter Corey, Attorney, in writing c/o the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802, or by telephone at (225)219-0605, or by electronic e-mail at wcorey@ldi.state.la.us.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 95. Regulation 81—Military Personnel
Automobile Liability Insurance Premium
Discount and Insurer Premium Tax
Credit Program

§9511. Premium Discount; Proof of Eligibility

A. - D. ...

E. The initial Louisiana Application for Military Discount shall be properly executed by the applicant/AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDOI to ensure that the applicant/AMP is entitled to the premium discount mandated by R.S. 22:1425.A.

F. - F.3. ...

G. If single or married AMP are deployed out-of-state or overseas, the insurer is authorized to accept the "Louisiana Application for Military Discount" if it is properly filled out by any one of the persons who is in a filial relationship to the AMP, to wit: spouse, mother, or father, or any brother, sister, aunt or uncle who has attained the age of majority.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and LSA-R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 33:

§9519. Louisiana Application for Military Discount—Appendix

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

 Name of Insurance Company Policy No. or Application No.

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application for Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900.

You must complete all sections on this form. If the spouse or dependent sections are not applicable, you must check the N/A box next to the associated fields.

 Full Name of Active Military Personnel Date

 Date of Birth Home Phone

 Home Address

 Name of Spouse N/A N/A
 (if not applicable, check N/A) Spouse Date of Birth
 (if not applicable, check N/A)

 Name and Date of Birth of Dependents (if not applicable, check N/A)

 Branch of Service Rank

 Name of Unit Unit Commander

 Unit Address Unit Phone

 Order No Date of Order

 Active Duty Station Military Job

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" (AMP) as defined by LSA-R.S. 22:1425 and Regulation 81, and is eligible for the military discount set forth in LSA-R.S. 22:1425 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application for Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in LSA-R.S. 22:1243, and any applicable provisions of Title 14, the Louisiana Criminal Code.

 Signature of Active Military Personnel (AMP) _____
 Print Name of Active Military Personnel (AMP)

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:97 (January 2006), LR 33:

Family Impact Statement

Pursuant to R.S. 49:953.A.(1)(a)(viii) the commissioner for the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972, from the amendment to Regulation 81.

Pursuant to R.S. 49:953.A.(1)(a), the commissioner for the LDOI states that the time when, the place where, and the manner in which interested personal may present their views with regard to the proposed amendment to Regulation 81 will be at a Public Hearing that will be held on Wednesday, June 27, 2007, at 10 a.m., in the Poydras Hearing Room of the Louisiana Department of Insurance Building, 1702 N. Third Street, Baton Rouge, LA 70802. The name of person within the LDOI who has the responsibility for responding to inquiries about the proposed amendment to Regulation 81 is Walter Corey, Attorney, 1702 N. Third Street, Baton Rouge, LA 70802

James J. Donelon
 Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 81—Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program

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

DOI does not expect any implementation costs as a result of the adoption of this regulation. No additional work is involved. The amendment simply deletes the requirement for the unit commander's signature on the application form.

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

There will be no increase or decrease in revenue as a result of the proposed Amendment to Regulation 81.

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

The amendment to the regulation simply deletes the requirement for the unit commander's signature on the application form. This involves no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
0705#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Exploration and Production Waste
(LAC 43:XIX.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq), the Louisiana Office of Conservation hereby gives notice of its intent to revise LAC 43:XIX. Chapter 3 (Statewide Order No. 29-B) Pollution Control-Onsite Storage, Exploration and Production Waste (E&P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations). These revisions include:

1. all references in Chapter 3 to Nonhazardous Oilfield Waste (NOW) are changed to read Exploration and Production (E&P) waste;
2. all references in Chapter 3 to Forms UIC-15, UIC-15-CP, and UIC-16 are changed to refer to Engineering Division forms (ENG-15, ENG-15-CP, and Eng-16) that replaced those of the Underground Injection Control (UIC) section;
3. the manufactured liner thickness requirements of §301, incorrectly listed as 10 mm, is corrected to read 10 mil.;
4. all references in Chapter 3 to the testing procedures used to analyze oilfield waste are changed to refer to the testing procedures contained in the recently revised manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste;"
5. the reference in §311.D to radioisotope sampling and testing being conducted in accordance with the requirements of the Department of Environmental Quality, NORM Regulatory Guide is changed to read "shall comply with the requirements of the Department of Environmental Quality";
6. the "Air Quality Division" of the Department of Environmental Quality, referenced in §307.C.4, is changed to read "Air Permits Division";
7. the new §313.G provides for alternative method of pit closure by allowing properly processed exploration and production waste to be used for onsite land development purposes; and

8. the passive pit closure criteria of §313.H is changed to reflect current effluent guidelines to be used in passive pit closure, provide current contact information for the Department of Wildlife and Fisheries and the Department of Environmental Quality, and reference the proper forms to be used in registering the pit.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 3. Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E&P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)

Editor's Note: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

§301. Definitions

Coastal Area—that area comprising inland tidal waters, lakes bounded by the Gulf of Mexico, and salt water marshes and more particularly identified as the intermediate marshes, brackish marshes, and saline marshes on the Vegetative Type Map of the Louisiana Coastal Marshes, published by the Louisiana Department of Wildlife and Fisheries, August, 1978.

Community Saltwater Disposal Well or System—as defined in §501.

Contamination—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

Elevated Wetland Area—a wetland area which is not normally inundated with water and where land mass and levee material are available for mixing with waste fluids during closure of a pit.

Exempt Pits—compressor station pits, natural gas processing plant pits, emergency pits, and salt dome cavern pits located in the coastal area.

E&P Waste—exploration and production waste.

Exploration and Production Waste—as defined in §501.

Groundwater Aquifer—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l TDS.

Hydrocarbon Storage Brine—well water, potable water, rainwater, or brine (partially saturated to completely saturated) used as a displacing fluid in hydrocarbon storage well operations.

Manufactured Liner—any man-made synthetic material of sufficient size and qualities to sustain a hydraulic conductivity no greater than 1×10^{-7} cm/sec after installation and which is sufficiently reinforced to withstand normal wear and tear associated with the installation and pit use without damage to the liner or adverse affect on the quality thereof. For purposes of this Chapter and Chapter 5, a

manufactured liner used in pit construction must meet or exceed the following standards.

Parameter or Test Standard	
Thickness (average)	> 10 mil (0.01 in)
Breaking Strength (Grab Method)*	90 lbs
Bursting Strength*	140 psi
Tearing Strength*	25 lbs
Seam Strength*	50 lbs

*Testing is to be performed according to ASTM method D-751, latest revision.

Mining Water—well water, potable water, rainwater, or unsaturated brine which is injected into a brine solution mining well for recovery as saturated brine.

Onsite—for purposes of this Section, on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

Operation of Oil and Gas Facilities—as used in this Section, all oil and gas wells, disposal wells, enhanced recovery injection wells and facilities, flowlines, field storage and separation facilities, natural gas processing and/or gas sweetening plants, and compressor stations.

Pit—for purposes of this Chapter, a natural topographic depression or man-made excavation used to hold produced water or other exploration and production waste, hydrocarbon storage brine, or mining water. The term does not include lined sumps less than 660 gallons or containment dikes, ring levees or firewalls constructed around oil and gas facilities.

Produced Water—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Production Pits—either earthen or lined storage pits for collecting E&P Waste sediment periodically cleaned from tanks and other producing facilities, for storage of produced water or other exploration and production wastes produced from the operation of oil and gas facilities, or used in conjunction with hydrocarbon storage and solution mining operations as follows.

1. **Burn Pits**—earthen pits intended for use as a place to temporarily store and periodically burn exploration and production waste (excluding produced water) collected from tanks and facilities.

2. **Compressor Station Pits**—lined or earthen pits intended for temporary storage or disposal of fresh water condensed from natural gas at a gas pipeline drip or gas compressor station.

3. **Natural Gas Processing Plant Pits**—lined or earthen pits used for the storage of process waters or stormwater runoff. No produced water may be stored in a natural gas processing plant pit.

4. **Produced Water Pits**—lined or earthen pit used for storing produced water and other exploration and production wastes, hydrocarbon storage brine, or mining water.

5. **Washout Pits**—lined earthen pits used to collect wash water generated by the cleaning of vacuum truck tanks and other vessels and equipment only used to transport exploration and production waste. Any materials other than E&P Waste are prohibited from being placed in such pits.

6. **Well Test Pits**—small earthen pits intended for use to periodically test or clean up a well.

7. **Emergency Pits**—lined or earthen pits used to periodically collect produced water and other E&P Waste fluids only during emergency incidents, rupture or failure of other facilities.

8. **Onshore Terminal Pits**—lined or earthen pits located in the coastal area used for storing produced water at terminals that receive crude oil and entrained water by pipeline from offshore oil and gas production facilities.

9. **Salt Dome Cavern Pits**—lined or earthen pits located in the coastal area associated with the storage of petroleum products and petroleum in salt dome caverns.

Reserve Pits—temporary earthen pits used to store only those materials used or generated in drilling and workover operations.

Submerged Wetland Area—a wetland area which is normally inundated with water and where only levee material is available for mixing with waste fluids during closure of a pit.

Underground Source of Drinking Water (USDW)—for the purpose of administering these rules and regulations is defined in §403.B.

Upland Area—an area which is not identified as a wetland and includes farm land, pasture land, recreational land, and residential land.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2798 (December 2000), amended LR 33:

§303. General Requirements

A. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations not productive of hydrocarbons, unless discharged or disposed of according to the provisions of §303.E or transported offsite in accordance with LAC 43:XIX, Subpart 1, Chapter 5.

B. Produced water may be disposed of by subsurface injection into legally permitted or authorized operators saltwater disposal wells, commercial saltwater disposal wells, enhanced recovery injection wells, community saltwater disposal wells, or gas plant disposal wells. The use of hydrocarbon storage brine and mining water in storage and/or mining operations is not considered to be disposal.

C. Contamination of a groundwater aquifer or a USDW with E&P Waste is strictly prohibited. In addition, the injection of E&P Waste into a groundwater aquifer or a USDW is strictly prohibited.

D. Produced water and other E&P Waste generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons unless such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

E. The discharge of produced water or other E&P Waste (including drilled solids) into manmade or natural drainage or directly into state waters is allowed only in conformance with any applicable state or federal discharge regulatory program.

F. The use of closed E&P Waste storage systems is encouraged by the Office of Conservation; therefore, the use

of new or existing pits to store produced water, drilling fluids, and other E&P Waste generated from the drilling and production of oil and gas wells is prohibited unless:

1. notification for each pit is submitted to the Office of Conservation as outlined in §305; and
2. pits are in conformance with standards set forth in §307.

G. Unless exempted from liner requirements in §303.K.8 or §303.M below, all existing produced water pits, onshore terminal pits, and washout pits which are to be utilized in the operation of oil and gas or other facilities must be shown to comply with the liner requirements of §307.A.1.a or be permanently closed in accordance with the pit closure criteria of §311 and §313 by January 20, 1989. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

H. All existing pits which are not to be utilized in the operation of oil and gas or other facilities must be permanently closed according to the requirements of §311 and §313 by January 20, 1989. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

I. Operators of existing pits are required to comply with all applicable operational requirements of §307.A.2 and 4, §307.B.1, 2, and 3, §307.C.2, 4, 5, and 6, §307.D.2, 4, and 5, §307.E.1, 3, 4, and 6, and §307.F.1 and 3.

J. Production pits, except for those identified in §303.K.1 and §303.M below, may not be constructed in a "V" or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA), unless such pits have levees which have been built at least 1 foot above the 100-year flood level and able to withstand the predicted velocity of the 100-year flood. Location, construction and use of such pits is discouraged.

K. Production pits located in the coastal area shall be subject to the following requirements.

1. Except for exempt pits, no production pit may be constructed in the coastal area after June 30, 1989.
2. Production pits located in the coastal area shall be closed in compliance with §311 and §313 by January 1, 1993 with the following exceptions:

- a. exempt pits as such term is defined in §301;
- b. any onshore terminal pit that was in existence on June 30, 1989, provided such pit has an approved Louisiana Water Discharge Permit System (LWDPS) permit applicable thereto. Upon expiration of such permit, operator shall discontinue use of said pit and comply with the provisions of §307;

- c. any production pit which is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit is not subject to the closure requirements of §311 and §313 until January 1, 1995 or until expiration of such permit which ever occurs first. Upon expiration of such permit, operator shall discontinue use of said pit and comply with the provisions of §307.

3. Operators of existing production pits located in the coastal area shall submit Form ENG 15-CP to the Office of Conservation by January 1, 1991. Pits closed prior to October 20, 1990 are not considered existing pits for purposes hereof.

4. Operators intending to construct an exempt pit shall submit Form ENG-15-CP to the Office of Conservation at least 10 days prior to start of construction thereof.

5. Production pits located within the coastal area must maintain a levee with an elevation of at least 2 feet above mean high tide, the liquid level in pit(s) shall not be permitted to rise within 2 feet of top of pit levee or walls, and any surface water discharge from an active pit must be done in accordance with appropriate state or federal regulatory programs. Such discharge must be piped to open water (within the marsh) that receives good flushing action and shall not otherwise significantly increase the salinity of the receiving body of water or marsh. Further, unless otherwise indicated in §303.K.6, 7, 8 and 9, production pits located in the coastal area shall comply with the standards and operational requirements set forth in §307.

6. Burn pits, compressor station pits, natural gas processing plant pits, and well test pits located in the coastal area are exempt from the liner requirements of §307.A.

7. Salt dome cavern pits are exempt from the liner requirements of §307.A.

8. Produced water pits, washout pits, and onshore terminal pits located in the coastal area shall comply with the liner requirements of §307.A unless such pit is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit.

9. Emergency pits located in the coastal area shall comply with the requirements of §307.E unless such pit is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit.

10. Any production pit which is not subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit on October 20, 1990 shall submit a closure plan to the Office of Conservation by January 1, 1991.

L. Within six months of the completion of the drilling or workover of any permitted well, the operator (generator) shall certify to the commissioner by filing Form ENG-16 the types and number of barrels of E&P Waste generated, the disposition of such waste, and further certify that such disposition was conducted in accordance with applicable rules and regulations of the Office of Conservation. Such certification shall become a part of the well's permanent history.

M. Based upon the best practical technology, production pits located within an 'A' zone (FEMA) which meet the following criteria are not subject to the levee height requirements of §303.J above or the liner requirements of §307.A.1:

1. pit size is less than or equal to 10' x 10' x 4' deep;
2. such pit contains only produced brine; and
3. such pit is utilized for gas wells producing less than 25 mcf per day and less than or equal to one barrel of saltwater per day (bswpd).

N. Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of §309, compliance with the liner requirements of §307.A.1, or immediate closure of the pit.

O. The commissioner may authorize, without the necessity of a public hearing, the disposal of produced water into a zone producing or productive of hydrocarbons upon application of the operator of an existing or proposed

disposal well. Such written request shall include the following:

1. the appropriate permit application as per the requirements of LAC 43:XIX.Chapter 4;
2. evidence establishing the production mechanism of the proposed disposal zone is aquifer expansion (water drive);
3. evidence demonstrating the subject disposal well is not productive in the proposed disposal zone;
4. a plat showing the subject disposal well is not located within 330' of a property line as it is defined in LAC 43:XIX.1901;
5. written consent of all operators of record with existing wells within a 1/4 mile radius of the subject well; and
6. such other information which the commissioner may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:254 (February 2004), LR 33:

§305. Notification

A. Existing Pits

1. Each pit which was constructed prior to January 20, 1986, is an existing pit. Use of an existing pit is prohibited unless the operator has reported that pit to the Office of Conservation by July 20, 1986, according to the requirements of this Paragraph. Notification shall contain the information requested below. Pits closed prior to January 20, 1986, are not considered existing pits.

2. Operators of existing pits must submit the following information to the Office of Conservation by July 20, 1986:

a. for each existing pit to be utilized in the operation of oil and gas facilities, the information requested in §305.D.1-8 below;

b. for each existing pit not to be utilized in the operation of oil and gas facilities the information requested in §305.D.1-6 below;

c. a plan and schedule of abandonment for closure of pits identified in §305.A.2.b above. Such plan must comply with the provisions of §303.H, §311, and §313. Failure to comply with the plan in a timely manner will subject an operator to appropriate civil penalties.

3. Operators of existing pits in the coastal area shall comply with the requirements of §303.K.3.

B. New Pits. Except for reserve pits, operators must notify the Office of Conservation of the intent to construct new pits at least 10 days prior to start of construction. Notification shall contain all information requested in §305.D or §303.K.4 as appropriate. The Office of Conservation may inspect any proposed pit site prior to or during construction; however, initial use of the completed pit need not be deferred if no inspection is made.

C. Reserve Pit Notification. For reserve pits used in drilling and workover operations, notification requirements of this rule shall be satisfied by application for a drilling or work permit.

D. Notification Information Required Form ENG-15

1. Name of Facility Pit (indicate whether new or existing)
2. Field Designation, if applicable

3. Section, Township and Range (include approximate footage location of pit center)

4. Parish Name

5. Type of Pit (consistent with definitions in §301)

6. Size of Pit (length, width and depth)

7. Type of Liner, if applicable

8. Certification that each pit will or does conform to standards stipulated under §307 applicable to that type pit and that such compliance will be within the time frame described in §303.G, H, and I, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2801 (December 2000), amended LR 33:

§307. Pit Classification, Standards, and Operational Requirements

A. Produced Water, Onshore Terminal, and Washout Pits

1. Except where exempted by §303.K.8 and §303.M, groundwater aquifer and USDW protection for above-listed pits shall be provided by one of the following.

a. A liner along the bottom and sides of pits which has the equivalent of 3 continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1×10^{-7} cm/sec. Such liners include, but are not limited to the following.

i. *Natural Liner*—natural clay having a hydraulic conductivity meeting the requirements of §307.A.1.a above.

ii. *Soil Mixture Liner*—soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of §307.A.1.a above.

iii. *Recompacted Clay Liner*—in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of §307.A.1.a above.

iv. *Manufactured Liner*—synthetic material that meets the definition in §301 and is equivalent or exceeds the hydraulic conductivity requirements of §307.A.1.a above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a 1' wide and 1' deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with E&P Waste.

v. *Combination Liner*—a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of §307.A.1.a above.

b. Any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls

shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

5. When use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with §303.F and G within six months of abandonment.

B. Reserve Pits

1. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal or state regulatory programs are not considered to be pollution or contamination as used herein.

2. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

3. Operators shall prevent the placing of produced water, waste oil, trash, or any other material into a reserve pit which would increase the difficulty in clean-up of the pit or otherwise harm the environment. Such material shall be properly stored and disposed of according to applicable state or federal regulations.

4. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of completion of drilling or work over operations.

C. Burn Pits

1. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Any burning process shall be carried out in conformance with applicable air quality regulations. Notification as required by said regulation shall be made to the Air Permits Division, Department of Environmental Quality.

5. No produced water, radioactive material (except industry-accepted and license-approved radioactive material utilized in oilfield operations, and radioactive material naturally occurring in the produced fluids), or other noncombustible waste products shall be placed in pits, except water or emulsion which may be associated with crude oil swabbed or otherwise produced during test operations, or during tank or other vessel cleaning operations. E&P Waste must be removed or burned

periodically to assure that storage of materials in the pit is kept to a minimum.

6. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

7. When use of pits will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

D. Well Test Pits

1. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Within 30 days after completion of a well test, pits shall be emptied of produced fluids and must remain empty of produced fluids during periods of nonuse.

5. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit walls or dikes. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

6. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

E. Emergency Pits

1. Groundwater aquifer and USDW protection for emergency pits shall be evaluated on a case-by-case basis. Operators who intend to utilize existing or new emergency pits without liners must demonstrate by written application to the Office of Conservation that groundwater aquifer and USDW contamination will not occur; otherwise, emergency pits shall be lined. Applications to demonstrate unlined pits will not contaminate groundwater aquifers and USDW's shall at a minimum address the following.

a. *Emergency Incident Rate*—operator shall estimate the number of times a pit will be utilized each year. A detailed discussion of the facility operation and reasons for the emergency incident rate must be addressed.

b. *Soil Properties*—operator shall describe and evaluate soil properties onsite. Soil hydraulic conductivity and physical properties must be addressed to assess potential groundwater aquifer and USDW impacts.

c. *Groundwater Aquifer Evaluation*—water quality, groundwater aquifer, and USDW depth shall be evaluated.

d. *Produced Water Composition* (total dissolved solids and oil and grease)—must be determined to assess potential impacts on the site.

2. All emergency pits required to be lined must conform to hydraulic conductivity requirements in §307.A.1 above.

3. No produced water or any other E&P Waste shall be intentionally placed in any emergency pit not meeting the hydraulic conductivity requirements (1×10^{-7} cm/sec for 3 continuous feet of clay) except in the case of an emergency incident. In emergency situations, notice must be given to the Office of Conservation within 24 hours after discovery of the incident. Produced water and any other E&P Waste must be removed from the pit within seven days following termination of the emergency situation.

4. Pits shall be protected from surface waters by levees and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Surface discharges of pit contents under federal or state permits are not considered to be pollution or contamination as used herein.

5. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pits as provided under §305.B.

6. Liquid level in pits shall not be permitted to rise within 2 feet of top of pit levees. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

7. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. After notification to the Office of Conservation, pits shall be emptied of all fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

F. *Natural Gas Processing Plant Pits, Compressor Station Pits, and Salt Dome Cavern Pits*

1. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

2. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

3. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of E&P Waste to the environment.

4. When use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with §311 and §313 within six months of abandonment.

G. *Office of Conservation Corrective Action and Closure Requirement.* Should the Office of Conservation determine that continued operation of pits specified in this

Subparagraph may result in contamination of a groundwater aquifer or a USDW, or the discharge of fluids into man-made or natural drainage or directly into state waters, or contamination of soils outside the confines thereof, further use of the pit shall be prohibited until conditions causing or likely to cause contamination have been corrected. If corrective measures are not satisfactorily completed in accordance with an Office of Conservation compliance order or schedule, the commissioner may require closure of the pit. When an order for closure is issued, a pit shall be closed in accordance with §311 and §313 and the operator must comply with any closure schedule issued by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2801 (December 2000), amended LR 33:

§309. **Monitoring Program**

A. Upon a determination by the operator or the Office of Conservation that any pit subject to this rule is likely to contaminate a groundwater aquifer or a USDW, the Office of Conservation shall require the timely submission of a plan for the prevention of such contamination. Such plan may include using an under-built drainage and collection system, monitoring wells, and/or other means that the Office of Conservation may approve to prevent or detect contamination. Any required monitor wells shall be registered with the appropriate state agency.

B. When required by the Office of Conservation, monitoring shall be conducted on a quarterly schedule. A written report summarizing the results of such monitoring shall be submitted to the Office of Conservation within 30 days of the end of each quarter.

C. If monitoring of a groundwater aquifer or USDW indicates contamination due to a discharge from a pit, the owner or operator shall immediately notify the Office of Conservation. Within 30 days, the operator shall empty the pit of all E&P Waste and submit a remedial plan for prevention of further contamination of any groundwater aquifer or any USDW. Upon approval, the remedial plan shall be implemented by the operator and monthly progress reports, reviewing actions taken under the plan and their results, will be filed with the Office of Conservation until all actions called for in the plan have been satisfactorily completed.

D. Notification received by the Office of Conservation, pursuant to §309.A, B, or C above, of any contamination of a groundwater aquifer or a USDW as the possible result of a discharge, or information obtained by the exploitation of such notification shall not be used against the reporting owner or operator in any criminal action, including but not limited to those provided for by Louisiana Revised Statutes 30:18, except in a prosecution for perjury or for giving a false statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000), amended LR 33:

§311. **Pit Closure**

A. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's.

Operators may close pits utilizing onsite land treatment, burial, solidification, onsite land development, or other techniques approved by the Office of Conservation only if done so in compliance with §313 and §315. Otherwise, all E&P Waste must be manifested according to §511 and transported offsite to a permitted commercial facility.

B. Liability for pit closure shall not be transferred from an operator to the owner of the surface land(s) on which a pit is located.

C. For evaluation purposes prior to closure of any pit and for all closure and onsite and offsite disposal techniques, excluding subsurface injection of reserve pit fluids, exploration and production waste (pit contents) must be analyzed for the following parameters:

1. pH;
2. total metals content (ppm) for:
 - a. arsenic;
 - b. barium;
 - c. cadmium;
 - d. chromium;
 - e. lead;
 - f. mercury;
 - g. selenium;
 - h. silver;
 - i. zinc;
3. oil and grease (percent dry weight);
4. soluble salts and cationic distributions:
 - a. electrical conductivity EC in mmhos/cm (millimhos);
 - b. sodium adsorption ratio SAR;
 - c. exchangeable sodium percentage ESP (percent);
 - d. cation exchange capacity CEC (milliequivalents/100 gm soil).

5. Radioisotopes if such pit is located in the coastal area and is closed after October 20, 1990.

D. Laboratory Procedures for Exploration and Production Waste Analyses

1. For soluble salts, cationic distributions, metals (except barium) and oil and grease (organics) samples are to be analyzed using standard soil testing procedures as presented in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988, or latest revision).

2. For barium analysis, samples are to be digested in accordance with the "True Total" method, as presented in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988 or latest revision).

3. For radioisotopes, the sampling and testing of pit sludges shall comply with the requirements of the Department of Environmental Quality.

E. Documentation of testing and closure activities, including onsite disposal of E&P Waste, shall be maintained in operator's files for at least three years after completion of closure activities. Upon notification, the Office of Conservation may require the operator to furnish these data for verification of proper closure of any pit. If proper onsite closure has not been accomplished, the operator will be required to bring the site into compliance with applicable requirements.

F. Reserve pits utilized in the drilling of wells less than 5,000 feet in depth are exempt from the testing requirements of §311.C and §313 provided the following conditions are met:

1. the well is drilled using only freshwater "native" mud which contains no more than 25 lbs/bbl bentonite, 0.5 lbs/bbl caustic soda or lime, and 50 lbs/bbl barite; and

2. documentation of the above condition is maintained in the operator's files for at least three years after completion of pit closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000), amended LR 33:

§313. Pit Closure Techniques and Onsite Disposal of E&P Waste

A. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of §313.C, D, E, F, or G below are met, as applicable. All E&P Waste must be either disposed of onsite or transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5 or under the direction of the commissioner.

B. Prior to conducting onsite pit closure activities, an operator must make a determination that the requirements of this Subparagraph are attainable.

C. Unless specifically stated otherwise, all pit closure techniques in this Subparagraph, except solidification, waste/soil mixtures must not exceed the following criteria:

1. range of pH: 6-9 for land treatment and burial and trenching, 6-12 for onsite land development;
2. total metals content (ppm):

Parameter	Limitation
Arsenic	10
Barium	
Submerged Wetland Area	20,000
Elevated Wetland Area	20,000
Upland Area	40,000
Cadmium	10
Chromium	500
Lead	500
Mercury	10
Selenium	10
Silver	200
Zinc	500

D. Land Treatment. Pits containing E&P Waste may be closed onsite by mixing wastes with soil from pit levees or walls and adjacent areas provided waste/soil mixtures at completion of closure operations do not exceed the following criteria, as applicable, unless the operator can show that higher limits for EC, SAR, and ESP can be justified for future land use or that background analyses indicate that native soil conditions exceed the criteria.

1. In addition to the pH and metals criteria listed in §313.C above, land treatment of E&P Waste in submerged wetland, elevated wetland, and upland areas is permitted if the oil and grease content of the waste/soil mixture after closure is < 1 percent (dry weight).

2. Additional parameters for land treatment E&P Waste in elevated, freshwater wetland areas where the disposal site is not normally inundated:

- a. electrical conductivity (EC-solution phase): < 8 mmhos/cm;
- b. sodium adsorption ratio (SAR-solution phase): < 14;
- c. exchangeable sodium percentage (ESP-solid phase): 25 percent.

3. Additional parameters for land treatment of E&P Waste in upland areas:

- a. electrical conductivity (EC-solution phase): < 4 mmhos/cm;
- b. sodium adsorption ratio (SAR-solution phase): < 12;
- c. exchangeable sodium percentage (ESP-solid phase): < 15 percent.

E. Burial or Trenching. Pits containing E&P Waste may be closed by mixing the waste with soil and burying the mixture onsite, provided the material to be buried meets the following criteria:

1. the pH and metals criteria in §313.C above;
2. moisture content: < 50 percent by weight;
3. electrical conductivity (EC): < 12 mmhos/cm;
4. oil and grease content: < 3 percent by weight;
5. top of buried mixture must be at least 5 feet below ground level and then covered with 5 feet of native soil;
6. bottom of burial cell must be at least 5 feet above the seasonal high water table.

F. Solidification. Pits containing E&P Waste may be closed by solidifying wastes and burying it onsite provided the material to be buried meets the following criteria:

1. pH range: 6 - 12;
2. Leachate testing* for oil and grease: < 10.0 mg/l and chlorides < 500.0 mg/l

*NOTE: The leachate testing method for oil and grease is included in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988, or latest revision).

3. Leachate testing* for the following metals:

- a. arsenic < 0.5 mg/l;
- b. barium < 10.0 mg/l;
- c. cadmium < 0.1 mg/l;
- d. chromium < 0.5 mg/l;
- e. lead < 0.5 mg/l;
- f. mercury < 0.02 mg/l;
- g. selenium < 0.1 mg/l;
- h. silver < 0.5 mg/l;
- i. zinc < 5.0 mg/l;

*NOTE: The leachate testing method for metals is included in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988, or latest revision).

4. top of buried mixture must be at least 5 feet below ground level and covered with 5 feet of native soil;
5. bottom of burial cell must be at least 5 feet above the seasonal high water table;
6. solidified material must meet the following criteria*:

- a. unconfined compressive strength (Qu): > 20 lbs/in² (psi);
- b. permeability: < 1 x 10⁻⁶ cm/sec;
- c. wet/dry durability: > 10 cycles to failure.

*NOTE: Testing must be conducted according to ASTM or other approved methods prior to pit closure by solidification processes.

G. Onsite Land Development. Reserve pits containing E&P Waste may be closed by processing the waste material with Department of Environmental Quality approved stabilizing additives and using the mixture onsite to develop lease roads, drilling and production locations, etc. provided the following conditions have been met:

1. at least 72 hours prior to commencement of waste processing operations, written notification has been made to the Office of Conservation of the operator's intent to utilize this method of reserve pit closure. This notification shall include a detailed explanation of the methods used to generate the processed waste material, including but not limited to the types and volumes of additives to be used, amounts of processed waste material to be generated, the applications and locations onsite for which the processed waste material will be used, written approval from the surface owner of the property on which the processed waste material is to be applied; and any other pertinent information required by the commissioner;

2. E&P Waste shall not be processed in an unlined reserve pit with a bottom that extends to a depth deeper than 5 feet above the seasonal high water table;

3. the processed waste material meets the following analytical criteria:

- a. pH range of the mixture: 6-12;
- b. electrical conductivity (EC): < 8 mmhos/cm;
- c. oil and grease content: < 1 percent by weight;
- d. total metals content meeting the criteria of §313.C.2 above;
- e. leachate testing** for chloride concentration: < 500 mg/L; and,
- f. NORM concentrations do not exceed applicable DEQ criteria or limits;

*NOTE: The testing method for pH, EC, and metals shall conform to the requirements of §311.D and is included in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988, or latest revision).

**NOTE: The leachate testing method for metals is included in the manual titled "Laboratory Procedures for Analysis of Exploration and Production Waste" (Department of Natural Resources, August 9, 1988, or latest revision).

4. any pit remaining after the generation and application of the processed waste material shall be closed in conformance with the criteria of §313.D above; and

5. the Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana shall be held harmless from and indemnified for any and all liabilities arising from onsite land development using processed E&P Waste, and the operator of record and the surface owner shall execute agreements as the commissioner requires for this purpose.

H. Passive Closure

1. The Office of Conservation will consider requests for passive pit closure provided one of the following conditions exists:

- a. where pit closure would create a greater adverse environmental impact than if the pit were allowed to remain unreclaimed;
- b. where pit usage can be justified for agricultural purposes or wildlife/ecological management.

2. Operators requesting passive pit closure shall submit the following:

a. an affidavit requesting passive pit closure for one of the reasons contained in §313. H.1;

b. a copy of ENG-15 or ENG-15-CP with pit identification number shown thereon;

c. an affidavit of no objection from the Louisiana Department of Wildlife and Fisheries obtainable by contacting:

La. Department of Wildlife & Fisheries
P.O. Box 98000
Baton Rouge, LA 70898
Telephone: (225) 765-2819

d. where applicable, an affidavit of no objection from the Department of Natural Resources, Coastal Management Division, obtainable by contacting:

Department of Natural Resources
Coastal Management Division
P.O. Box 44487
Baton Rouge, LA 70804-4487
Telephone: (225) 342-7591

e. an affidavit of no objection from the landowner endorsing operator's request for passive pit closure;

f. a photograph of the pit in question;

g. an inspection of the pit signed by a conservation enforcement agent and a representative of the operator. The operator shall contact the applicable conservation district office to arrange date and time for inspection;

h. analytical laboratory reports of the pit bottoms and pit levees indicating conformance with applicable land treatment criteria set forth in §313.C and D;

i. an analytical laboratory report of the fluid contents of the pit indicating conformance with applicable state and federal effluent guidelines for oil and gas exploration and production. Contact the Department of Environmental Quality, Office of Environmental Services, (225) 219-3181 for information regarding effluent limitations.

3. The Commissioner of Conservation retains the right to grant exceptions to the requirements of §313.H.2 as he deems appropriate.

I. Offsite Disposal of E&P Waste

1. Except for produced water, drilling, workover and completion fluids, and rainwater which may be transported by an oil and gas operator to a community well or an operators permitted Class II disposal well or discharged to surface waters where authorized, exploration and production waste shall not be moved offsite for storage, treatment, or disposal unless transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5 or under the direction of the commissioner.

2. The criteria for land treatment, burial, solidification, or onsite generation of reuse material listed above will apply, as appropriate, to the onsite disposal of any exploration and production waste remaining onsite.

3. E&P Waste that fails to meet the criteria of this Paragraph for onsite disposal shall be moved offsite by the operator to a permitted commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000), amended LR 33:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed rule amendment at LAC 43:XIX, Subpart 1, Chapter 3 on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.

2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule amendment will have no effect on the functioning of the family.

4. The proposed Rule amendment will have no effect on family earnings and family budget.

5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government is not required to perform any function contained in the proposed Rule amendment.

The Commissioner of Conservation will conduct a public hearing at 9 a.m., Tuesday, June 26, 2007 in the Labelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by Docket No. 07-385. Such comments must be received no later than Monday, June 10, 2007 at 4:30 p.m., and should be sent to Doyle Johnson, P. O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, 9th Floor, Baton Rouge, LA 70802; or by fax to (225) 342-2584.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Exploration and Production Waste**

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

No additional implementation costs (savings) to State or Local government units are anticipated to implement the proposed rule amendments.

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

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

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

The proposed revisions of Chapter 3 reflect current nomenclature for exploration and production (E&P) waste, reflect the correct designation of forms required by the Office of Conservation, correct the manufactured liner thickness criteria of §301, reflect proper reference to the "Laboratory Procedures Manual for Analysis of Exploration and Production Waste," remove reference to the Department of Environmental Quality, NORM Regulatory Guide and Air Quality Division, and reflect current criteria for passive pit closure, all of which will not have any associated costs and/or economic benefits.

The proposal to allow for closure of reserve pits by the generation of onsite land development material to be used in the building of lease roads and production facilities may in some instances result in an economic benefit to companies drilling for oil and gas. The actual cost savings realized in generating processed waste material for land development use in reserve pit closures are small, if any, when compared to the costs associated with conventional methods of land treatment, solidification, and burial and trenching. The primary benefit realized in these cases will be the reduced exposure and liability of sending the waste to a third party offsite for disposal. In cases where the conventional pit closure methods are not feasible, such as in wetlands, the cost savings could be substantial.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Welsh
Commissioner
0705#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Fire Protection Licensing (LAC 55:V.Chapter 30)

In accordance with the provisions of R.S. 49:950, et. seq. and R.S.40:1664.2, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Life Safety and Property Protection, in particular, Portable Fire Extinguishers, Fire Hoses, Hydrostatic Testing of Department of Transportation fire protection cylinders, Fixed Fire Suppression Equipment and/or Systems and Fire Detection and Alarm Equipment and/or Systems, notice is hereby given that the Office of the State Fire Marshal intends to amend the following Rule, replacing Chapter 30 in its entirety.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 30. Portable Fire Extinguishers, Fire Hoses, Hydrostatic Testing, Fixed Fire Suppression Equipment and/or Systems and Fire Detection and Alarm Equipment and/or Systems Rules

§3001. Purpose

A. The purpose of these rules is to regulate the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and fire hoses and/or the certifying, inspecting, installing, integrating, maintaining or servicing of fixed fire suppression equipment and/or systems or fire detection and alarm equipment and/or systems and/or hydrostatic testing Department of Transportation (DOT) fire protection cylinders in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1664 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1324 (June 2000), LR 33:

§3003. Applicability of Rules

A. These rules shall apply to all firms and persons engaged in the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and fire hoses and/or the certifying, inspecting, installing, integrating, maintaining or servicing of fixed fire suppression equipment and/or systems or fire detection and alarm equipment and/or systems and/or hydrostatic testing of DOT fire protection cylinders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1324 (June 2000), LR 33:

§3005. Exceptions

A. These rules shall not apply to the following:

1. firms and/or persons engaging in the activity of certifying, inspecting, installing, integrating, or servicing fire detection and alarm equipment and/or systems in one or two family dwellings;

2. the servicing by industrial facilities and fire departments of their own portable fire extinguishers by their own employees specially trained to perform such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1324 (June 2000), LR 33:

§3007. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1664 et seq., or these rules must be given by personal or domiciliary service or mailed, postage prepaid, to the person's residence or firm address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or firm involved to assure that the Office of the State Fire Marshal has a correct address for the person or firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended by LR 26:1324 (June 2000), LR 33:

§3009. Certificate, License Required

A. Each firm engaged in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or fire hoses or certifying, inspecting, installing, integrating, maintaining or servicing fixed fire suppression equipment and/or systems or fire detection and alarm equipment and/or systems or performing hydrostatic testing on DOT fire protection cylinders shall apply for a certificate of registration in the endorsements of certification desired in accordance with these rules prior to conducting any such activity in this state.

B. Each person or employee, including apprentices, engaged in the activity of inspecting, installing, servicing portable fire extinguishers or fire hoses or certifying, inspecting, installing, integrating, or servicing fixed fire suppression equipment and/or systems or fire detection and alarm equipment and/or systems or performing hydrostatic testing on DOT fire protection cylinders shall apply for a license in the endorsements of licensure desired in accordance with these rules prior to conducting any such activity in this state.

C. Any firm and/or person described in A or B of this section, which has not applied for and received a current and valid certificate of registration or license, shall immediately cease such activities. The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1325 (June 2000), LR 33:

§3011. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Activity—the inspecting, installing, maintaining and servicing of portable fire extinguishers and fire hoses and the certifying, inspecting, installing, integrating, maintaining or servicing of fixed fire suppression or fire detection and alarm equipment and/or systems and/or engaging in hydrostatic testing of DOT fire protection cylinders pursuant to R.S.40:1664 et seq.

Apprentice—a person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

Certificate of Registration—that document issued by the State Fire Marshal to a firm authorizing it to engage in such activities as defined in these rules.

Certify—to attest to the proper charging, or filling, or functionality, or hydrostatic testing, or inspection, or installation, or integration, or maintenance, or recharging, or refilling, or repair, or service, or testing of portable fire extinguishers, fire hoses, DOT fire protection cylinders, fixed fire suppression and/or fire detection and alarm equipment and/or systems in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

Contact Person—that individual designated by a firm to act as liaison with the Office of the State Fire Marshal.

Department of Transportation (DOT) Fire Protection Cylinder—all portable fire extinguisher or fixed fire suppression system cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation.

Employee—one who works for a "firm", as defined by R.S.40:1664, in return for financial or other compensation. The term shall include the following:

1. for the purposes of the licensing requirements contained in R.S. 40:1664, employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors;

2. for the purposes of licensing requirements, the firm owner or owners shall be considered an "employee" if he or she is or will be physically certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or certifying, inspecting, installing, integrating, maintaining or servicing fixed fire suppression systems and/or equipment or in certifying, inspecting, installing, integrating, maintaining or servicing fire detection and alarm systems and/or

equipment or performing hydrostatic testing on DOT fire protection cylinders or fire hoses.

Engineered Fixed Fire Suppression Systems—special systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines.

Fire Alarm Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the certifying, inspecting, installing, integration, maintaining and servicing of fire detection and alarm systems and those activities specifically authorized by a Non-Required Systems endorsement.

Fire Alarm Non-Required Systems Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the activity of certifying, inspecting, installing, integration, maintaining and servicing of fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

Fire Alarm Owner Endorsement—that document issued by the State Fire Marshal that authorizes an owner of a fire alarm system or his employee to perform routine inspection, and minor service and repairs of fire detection and alarm systems within the owner's own facilities only. No installing, integration, or certifying of these systems is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices. No service within the alarm control panel shall be permitted except that the exchanging of system batteries with identical new ones is permitted. Routine inspection is defined as visual inspections and monthly drill tests.

Fire Detection and Alarm Systems—those assemblies of wiring, electronic transmitting devices, detection devices, and related equipment for the detection of products of combustion or flammable gases, heat and smoke and for alerting occupants and fire department personnel of a fire emergency.

Fire Hose—a flexible conduit used to convey water.

Fire Protection Equipment/Systems—as governed by R.S. 40:1664 et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire suppression systems (pre-engineered or engineered) and/or fire detection and alarm systems.

Firm—a sole proprietorship, partnership, corporation, limited Liability Company or any other entity.

Fixed Fire Suppression System Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the certifying inspecting, installing, integration, maintaining and servicing of engineered or pre-engineered fixed fire suppression systems. Please note: Hydrostatic testing of fixed fire suppression cylinders required by the U.S. DOT requires a Hydrostatic Testing Endorsement.

Hydrostatic Testing—pressure testing fire protection cylinders or fire hoses by approved hydrostatic methods and in accordance with NFPA codes and/or the U.S. Department of Transportation.

Hydrostatic Testing Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in hydrostatic testing of fire protection cylinders manufactured in accordance with the specification and procedure of the United States Department of

Transportation. A Hydrostatic Testing Endorsement is only valid if the firm or person also has a Portable Fire Extinguisher/Fire Hose Endorsement for testing DOT fire extinguisher cylinders and either a Fixed Fire Suppression System, Pre-Engineered Fixed Fire Suppression System or Kitchen Fixed Fire Suppression endorsement for testing DOT fixed fire suppression cylinders as well.

Inspection—a visual examination of a system or portion thereof to verify that it appears to be in operating condition and is free of physical damage. It does not include "quick checks" required every 30 days of portable fire extinguishers.

Installation—the initial placement of a portable fire extinguisher, fixed fire suppression equipment and/or systems, fire detection and alarm equipment and/or systems or an extension, or alteration after initial placement.

Integration—the act of utilizing accepted and approved fire protection systems and/or equipment and components in accordance with manufacturers' direction to develop a unified and functioning system meeting applicable NFPA codes and standards.

Kitchen Fixed Fire Suppression System—those specific fire suppressions systems designed to protect appliances within commercial cooking operations.

Kitchen Fixed Fire Suppression System Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the activity of certifying, inspecting, installing, integration, maintaining or servicing pre-engineered fixed fire suppression systems containing wet or dry chemical agents within a kitchen ventilation system.

Please Note: Hydrostatic testing of fixed fire suppression cylinders required by the U.S. DOT requires a Hydrostatic Testing Endorsement.

License—that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by these rules.

Maintenance—work, including, but not limited to repair, replacement, and service, performed to ensure that equipment operates properly. For portable fire extinguishers, it includes a thorough examination for physical damage or condition to prevent its operation and any necessary repair or replacement.

Nationally Recognized Testing Laboratory—a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA—the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Non-Conforming—a system or component of a system which does not comply with applicable NFPA codes or standards.

Non-Required—a system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Office—Office of State Fire Marshal.

Operating Location—a physical office which houses employees and business documents or records and from which the acts authorized by the certificate of registration are performed.

Person—a natural individual, including any owner, manager, officer, or employee of any firm.

Pocket License—that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee, authorizing the employee to engage in the activities as defined by these rules.

Pre-Engineered Fixed Fire Suppression Systems—packaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

Pre-Engineered Fixed Fire Suppression Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the activity of certifying, inspecting, installing, integration, maintaining or servicing pre-engineered fixed fire suppression systems and those activities specifically authorized by a Kitchen Suppression Endorsement.

Please Note: Hydrostatic testing of fixed fire suppression cylinders required by the U.S. DOT requires a Hydrostatic Testing Endorsement.

Portable Fire Extinguisher—a portable device containing a suppression agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

Portable Fire Extinguisher/Fire Hose Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers and fire hoses and hydrostatic testing of portable fire extinguisher cylinders not required by the U.S. Department of Transportation (U.S. DOT).

Please Note: Hydrostatic testing required by the U.S. DOT requires a Hydrostatic Testing Endorsement.

Qualifying Person—the employee of a firm who currently meets the certification, examination and/or training requirements set for each endorsement by the Life Safety and Property Protection Advisory Board.

Recharge—the replacement of the suppression agent, the expellant or both.

Required—a system or component of a system which is required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Semi-Portable—any portable fire extinguisher mounted on skids or wheels.

Service—the act of repair or replacement of fire protection equipment/systems to ensure the proper functioning of the equipment/system.

Shop—a facility of a certified firm where certifying, inspecting, integrating, maintaining, pre-assembling, servicing, repairing or hydrostatic testing is performed and where firm records, parts and equipment are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), LR 26:1325 (June 2000), LR 33:

§3013. Certificates of Registration

A. Every firm must obtain from the State Fire Marshal a certification of registration with the appropriate endorsements as provided for by R.S.40:1664 et seq., before engaging in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or fire hoses or certifying, inspecting, installing, integrating, maintaining or servicing fixed fire suppression systems or fire detection and alarm systems and/or engaging in hydrostatic testing of DOT fire protection cylinders.

1. Each firm, as defined by R.S.40:1664 et seq., shall have at least one licensed technician per endorsement of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S.40:1664 et seq., and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. The following shall apply to certificates of registration.

1. Posting. Each certificate shall be posted conspicuously at each firm and/or branch office premises. All firms without a physical location in this state shall be required to purchase a duplicate certificate to post in each vehicle which will come into this state to do work.

2. Changes of Ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate Officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate certificate must be obtained from the State Fire Marshal to replace a lost or destroyed certificate. The certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in these rules.

5. Revisions/Changes. The change of a firm's name, location, or mailing address or operating status requires a revision of the certificate of registration. Certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The certificate of registration holder must submit written notification of the change with the surrendered certificate of registration, accompanied by the required fee specified in by R.S. 40:1664 et seq.

6. Non-Transferability. A certificate of registration is not transferable from one firm to another.

7. Validity. A certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1327 (June 2000), LR 33:

§3015. Licensure

A. Required. Each person who certifies, inspects, installs, maintains and services portable fire extinguishers, and/or certifies, inspects, installs, integrates, maintains or services fixed fire suppression systems and/or fire detection and alarm systems and/or engages in hydrostatic testing of DOT fire protection cylinders shall have a current and valid license issued by the State Fire Marshal.

B. Types of Endorsement. Each license shall be identified by endorsement, which indicates the authorized act or acts which may be performed by the licensee as follows:

1. Portable Fire Extinguisher/Fire Hose Technician Endorsement authorizes the person to certify, inspect, install, maintain and service portable fire extinguishers and fire hoses. No certifying, inspecting, installing, integration, maintaining or servicing of the fire hose station or standpipe system is permitted unless properly licensed for fire sprinkler contracting.

2. Pre-Engineered Fixed Fire Suppression Technician Endorsement authorizes the person to certify, inspect, install, integrate, maintain and service pre-engineered fixed fire suppression systems.

3. Kitchen Fixed Fire Suppression Technician Endorsement authorizes the person to certify, inspect, install, integrate, maintain and service pre-engineered fixed fire suppression systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Fixed Fire Suppression System Technician Endorsement authorizes the person to certify, inspect, install, integrate, maintain and service engineered or pre-engineered fixed fire suppression systems.

5. Fire Alarm Technician Endorsement authorizes a person to certify, inspect, install, integrate, maintain and service fire detection and alarm systems.

6. Fire Alarm Non-Required Systems Technician Endorsement authorizes the person to certify, inspect, install, integrate, maintain and service fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Fire Alarm Owner Technician Endorsement authorizes the person to perform routine inspection and minor service and repair of fire detection and alarm systems/equipment within the owner's own facility. No certifying, installing or integrating of these systems/equipment is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices or the replacement of the system's batteries. Routine inspection is defined as visual inspections and monthly drill tests.

8. DOT Hydrostatic Testing Technician Endorsement authorizes the person to pressure test fire protection cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

9. Apprentice Endorsement authorizes the person to inspect, install, maintain and service portable fire extinguishers, fire hoses, fixed fire suppression systems and/or equipment of fire detection and alarm systems and/or equipment only while under the direct supervision of and accompanied by a licensed technician who holds a current

and valid license for the work to be performed. An apprentice cannot certify fire protection systems or equipment. An apprentice endorsement can be renewed annually as long as the individual or firm desires. The supervising technician and trainee must work for the same firm which must be certified for the work to be performed.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket License. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be on his/her person at all times when conducting fire protection work in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate License. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in these rules.

F. Revised Licenses. The change of a licensee's employer, home address or mailing address or employment status requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in these rules.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License Reciprocity. The State Fire Marshal may waive license requirements for an applicant with a valid license from another state if that state has license requirements substantially equivalent to Louisiana and which recognizes licenses issued by this office.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

J. Age Limitations. For the purpose of licensing, no one under the age of 18 shall be eligible for a technician's license and no person under the age of 16 shall be eligible for an apprentice license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), LR 26:1328 (June 2000), LR 33:

§3017. Alteration of Certificates or Licenses

A. Any alteration of a certificate of registration or license renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S.40:1664 et seq., and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1329 (June 2000), LR 33:

§3019 Application for Certificates of Registration

A. Applications for a certificate of registration for fire protection firms shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in these rules.

B. The application for certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;

2. identify the type of endorsement applied for;

3. identify the principal location of the firm;

4. identify the firm's Louisiana sales tax number and federal tax number;

5. identify any and all names by which the firm may conduct activity regulated by R.S. 40:1664 et seq., and these rules;

6. identify the contact person as defined by these rules;

7. identify the qualifying person for each endorsement applied for;

8. include a separate employee application for their qualifying person along with the qualifying person's credentials as required by the Life Safety and Property Protection Advisory Board and an originally signed and notarized employment affidavit;

9. be accompanied by:

a. at least one application with fee from an employee seeking to obtain a technician's license in each endorsement;

b. a current certificate of insurance issued to the Office of State Fire Marshal showing a minimum of \$500,000 coverage.

c. a copy of the local firm or occupational license for the firm;

10. (if the firm desires a Hydrostatic Testing Endorsement) be accompanied by the following:

a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and

b. a copy of the firm's identifying mark (symbol);

11. (for out of state firms) include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1664 et seq., and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S.40:1664 et seq., and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is

applying to be certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the certificate of registration. After issuance of a certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), LR 26:1329 (June 2000), LR 33:

§3021. Qualifying Persons

A. Each certified firm or each firm seeking certification shall employ at least one qualifying person for each endorsement it is making application for. No fire protection system or equipment shall be certified, hydrostatically tested, inspected, installed, integrated, maintained, serviced, or submitted to this office for review if the firm does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall receive a W-2 or K-1 tax form from the firm. The qualifier shall only qualify one firm for which he is employed. An individual may not qualify multiple firms at the same time. A contract employee cannot be used to fulfill this requirement except as provided by Subsection G below. A qualifier must physically reside within 150 miles of the office for which he or she qualifies.

C. The qualifying person shall be primarily and actively engaged in direct supervision of the certification, hydrostatic testing, integrating, inspection, installation, maintaining and servicing of those fire protection systems or equipment the firm holds endorsements for. If a firm holds multiple endorsements, then multiple qualifiers may be utilized to meet this requirement. Upon request by the fire marshal or his representative, a qualifier shall provide documentation attesting to his or her direct supervision of any certification, hydrostatic testing, integration, inspection, installation, maintenance or service performed by the firm he or she qualifies.

D. A qualifier must meet the minimum examination, certification, or training requirements as established by the Life Safety and Property Protection Advisory Board. The state fire marshal shall send notice to licensed firms of all changes to qualifier credentials made by the Life Safety and Property Protection Advisory Board.

E. The following requirements are required for the endorsements listed.

1. Fixed Fire Suppression Endorsement—a current NICET Certificate, minimum Level III in Special Hazards Suppression Systems, or a professional engineer currently registered with the Louisiana Board of Professional Engineers with a Mechanical Engineer endorsement.

2. Fire Alarm Endorsement—a current NICET Certificate, minimum Level III in Fire Alarm Systems, or a professional engineer currently registered with the Louisiana Board of Professional Engineers with an Electrical Engineer endorsement.

F. A Louisiana Board of Professional Engineers registered Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline of endorsement.

G. At anytime that a firm finds itself without a qualifying person, such firm shall only be able to continue certifying, hydrostatic testing, inspecting, maintaining and/or servicing existing contractual obligations for that endorsement but shall not engage in any new work until a qualifying person has been employed as provided herein.

H. This office shall be notified in writing within 10 working days anytime a qualifying person's employment is terminated for any reason.

I. A firm which loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have 60 days to hire another qualifying person. If after the loss of such an employee, a replacement cannot be found within the 60 days, the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six months. Not later than 30 days prior to the expiration of the six month period, the firm can request an additional six-month period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one additional six-month period during which a firm may employ a qualifying person on a contractual basis.

J. Failure to notify this office in writing within 10 working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

K. A qualifying person must obtain an individual employee license as required by these rules. Licensure of the qualifier shall include a signed and notarized affidavit indicating the employment relationship and duties of the qualifier. If a firm desires to use multiple qualifiers for submitting plans and supervising installations or service, then it must register and license the additional qualifiers with the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 33:

§3023. Application for Licenses

A. Applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in these rules.

B. Applications for technicians' licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to certify, hydrostatic test, inspect, install, integrate, maintain or service those systems and/or equipment for which the applicant desires to become licensed.

C. Applications for technicians' licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as determined by the Life Safety and Property Protection Advisory Board.

D. No competency examination is required for an apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1330 (June 2000), LR 33:

§3025. Fees—General Information

A. Every fee required in accordance with the provisions of R.S. 40:1664 et seq., and these rules, shall be paid by firm check or certified funds made payable to the "Office of State Fire Marshal." Cash or personal checks cannot be accepted.

B. Fees shall be paid at, or mailed to, the Office of the State Fire Marshal at 8181 Independence Blvd., Baton Rouge, LA 70806.

C. Late fees are required on all certificates of registration or license holders who fail to submit renewal applications in a timely fashioned as outlined in R.S. 40:1664 et seq.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the certificate or license being renewed.

E. Certificates or licenses which have been expired for more than 60 days will be suspended and applicants must apply and pay for a new certificate of registration or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1330 (June 1330), LR 33:

§3027. Fees—Specific Information

A. Certificate of Registration Fees

Certificate	Initial	Renewal
Technical Endorsement		
Fixed Fire Suppression	\$350	\$100
Specialty Endorsement		
Pre-Engineered	\$350	\$100
Kitchen Suppression	\$350	\$ 50
Technical Endorsement		
Fire Alarm	\$350	\$100
Specialty Endorsement		
Fire Alarm (Non-required)	\$350	\$ 50
Fire Alarm Owner	\$350	\$ 50
Technical Endorsement		
Portable Fire Extinguishers/Hoses	\$350	\$150
Technical Endorsement		
DOT Hydrostatic testing	\$350	\$ 50

B. License Fees

Certificate	Initial	Renewal
Technical Endorsement		
Fixed Fire Suppression	\$50	\$50
Specialty Endorsement		
Pre-Engineered	\$50	\$50
Kitchen Suppression	\$50	\$50
Technical Endorsement		
Fire Alarm	\$50	\$50
Specialty Endorsement		
Fire Alarm(Non-required)	\$50	\$50
Fire Alarm Owner	\$50	\$50
Technical Endorsement		
Portable Fire Extinguishers/Hoses	\$50	\$50
Technical Endorsement		
DOT Hydrostatic testing	\$25	\$25
Technical Endorsement		
Apprentice	\$50	\$50

C. Late Renewal Fee. A penalty shall be assessed in accordance with R.S. 40:1664 for the late renewal of a certificate of registration or license.

D. Change in ownership—\$350.

E. Changes or alterations—\$20.

F. Duplicate Certificates of Registration—\$20.

G. Initial Competency Examination Fee—\$25 (non-refundable)(per exam).

H. Re-Examination Fee—\$25 (non-refundable)(per re-exam).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), LR 26:1331 (June 2000), LR 33:

§3029. Examinations

A. Applicants for licenses are required to take an examination and obtain at least a grade of 70 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1664 et seq.;

2. a section on the certifying, hydrostatic testing, inspecting, installing, integrating, maintaining and servicing of those types of systems or equipment for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards as noted or as adopted by LAC-55:V:103 as follows.

1. Portable Fire Extinguisher/Fire Hose—NFPA 10, 101, 1961, and 1962.

2. Fixed Fire Suppression—NFPA 11, 11A (1999 Edition), 12, 12A, 17, 17A, 96, 101 and 2001;

3. Pre-Engineered Fixed Fire Suppression—NFPA 11, 11A (1999 Edition), 12, 12A, 17, 17A, 96, 101 and 2001.

4 Kitchen Fixed Fire Suppression—NFPA 17, 17A, 96 and 101.

5. Fire Alarm—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

6. Fire Alarm (non-required)—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

7. Fire Alarm Owner—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

8. DOT Hydrostatic Testing—CFR 49, NFPA 1961 and 1962.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination or approved training course prior to the issuance of a new license. No examination is required for a license holder whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this office or the examination administrator. The

pre-registration form and the required fee must be received by the office five working days prior to the examination date.

G. Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within 30 days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus;
2. length of course and specific time covered per topic;
3. example of test questions;
4. a copy of the certificate granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1331 (June 2000), LR 33:

§3031. Portable Fire Extinguishers/Fire Hoses

A. General Provisions

1. Portable fire extinguishers and fire hoses shall be certified, hydrostatically tested, inspected, installed, maintained and serviced in compliance with NFPA 10 or 1961 or 1962, as adopted by the Office of the State Fire Marshal in LAC-55:V:103 or noted in these rules.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher or fire hose is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10 or 1961 or 1962, as adopted by the Office of the State Fire Marshal in LAC-55:V:103 noted in these rules, then the extinguisher or hose shall be red tagged or removed from service and destroyed in accordance with the applicable code or standard and these rules.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis by the portable fire extinguisher/fire hose firm. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V:103, shall be performed. If these procedures fulfill the requirements of a six-year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six-year maintenance procedures shall begin from that date.

B. Record Tag. Each six year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which

remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V:103. Previous six-year maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six-year maintenance was performed;
2. the name of the firm and its certificate number (must be pre-printed);
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm (preprinted or printed in permanent ink);
2. name and license number of the person who performed the service (preprinted or printed in permanent ink);
3. month and year that the service was performed (to be punched).

E. A new external verification collar shall be provided for an extinguisher each time internal maintenance or recharging is performed or the extinguisher is opened for any other reason. A new external verification collar is not needed when a CO₂ extinguisher is recharged without opening the cylinder for inspection or on side cartridge type extinguishers.

F. External verification collars shall be affixed in the following manner:

1. any collar previously attached shall be removed prior to affixing a new collar;
2. the collar shall be placed around the exterior of the cylinder at or below the valve assembly.

G. The collar shall contain a single circular piece of uninterrupted material forming a hole of a size that will not allow the collar assembly to move over the neck of the cylinder unless the valve is completely removed. In no case shall the diameter of the opening exceed 1/4" the diameter of the cylinder's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 33:

§3033. Fixed Fire Suppression and Fire Detection and Alarm Systems and Equipment

A. All new (complete or renovated) required fixed fire suppression systems including kitchen , pre-engineered and engineered systems, and fire detection and alarm systems shall be certified, hydrostatically tested, inspected, installed, integrated, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, reviewed

plans and the applicable codes and standards adopted in LAC 55:V:103 or noted in these rules.

B. All existing required fixed fire suppression systems including kitchen, pre-engineered and engineered systems, and fire detection and alarm systems shall be certified, hydrostatically tested, inspected, integrated, maintained and serviced in an operational condition in accordance with the manufacturer's installation manuals, specifications, and per the inspection, testing and maintenance chapters of the applicable codes and standards adopted in L.A.C.55:V.103 or noted in these rules.

C. All non-required and non-conforming fixed fire suppression systems including kitchen, pre-engineered and engineered systems, and fire detection and alarm systems shall be certified, inspected, installed, integrated, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC 55:V.103 and these rules as authorized by the Office of the State Fire Marshal.

D. Non-required and/or non-conforming systems/equipment which only comprise of smoke or heat detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications and NFPA 101 as adopted in LAC 55:V:103 and these rules.

E. All systems, except as noted in Subsection D above, shall be certified, hydrostatically tested, inspected, installed, integrated, maintained and serviced by certified firms having licensed personnel working within their certification and licensing discipline. In cases where disciplines cross over, the following reasoning will prevail.

1. Automatic detection and control systems will be certified, inspected, installed, integrated, maintained and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of a kitchen, pre-engineered or engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that kitchen, pre-engineered or engineered system to any alarm initiated system, to include but not limited to annunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm with a Fire Alarm endorsement must certify, inspect, install, integrate, maintain or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC-55:V.103 and these rules will be certified, inspected, installed, integrated, maintained and serviced by a firm with a Fire Sprinkler endorsement as regulated by R.S. 40:1664 et seq. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of a fire protection sprinkler piping system must be installed by a firm with a Fire Sprinkler endorsement as regulated by R.S. 40:1664 et seq., and connected to the fire alarm system by a firm with a Fire Alarm endorsement.

F. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility. Non-required systems shall be maintained in accordance with the inspection, testing, and maintenance chapters of the applicable NFPA codes, standards and manufacturer's specifications governing that particular system as long as the system is within the facility.

G. Interconnected smoke or heat detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC-55:V:103 and these rules, or as authorized by this office must be inspected, installed, integrated, maintained and serviced by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1664 et seq. These systems must be submitted to this office's Plan Review Section for review prior to installation.

H. Each heat detector (fusible link) employed within a fixed fire suppression system shall have the manufacturer date marked on the detector. The date shall reflect the current or previous calendar year when installed.

I. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

a. the certificate number of servicing firm, preprinted or printed in permanent ink;

b. name and license number of the person who performed the service, preprinted or printed in permanent ink;

c. month and year that the service was performed. This information must be punched.

J. A new external verification collar is not needed in the following circumstances:

1. when a CO₂ fixed fire suppression cylinder is recharged without opening the cylinder for inspection;

2. cartridge operated type of systems.

K. External verification collars shall be affixed in the following manner:

1. any collar previously attached shall be removed prior to affixing a new collar;

2. the collar shall be placed around the exterior of the cylinder at or below the valve assembly.

L. The collar shall contain a single circular piece of uninterrupted material forming a hole of a size that will not allow the collar assembly to move over the neck of the cylinder unless the valve is completely removed. In no case shall the diameter of the opening exceed 1/4" the diameter of the cylinder's neck, measured directly below the valve assembly.

M. The office may exempt additional cylinders from this requirement if good cause is shown that the requirement is impractical or overly burdensome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1332 (June 2000), LR 33:

§3035. Hydrostatic Tests

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC 55:V.103 and these rules. The owner shall be informed of a needed test or replacement.

B. Recording of Tests

1. High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC 55:V.103 and these rules.

2. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible.

3. The record tag shall contain the following information, which, exception for Subparagraphs c and d hereof, must be hand punched:

- a. year and month that the hydrostatic test was performed;
- b. test pressure used;
- c. name of the firm and its certificate number (must be pre-printed);
- d. initials of the person performing the maintenance and his license number.

4. Previous hydrostatic test record tags shall be removed when a new one is affixed.

5. The licensed firm shall keep a permanent record of each hydrostatic test performed for a minimum of five years. The record shall include as a minimum the following:

- a. date of test;
- b. cylinder serial number;
- c. model number;
- d. cylinder size;
- e. test pressure;
- f. visual inspection result;
- g. cylinder disposition;
- h. initials of the person performing the test;
- i. owner of cylinder.

6. Fire Hoses. Records of fire hose tests shall comply with the latest edition of NFPA 1962 as enumerated in LAC 55:V.103 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1333 (June 2000), LR 33:

§3037. Installation Tags

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire detection and alarm and fixed fire suppression

systems. On kitchen fixed fire suppression systems, the tag shall be permanently affixed to the side of the suppression agent cylinder. This requirement does not apply to portable fire extinguishers. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required to be preprinted on the front side of the tag:

1. **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL"** (all capital letters, in bold type);
2. installation tag;
3. installation date;
4. firm's name;
5. firm's certificate number;
6. technician's name;
7. technician's license number;
8. technician's signature;
9. NFPA Code edition system was installed under;
10. plan review or exemption number;
11. serial or model number of panel and/or cylinder, if applicable.

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag; initials are not permitted. Other information to be completed on the tag may be either handwritten or preprinted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If an installation tag is replaced, hand write "REPLACEMENT" after the installation date. If the original installation date is not known, the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1334 (June 2000), LR 33:

§3039. Service Tags, Yellow Tags, Red Tags, and Stenciling

A. All portable fire extinguishers, fire hoses, fixed fire suppression equipment and/or systems, and fire detection and alarm equipment and/or systems shall be tagged or stenciled in the following manner.

B. Service Tags

1. A service tag shall be completed and attached to a portable fire extinguisher, fire hoses, a fixed fire suppression system, and a fire detection and alarm system, after it has been certified, hydrostatically tested, inspected, installed, maintained or serviced indicating all work that has been done. Fire hoses shall be stenciled in ink after being hydrostatically tested.

2. Service tags shall be green in color for fixed fire suppression systems, and fire detection and alarm systems. Service tags may be of any color but yellow or red for portable fire extinguishers and fire hoses. Fire hoses shall be stenciled in a contrasting color to that of the hose.

3. The service tag shall be attached at the following locations.

a. For portable fire extinguishers, the tag shall be attached at the valve/neck assembly or gauge. It shall not be attached on the hose.

b. For fixed fire suppression systems, the tag shall be attached at each cylinder and each control panel.

c. For kitchen fixed fire suppression systems, the tag shall be attached at each cylinder and each manual pull station.

d. For fire detection and alarm systems, the tag shall be attached at each control panel, (Booster panels that are part of a fire detection and alarm system need not be tagged.)

e. For fire hoses, the tag shall be located at the female coupling.

f. For fire hoses, the stencil shall be located at both couplings.

4. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

5. A service tag shall be attached on all systems or equipment found to be in proper working condition and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA codes and standards. This tag shall be used for new installations and shall be in addition to the installation tag provided for in these rules. This tag shall also be used for all service and maintenance where the system is found to meet the above conditions.

6. Service tags must contain all of the information listed below:

a. **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL"** (all capital letters in bold face type);

b. servicing firm's name, address and telephone number;

c. servicing firm's State Fire Marshal certificate number;

d. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

e. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted, except that tags attached to portable fire extinguishers may use preprinted signatures; apprentices are not permitted to sign tags);

f. day, month and year in which service was performed (must be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);

g. type of work performed, only installation, certification, and service shall be noted on tag for type of work performed (must be punched through the service tag).

i. "Installation" shall be punched on the tag when the fire protection system or equipment is initially placed into service or after an addition or extension to the system has been made. Punching "Installation" indicates the initial certification of the system or equipment has been completed;

ii. "Certification" shall be punched on the tag when the fire protection system or equipment has its six month or annual inspection or maintenance. Punching

"Certification" indicates that any required service performed to the system or equipment at the time has been completed;

iii. "Service" shall be punched on the tag when the fire protection system or equipment is repaired or replaced to ensure proper operation in between required certification periods;

iv. specifics as to the type of work performed shall be noted on rear of tag, (i.e., new installation, annual certification, annual maintenance, recharged cylinder, changed smoke detector, repaired pull station, etc);

h. serial number of portable fire extinguisher, fixed fire suppression system cylinder and/or panel and fire detection and alarm system control panel;

i. owner of system and address of owner (to be noted on rear of tag).

7. Other information may be permitted on the tag after a review and approval by the fire marshal. A request for additional information shall be made to the fire marshal in writing with a sample tag indicating the requested additions.

8. Stenciled information on fire hoses shall include the test pressure, date of test and firm license number.

B. Partial Impairment Tags (Yellow Tags)

1. All firms engaged in the activity of certifying, hydrostatic testing, inspecting, installing, integrating, maintaining or servicing of portable fire extinguishers, fixed fire suppression systems, and/or fire detection and alarm systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on the equipment or system. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag.

2. A partial impairment tag may be placed on all equipment or systems in which there is a deficiency with the equipment or system but where the equipment or system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the equipment or system as well as systems which are required to be off-sited monitored but monitoring is not provided.

3. A partial impairment tag shall not remain on equipment or a system for more than 60 days. If the problem is not corrected after 60 days the certified firm shall be required to notify, in writing, the Office of the State Fire Marshal Inspection Section.

4. Partial impairment tags must contain all of the information listed below:

a. **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL"** (all capital letters in bold face type);

b. servicing firm's name, address and telephone number;

c. servicing firm's State Fire Marshal certificate number;

d. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

e. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; (apprentices are not permitted to sign tags);

f. day, month and year in which the impairment was found (to be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);

g. type of impairment found (to be hand written on rear of tag); If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.;

h. serial number of portable fire extinguisher or fixed fire suppression system cylinder and/or panel, fire detection and alarm system control panel;

i. owner of system and address of owner (to be noted on rear of tag).

C. Impairment Tags (Red Tags)

1. All firms engaged in the activity of certifying, hydrostatic testing, inspecting, installing, integrating, maintaining or servicing of portable fire extinguishers, fixed fire suppression systems, and/or fire detection and alarm systems shall have an impairment tag, to be red in color, which is to be used when major deficiencies are found on these systems or equipment.

2. An impairment tag shall be placed on all fixed fire suppression or fire detection and alarm systems upon discovery that the system or equipment is impaired to the point that life safety is at risk or to the point that the automatic or manual discharge system will be prevented from functioning as intended.

3. Portable fire extinguishers shall be red tagged when the equipment is inoperable for any reason.

4. Impairment tags shall also be placed on any equipment or system where life safety is in imminent danger.

5. A red tag is not required to be placed on a fire hose which fails hydrostatic testing, but rather, the fire hose shall be removed from service.

6. Written notice shall be made to the owner and to the Office of the State Fire Marshal Inspection Section by the certified firm as soon as is practically possible but shall not exceed two working days after the system or equipment is red tagged. Notification to the Office of the State Fire Marshal is not needed for fire hoses removed from service. Written notification can be by electronic mail or facsimile. The Office of State Fire Marshal shall provide a form for notification. Additional notification (written or verbally) should be made to the local fire department when a system is red tagged.

7. Impairment tags must contain all of the information listed below:

a. **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL"** (all capital letters in bold face type);

b. servicing firm's name, address and telephone number;

c. servicing firm's State Fire Marshal certificate number;

d. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

e. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; (apprentices are not permitted to sign tags);

f. day, month and year in which the inspection was performed (to be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);

g. type of impairment found (to be hand written on rear of tag). If additional space is needed to note the

impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.;

h. serial number of portable fire extinguisher, fixed fire suppression system cylinder and/or panel, or fire detection and alarm system control panel;

i. owner of system and address of owner (to be noted on rear of tag).

8. Notification of fire protection equipment/systems inspections where no deficiencies are found need not be sent to the Office of the State Fire Marshal unless specifically requested.

D. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal Inspection Section:

1. name, address, and telephone number of the owner of the system;

2. name, address, telephone number, and certificate number of the firm noting the impairment;

3. name and license number of the technician who did the inspection;

4. type of system (manufacturer and model number should also be included);

5. code, inspection chapter and year edition firm used for inspection;

6. reason for the impairment (Note: a copy of the inspection or service report shall be included); and

7. date system or equipment was red or yellow tagged.

E. Non-Required and/or Non-Conforming Systems. Where a fire protection system is non-required or permitted to be installed in a non-conforming state by this office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in this section.

1. Each firm shall stamp or write on the installation tag and/or service tag one of the following statement as applicable:

a. "NON-REQUIRED SYSTEM"; or

b. "NON-CONFORMING SYSTEM"; or

c. "NON-REQUIRED/NON-CONFORMING SYSTEM".

2. Such print or stamp shall be in all capital letting and be written or stamped so as to not obscure other information provided on the tag.

3. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

F. Miscellaneous Provisions

1. On all fixed fire suppression and fire detection and alarm systems, a plastic pocket pouch/sleeve shall also be attached to the panel, or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen fixed fire suppression systems, the pocket pouch/sleeve shall be attached at or near a manual pull station. Upon a new annual or six month certification, all previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers or fire hoses.

2. All tags must be card stock, plastic, vinyl, tyevak or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted except for fire protection equipment or systems in areas subject to adverse conditions. Self adhesive tags shall contain all of the information required on hanging tags.

3. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

4. Firms shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the firm's file.

5. Tags may be removed only by licensed employees of a certified firm or employees of the State Fire Marshal's Office and certified fire prevention bureaus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1334 (June 2000), LR 33:

§3041. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against firms, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's firm to a customer, prospective customer or to employees of the state fire marshal, his designated representative or other public official;

3. impersonating the state fire marshal, his designated representative or any other public official;

4. intimidating or coercing a customer;

5. certifying, hydrostatically testing, inspecting, installing, integrating, maintaining or servicing fire protection systems and/or equipment contrary to plans submitted for review, applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

6. falsifying an application or any other document submitted to obtain a certificate or license or other documentation requested by or submitted to the Office of the State Fire Marshal;

7. falsifying tags, labels, stenciling, inspection reports, invoices, system reports, and/or other documents;

8. working an apprentice, or as an apprentice, without direct supervision by a technician licensed to perform the work being done and licensed to the same firm;

9. working an employee without the appropriate endorsement of license;

10. working without the appropriate endorsement of firm certificate or license;

11. working with an expired firm certificate or license;

12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

13. contracting to a firm or person who is not properly certified or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 40:1664 et seq. or these rules;

14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

15. installing a fixed fire suppression system, or fire detection and alarm system prior to submitting plans and required documentation and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal;

16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly certify, hydrostatic test,

inspect, install, integrate, maintain or service the systems or equipment for which a firm is certified;

17. failing to adhere to all applicable laws and rules governing fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;

18. engaging in false, misleading or deceptive acts or practices;

19. aiding and abetting an unlicensed person or firm in the certifying, hydrostatic testing, inspecting, installing, integrating, maintaining or servicing of a portable fire extinguisher, fire hose, fixed fire suppression equipment and/or system, or fire detection and alarm equipment and/or system.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;

2. portable fire extinguishers or fixed fire suppression system cylinders without labels of an approved testing laboratory or name plates:

a. exception: a portable fire extinguisher or fixed fire suppression system cylinder in an industrial facility, whose original label or name plate has been removed for refurbishing, may have a manufacturer approved replacement label or name plate reattached if maintenance records, as provided below, are maintained;

b. maintenance records shall include the following:

i. manufacturer;

ii. type and size of the portable fire extinguisher or fixed fire suppression system cylinder;

iii. serial number or unique tracking number of portable fire extinguisher or fixed fire suppression system cylinder; and

iv. dates and types of service performed;

3. any portable fire extinguisher or fixed fire suppression system cylinder prohibited by the adopted NFPA codes and standards enumerated in LAC 55:V:103 and these rules;

4. any fire protection equipment or system which has been recalled from the manufacturer or has had its listing from an approved testing laboratory removed;

5. systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1336 (June 2000), LR 33:

§3043. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a firm's physical locations, vehicles or job sites to verify required certificates, employee lists, employee licenses, business records and insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that portable fire extinguisher, fire hose, fixed fire suppression and fire detection and alarm firms and their employees are engaging in activity in accordance with the requirements of R.S. 40:1664 et seq., and these rules.

B. The State Fire Marshal shall investigate all complaints of alleged violations of R.S. 40:1574 et seq., 40:1664 et seq., and these rules. Complaints of alleged violations shall be made in writing to the Licensing Section

of the State Fire Marshal's office. The office shall make available a complaint form to be used as needed. Penalties shall be administered to those firms and /or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1337 (June 2000), LR 33:

§3045. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, or license and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, it is found that a person, certified firm, or licensee or an applicant for registration, or license, failed to comply with the provisions of R.S. 40:1664 et seq., or these rules.

1. Offenses. The following categories shall denote classification of offenses for persons, firms and employees for determining the penalty to be imposed.

a. Minor:

- i. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;
- ii. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;
- iii. working with an expired (31-45 days) license, or certificate of registration;
- iv. failing to properly display a firm certificate or an individual license.

b. Serious:

- i. misrepresenting oneself and/or one's firm to a customer, prospective customer or to employees of the State Fire Marshal, his designated representative or other public official;
- ii. certifying, hydrostatically testing, inspecting, installing, integrating, maintaining or servicing fire protection systems and/or equipment contrary to plans submitted for review, applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;
- iii. working an apprentice, or as an apprentice, without direct supervision by a technician licensed to perform the work being done and licensed to the same firm;
- iv. working an employee without the appropriate endorsement of license;
- v. working without the appropriate endorsement of firm certificate or license;
- vi. working with an expired (46-60 days) license or firm certificate;
- viii. contracting to a firm or person who is not properly certified or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 1664 et seq. or these rules;
- ix. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly certify, hydrostatic test, inspect, install, integrate, maintain or service the systems or equipment for which a firm is certified;
- x. committing five or more Minor offenses within a three year period.

c. Major:

- i. charging a customer for work that was not performed;
- ii. impersonating the state fire marshal, his designated representative or any other public official;
- iii. intimidating or coercing a customer;
- iv. falsifying an application or any other document submitted to obtain a certificate or license or other documentation requested by or submitted to the Office of the State Fire Marshal;
- v. falsifying tags, labels, stenciling, inspection reports, invoices and/or other documents;
- vi. working without any or with a suspended firm certificate of registration or license;
- vii. working an employee with a suspended license;
- viii. aiding and abetting an unlicensed person or firm in the certifying, hydrostatic testing, inspecting, installing, integrating, maintaining or servicing of a portable fire extinguisher, fire hose, fixed fire suppression equipment and/or system, fire detection and alarm equipment and/or system;
- ix. installing a fixed fire suppression system, or fire alarm and detection system prior to submitting plans and required documentation and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal;
- x. committing three or more serious offenses within a three year period;
- xi. engaging in false, misleading or deceptive acts or practices.

2. Penalties. The following fine schedule shall be used to assess fines to persons, firms, and/or employees who violate the laws and rules governing the portable fire extinguisher, fire hose, fixed fire suppression and fire detection and alarm industries. Penalties will be imposed to persons, firms and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Firms and/or Persons

- i. Minor—\$50 fine to \$250 fine and/or official warnings may be imposed.
- ii. Serious—\$250 fine to \$1,000 fine and/or suspensions of up to 90 days may be imposed.
- iii. Major—\$1,000 fine to \$5,000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons

- i. Minor—\$10 fine to \$50 fine and/or official warnings may be imposed.
- ii. Serious—\$50 fine to \$500 fine and/or suspensions of up to 90 days may be imposed.
- iii. Major—\$500 to \$5,000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

d. In lieu of fine payments, the State Fire Marshal may require remedial or additional training be obtained by those found in violation.

e. Those offenses not enumerated in this list shall receive penalties for violations of similar nature.

f. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1337 (June 2000), LR 33:

§3047. Severability

A. If any provision of these rules or the application thereof to any firm, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1338 (June 2000), LR 33:

§3049. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted codes or standards enumerated in LAC 55:V.103 published by and available from the National Fire Protection Association, Inc. (NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the codes and standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

1. ASME/ANSI A17.1—Safety Code for Elevators and Escalators;
2. ASME/ANSI A17.3—Safety Code for Existing Elevators and Escalators;
3. ASME/ANSI A117.1—Specifications for Handicapped Accessibility;
4. ADAAG—American Disability Accessibility Act Guidelines;
5. United States Department of Transportation;
6. Code of Federal Regulations 49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1339 (June 2000), LR 33:

§3051. National Recognized Testing Laboratory

A. The criteria for recognition by the Office of State Fire Marshal as a "Nationally Recognized Testing Laboratory" shall be as follows. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards:

1. Fire Test Standards—ANSI/UL 154, CAN4-S503-M83
2. Performance Standards
 - a. CO₂ Types—ANSI/UL 154, CAN4-S503-M83
 - b. Dry Chemical Types—ANSI/UL 299, ULC-S504
 - c. Halon Types—ANSI/UL 1093, ULC-S504
 - d. 2-1/2 Gallon Stored Pressure Water Types—ANSI/UL 626

e. Factory Follow-Up on Third Party Certified Portable Fire Extinguishers—ANSI/UL 1803

f. Foam Types—ANSI/UL 8

B. The applicant laboratory shall maintain a follow-up inspection program to confirm that the manufacturer is providing the controls, inspections, and tests necessary to assure that all current manufactured extinguishers will meet the laboratory's testing standards. This follow-up inspection shall occur no less than once each six months for the first two years and once each year thereafter.

1. The application by a testing laboratory for recognition by the State Fire Marshal as a "nationally recognized testing laboratory" shall not be on any particular form but shall include all of the information and material requested in Subparagraphs below:

a. the address and telephone number of the main facility and all branch offices;

b. a current organizational chart showing the relationship between administration, operation, and quality control;

c. resumes of the education and experience of key personnel;

d. a floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;

e. a list of all equipment used to test portable fire extinguishers, identified by manufacturer, model number and serial number; detailed plans and specifications shall be submitted on any testing equipment fabricated by the applicant;

f. procedures for selecting, receiving, storage, handling, and shipping of test specimens;

g. test standards and procedures most frequently used;

h. method and frequency of test equipment calibration;

i. procedure for safekeeping of records and files;

j. copies of all data sheets and test report forms;

k. facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;

l. procedure for periodic updating of the report;

m. method of distributing test reports and certifications, including an indication of who may obtain copies of the final reports and how the reports may be obtained;

n. a copy of the laboratory's partnership agreement, if a partnership, or of the articles of incorporation, if a corporation, and a copy of any by-laws;

o. a list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

p. copies of the test reports on all listed portable extinguishers which must be in sufficient detail to provide for complete verification and evaluation of the operations and objectives, and must include the signature of personnel performing the test and must also include the name of the supervisory engineer;

q. whether the applicant testing laboratory has been recognized as a "nationally recognized testing laboratory" by any other state or by an organized, voluntary recognized organization such as the National Voluntary Laboratory

Association Program and whether recognition by any other state or organization has been denied;

r. how long the applicant testing laboratory has tested portable extinguishers;

s. a notarized statement of independence which shall state that, with reference to the laboratory's testing of portable fire extinguishers:

i. there are no managerial affiliations with any producer, supplier, or vendor;

ii. changes in any major test equipment;

iii. establishment of a new branch office or facility at which portable fire extinguishers are to be tested;

iv. changes in principal officers, key supervisory personnel, or key testing personnel in the company.

B. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation and the United States Testing Company, Inc., as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1339 (June 2000), LR 33:

§3053. Equipment and Facilities

A. Each certified firm location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly certify, hydrostatic test, inspect, install, integrate, maintain or service the systems or equipment for which it is certified. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals. Required codes, standards and manuals may be either in print or in an electronic format.

B. The following equipment and code books shall be required depending upon the firm's certification endorsement.

1. Portable Fire Extinguisher/Fire Hose:

a. service and impairment tags;

b. six year maintenance and hydrostatic test labels;

c. external verification collars;

d. stenciling tools and supplies;

e. tamper seals (14 lbs. maximum breakage). the tamper seal shall reflect the current or previous calendar year date when installed;

f. test apparatus including appropriate adapters, fittings and tools;

g. facilities for leak testing of pressurized extinguishers;

h. approved equipment for drying cylinders;

i. approved closed recovery unit;

j. department of agriculture approved scales for unit measure (for shop or vehicle). Scales shall be certified annually by the Department of Agriculture or its designated agent;

k. field and cartridge scales;

l. appropriate recharge agents and fill funnels;

m. cylinder inspection light;

n. dry nitrogen cylinders, regulator and calibrated gauges for pressurizing cylinders;

o. supply of spare parts for respective manufacturers and type of fire extinguishers serviced;

p. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric);

q. continuity tester and labels;

r. calibrated gauges and gauge tester;

s. working hydrostatic test pump for testing cylinders and fire hose, with flexible connection, check valves and fittings;

t. adequate safety cage for hydrostatic testing of low pressure cylinders.

2. Fixed, Pre-Engineered or Kitchen Fire Suppression:

a. service, partial impairment (optional) and impairment tags;

b. installation tags;

c. six year maintenance and hydrostatic test labels;

d. external verification collars;

e. tamper seals (14 lbs. maximum breakage). The tamper seal shall reflect the current or previous calendar year date when installed;

f. test apparatus including appropriate adapters, fittings and tools;

g. facilities for leak testing of pressurized cylinders;

h. approved equipment for drying cylinders;

i. approved closed recovery unit;

j. Department of Agriculture approved scales for unit measure. Scales shall be certified annually by the Department of Agriculture or its designated agent;

k. appropriate recharge agents and fill funnels;

l. cylinder inspection light;

m. dry nitrogen cylinders, regulator and calibrated gauges for pressurizing cylinders;

n. supply of spare parts for respective manufacturers and type of systems serviced;

o. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric);

p. wire cutters;

q. pipe threader;

r. pipe reamer;

s. flaring tools;

t. pipe wrenches;

u. calibrated gauges and gauge tester;

v. working hydrostatic test pump, with flexible connection, check valves and fittings;

w. adequate safety cage for hydrostatic testing of low pressure cylinders;

x. manometer (for engineered systems only);

y. fan test equipment or have access to such equipment through contract to another firm (for engineered systems only);

z. halon recovery equipment or have access to such equipment through contract to another firm (for Engineered Systems only).

3. Fire Alarms:

a. service, partial impairment (optional) and impairment tags;

b. installation tags;

c. manufacturer approved smoke detector sensitivity or calibration testing equipment or have access to such equipment through contract to another firm;

d. multimeter;

e. sound level meter.

4. DOT Hydrostatic Testing:

a. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including but not limited to appropriate adapters, fittings and tools;

b. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch;

c. clock with sweep second hand on or close to hydrostatic test apparatus;

d. equipment for drying cylinders;

e. cylinder inspection light;

f. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).

5. Code Books (latest edition as enumerated in LAC 55:V.103 and these rules)

a. Portable Fire Extinguisher/Fire Hose—NFPA 10, 101, 1961 and 1962.

b. Fixed Fire Suppression—NFPA 11, 11A, 12, 12A, 17, 17A, 96, 101 and 2001.

c. Pre-Engineered—NFPA 11, 11A, 12, 12A, 17, 17A, 96, 101 and 2001.

d. Kitchen Suppression—NFPA 17, 17A, 96 and 101.

e. Fire Alarm—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

f. Fire Alarm (non-required)—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

g. Fire Alarm Owner—NFPA 70 (only those articles that address fire alarm wiring), 72, 90A, 90B and 101.

h. DOT Hydrostatic Testing—CFR 49, NFPA 1961 and 1962.

C. The State Fire Marshal or his representative may inspect a firm's physical location(s) or vehicle(s) to ensure the proper equipment, tools, NFPA codes, NFPA standards, manufacturer's UL listed installation and service manuals and business records and insurances are possessed by the firm. Firms must possess all applicable manufacturers' installation and service manuals for the systems and/or equipment it services.

D. Business records shall include, but not be limited to, invoices, work orders, service reports, payroll records, federal and state tax information for employees, occupational licenses, income tax filings, property tax notifications and filings, utility records, certificates of insurance for general liability and workmen compensation coverage and workers compensation reports and/or filings.

E. The State Fire Marshal or his representative may require that a firm or its employee(s) demonstrate a proficiency to use the necessary equipment to properly certify, hydrostatically test, inspect, install, integrate, maintain or service portable fire extinguishers, fixed fire suppression systems/equipment and fire detection and alarm systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

F. For those firms or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain

additional training within a 30-day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

G. The office may specifically enumerate additional required equipment or business records at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1339 (June 2000), LR 33:

§3055. Plan Review

A. No system requiring plan submittal in accordance with R.S. 40:1574 et seq., shall be installed or integrated prior to submitting plans with required documentation and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal. However, the installation of wiring only for fire detection and alarm systems shall be permitted upon receipt of plans by the Office of the State Fire Marshal, Plan Review Section. No fire detection devices or panels shall be installed prior to review or written authorization by the Office of the State Fire Marshal.

B. Only listed qualifiers of a firm shall be listed on applications for full plan review or exemption to full plan review. Additionally, any correspondence regarding a submittal, to include but not be limited to, telephone, email or written correspondence, shall only be through a listed qualifier of the firm, owner of the firm, a professional of record or owner of the building.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 26:1340 (June 2000), LR 33:

§3057. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in Section 3053 of this Chapter.

B. The certifying, inspecting, integrating, maintenance and servicing of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems. All connections or final terminations made within the alarm control panel must be

made by licensed employees of the fire detection and alarm firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 26:1340 (June 2000), LR 33:

§3059. Miscellaneous Provisions

A. Marking of Vehicles. All service vehicles owned or operated by firms or their employees used for regulated activities, as defined by R.S. 40:1664 et seq., and these rules shall have the firm name and firm certificate number permanently inscribed, painted, stenciled or affixed by magnetic means on such vehicles. Such markings shall be a minimum of 2 1/2 inches in height and not less than 1/4 inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle.

B. Restrictions

1. Certificate or license holders are not agents or representatives of the state of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate or license does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to certify, service, hydrostatically test, inspect, install integrate, or maintain fire protection equipment and/or systems without the owner's permission.

3. Certificate and license holders shall not allow the use of their certificate or licenses by other firms, persons or employees.

4. A certificate or license holder shall not perform any activity relating to portable fire extinguishers, fire hoses, fixed fire suppression equipment/system, or fire detection and alarm equipment/systems unless employed by and within the course and scope of that employment with a firm regulated by the provisions of R.S.40:1664 et seq.

5. A person shall not perform any act for which a certificate or license is required unless:

- a. first being certified or licensed to perform such acts; and
- b. is employed by a firm certified to perform those acts; and
- c. is performing those acts for the certified firm by which he is employed.

6. An apprentice, as defined in these rules, shall not perform any activity regulated by R.S.40:1664 et seq., unless employed by a certified firm and is supervised by a license holder authorized to perform such act or acts Both the apprentice and licensee shall be employed by the same certified firm.

7. Nothing in these rules shall prevent an appropriately licensed firm or person from certifying, hydrostatically testing, inspecting, installing, integrating, maintaining or servicing any manufacturer's portable fire extinguishers, fire hose, fixed fire suppression equipment and/or systems or fire detection and alarm equipment and/or systems.

C. Multiple Names. A firm which uses multiple names must apply for a separate certificate of registration if each named firm has a separate state or federal tax number. All "doing business as" names shall be registered with this office at the time of application.

D. Required Inspection

1. The following shall be the building owner's responsibility.

a. Portable fire extinguishers shall be certified annually by a firm with a Portable Fire Extinguisher/Fire Hose endorsement.

b. Pre-engineered fixed fire suppression systems shall be certified at a minimum annually by a firm with either a Fixed Fire Suppression System endorsement or Pre-Engineered Fixed Fire Suppression endorsement. If the suppression system includes electronic fire detection devices, then the firm must also have the appropriate Fire Alarm endorsement or contract to a firm with such.

c. Engineered fixed fire suppression systems shall be certified at a minimum annually by a firm with a Fixed Fire Suppression System endorsement. If the suppression system includes electronic fire detection devices, then the firm must also have the appropriate Fire Alarm endorsement or contract to a firm with such.

d. Clean Agent Gas (Halon 1301 Replacement) fixed fire suppression systems shall be certified at a minimum every six months by a firm with a Fixed Fire Suppression System endorsement and the appropriate Fire Alarm endorsement or contract to a firm with such.

e. Kitchen fixed fire suppression systems shall be certified at a minimum every six months by a firm with either a Fixed Fire Suppression System endorsement, or a Pre-Engineered Fixed Fire Suppression endorsement, or a Kitchen Fixed Fire Suppression System endorsement. If the suppression system includes electronic fire detection devices, then the firm must also have the appropriate Fire Alarm endorsement or contract to a firm with such.

f. Fire alarm and detection systems shall be certified at a minimum annually by a firm with a Fire Alarm endorsement for required fire alarm systems and a Fire Alarm or Fire Alarm (non-required) endorsement for non-required fire alarm systems.

g. Fire hoses shall be certified at a minimum annually by a firm with a Portable Fire Extinguisher/Fire Hose endorsement or a fire protection sprinkler contractor as outlined by R.S.40:1664 et seq.

2. For the purpose of determining the exact date of a required certification, inspection or service, the following guidelines shall apply. Where only the year is known but not the month, January shall be used for the month, where the month is known but not the day, the first day of the month shall be used.

3. The certified firm shall not be responsible for more frequent inspections as required by the applicable engineered specifications, manufacturer's specifications or per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards unless under contract to perform such.

E. Advertising. All advertising, including but not limited to telephone advertising, shall indicate a firm's certificate of registration number.

F. Service Invoices and Inspection Reports. All service invoices or inspection reports shall reflect the inspection, installation, maintenance, or service performed, all parts replaced, date of service and the technician who performed the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 26:1341 (June 2000), LR 33:

Family Impact Statement

The proposed amendments to LAC 55:V.Chapter 30 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on this proposed Rule to DSFM Boyd Petty at 8181 Independence Blvd., Baton Rouge, LA 70806. Comments will be accepted through close of business on June 15, 2007.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fire Protection Licensing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation costs would be limited to the cost of copying the new rules and advertising in the State Register. However, it is anticipated that these costs will be very minimal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No additional revenue collection is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Fire protection firms will have minimum expense for marking vehicles and printing new tags.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Firms will be able to compete on an equal level with others in the industry due to clarity in rules and ambiguities removed.

William B. Petty
Deputy State Fire Marshal
0705#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Commercial Plan Review (LAC 55:VI.505)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to enact a new Rule under

Chapter 5 to temporarily facilitate the availability of commercial plan review to architects, engineers, owners, parishes and municipalities in those local jurisdictions that are currently unable to provide this code enforcement service.

**Title 55
PUBLIC SAFETY**

**Part VI. Uniform Construction Code
Chapter 5. Enforcement of the Louisiana State
Uniform Construction Code**

§505. Commercial Plan Review

A. Until December 31, 2007, where a parish or municipality is not providing plan review, then architects, engineers, owners, parishes or municipalities on commercial projects may request International Building Code plan review by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:

Family Impact Statement

The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Paeton Burkett, Attorney, Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 307Q, Baton Rouge, LA 70806. Comments will be accepted through close of business June 10, 2007.

Jill Boudreaux
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Plan Review**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated implementation costs or savings to local governmental units. The proposed rule merely adds language which allows a commercial entity to utilize the Office of the State Fire Marshal directly for plan review services as

opposed to working through the local governmental entity as allowed in current rules. The majority of the local governmental units do not provide the necessary plan review services to commercial projects. The proposed rule does not add any additional expenditure for local governmental units apart from or in addition to those that will result from the enactment of Act 12 of the 2005 First Extraordinary Session. Pursuant to that Act, the Department of Public Safety and Corrections, has employed four additional positions needed as staff for the Uniform Construction Code Council. The annual cost of these positions and associated expenses are estimated to be \$322,478 in FY 08, \$331,361 in FY 09 and \$340,601 in FY 10. There could be additional costs to the State Fire Marshal as a result of this rule. Those cost are associated with additional positions to handle the additional commercial plan review workloads. The estimated costs of those positions are \$252,562.42.

This rule expires December 31, 2007.

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

There is no anticipated effect on revenue collections for local governmental units. However, this rule would impact the revenue collections for the Office of the State Fire Marshal. It can be anticipated that this rule change increases the plan review workload of the agency by 25% up to 2,375 additional projects. Based upon current fee schedule, an average of \$672 per plan review, an additional \$1,596,000 in collected Fees and Self-generated Revenues is anticipated. These fees will be spent to defray the cost of the anticipated additional workload as well as other costs associated with the implementation of Act 12 of the 2005 First Extraordinary Session.

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

Pursuant to current law, no commercial or residential building may be constructed, altered or repaired until plans have been reviewed and inspected for compliance with the Louisiana Uniform Construction Code. This rule merely adds language to allow commercial entities the ability to work with the Office of the State Fire Marshal directly, which further expands the availability of commercial plan review services and for a reasonable fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact upon competition and employment as the proposed rule applies to local governmental units that are currently unable to provide commercial plan review services and does not affect those local governmental entities currently providing commercial plan review services.

Jill P. Boudreaux
Acting Undersecretary
0705#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

**Municipal or Parish Building Code Enforcement Officers
Classifications and Required Certifications
(LAC 55:VI.703)**

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction

Code Council hereby proposes to amend Chapter 7 to facilitate the number of individuals who are qualified to obtain a certificate of registration from the Louisiana State Uniform Construction Code Council.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 7. Certificates of Registration

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

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

2. Specialty Classifications

a. Commercial Inspectors

i. Commercial Building Inspector

Requirements—possess a current ICC Commercial Building Inspector, ICC Building Inspector, or ICC Commercial Combination Inspector certificate.

ii. Commercial Electrical Inspector

Requirements—possess a current ICC Commercial Electrical Inspector, ICC Electrical Inspector, or ICC Commercial Combination Inspector certificate.

iii. Commercial Mechanical Inspector

Requirements—possess a current ICC Commercial Mechanical Inspector, ICC Mechanical Inspector, or ICC Commercial Combination Inspector certificate.

iv. Commercial Plumbing Inspector

Requirements—possess a current ICC Commercial Plumbing Inspector, ICC Plumbing Inspector, or ICC Commercial Combination Inspector certificate.

v. Commercial Energy Inspector

Requirements—shall be enforced by the Office of the State Fire Marshal.

b. Commercial and Residential Plan Examiners or Reviewers

i. Building Plans Examiner

Requirements—possess a current ICC Commercial Building Plans Examiner certificate.

ii. Electrical Plans Examiner

Requirements—possess a current ICC Commercial Electrical Plans Examiner certificate.

iii. Mechanical Plans Examiner

Requirements—possess a current ICC Commercial Mechanical Plans Examiner certificate.

iv. Plumbing Plans Examiner

Requirements—possess a current ICC Commercial Plumbing Plans Examiner certificate.

v. Commercial Energy Plans Examiner

Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector

Requirements—possess a current ICC Residential Inspector, ICC Building Inspector, or ICC Residential Combination Inspector certificate.

ii. Residential Electrical Inspector

Requirements—possess a current ICC Residential Electrical Inspector, ICC Electrical Inspector, or ICC Residential Combination Inspector certificate.

iii. Residential Mechanical Inspector

Requirements—possess a current ICC Residential

Mechanical Inspector, ICC Mechanical Inspector, or ICC Residential Combination Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector, ICC Plumbing Inspector, or ICC Residential Combination Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Paeton Burkett, Attorney, 7979 Independence Boulevard, Suite 307Q, Baton Rouge, LA 70806. Comments will be accepted through close of business June 10, 2007.

Jill P. Boudreaux
Acting Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Municipal or Parish Building Code Enforcement Officers Classifications and Required Certifications

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

This rule will not result in an increase in costs or savings to local governmental units since the rule only broadens the categories of who can obtain a certificate of registration. According to current state law and Council Rules, before a code enforcement officer can register with the Louisiana State Uniform Construction Code Council, they must obtain a certain ICC certification. The proposed rule does not add any additional expenditures apart from or in addition to those that will result from the enactment of Act 12 of the 2005 First

Extraordinary Session. Pursuant to that Act, the Department of Public Safety and Corrections has employed four (4) additional positions needed as staff for the Uniform Construction Code Council. The annual cost of these positions and associated expenses are estimated to be \$322,478 in FY 08, \$331,361 in FY 09, and \$340,601 in FY 10.

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

The proposed rule will have no effect on revenue collections of state governmental units.

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

No commercial or residential building may be constructed, altered or repaired until plans have been reviewed and the structure inspected for compliance with the Louisiana Uniform Construction Code. This rule is being adopted to further expand the number of individuals who are qualified to perform code enforcement. Individuals who currently hold one of the newer International Code Council (ICC) certifications will now be able to obtain their certificates of registration without further ICC certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on competition and employment as the proposed rule will expand the number of individuals who are qualified to register with the Louisiana Uniform Construction Code Council to perform code enforcement services.

Jill P. Boudreaux
Acting Undersecretary
0705#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

Class C-Package Store (LAC 55:VII.327)

Under the authority of R.S. 26:71.2 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to promulgate LAC 55:VII.327 relative to operation as a Class C-Package Store retail alcoholic beverage outlet, as authorized and directed by the Louisiana Legislature during the 2006 Regular Session.

Louisiana Administrative Code 55:VII.327 provides for conduct allowable in the operation of a Class C-Package Store to ensure the safe and responsible distribution of specialty frozen alcoholic beverage, commonly known as frozen daiquiris, under the newly-created permit.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Alcoholic Beverage Permits

§327. Class C-Package Store Retail Alcoholic Beverage Permits

A. Definitions

Batch—any mixture of ingredients or concoction prepared, blended, mixed, or otherwise combined in the preparation of a regulated or alcoholic beverage, as defined by R.S. 26:2 and 241, to be served to patrons in the form of

specialty frozen drinks, commonly known as frozen daiquiris.

Batch Freezer—any refrigeration or cooling unit, machine, device or processor of any kind in which a *batch*, as defined in this Section, of specialty frozen drinks, commonly known as frozen daiquiris, is placed for purposes of transforming the batch into frozen specialty drinks for service to patrons, regardless of whether the refrigeration or cooling unit, machine, device or processor includes a spigot or other mechanism for pouring the specialty frozen drink into single serving closed containers for service to patrons.

B. In order to qualify for a Class C-package store retail alcoholic beverage permit, the applicant must:

1. operate a place of business where the sale and service of alcoholic beverages represents more than 50 percent of the business' total annual retail sales revenue;

2. not offer to sell, sell, or otherwise distribute motor fuel anywhere on or about the licensed premises;

3. sell and serve alcoholic beverages, including frozen specialty alcoholic beverages, in closed containers prepared for transportation and consumption off the licensed premises only;

4. maintain a public habitable floor area of no less than 1,000 square feet;

5. not allow any person under the age of 18 years to enter, visit, or loiter in or about the licensed premises;

6. not employ anyone under the age of 18 years;

7. not allow the consumption of any alcoholic beverage for any purpose of reason on or about the licensed premises;

8. not permit the mixing, sale, or service of mixed alcoholic beverages on the licensed premises;

9. notwithstanding Paragraph 8 above, a Class C-package store license holder may combine non-alcoholic frozen specialty mixes with factory sealed and packaged alcoholic beverages on the licensed premises for the sole purpose of preparing a *batch*, as defined in Subsection A of this Section, which batch is placed in a *batch freezer*, as defined in Subsection A of this Section designed for the dispensing of frozen specialty alcoholic beverages, provided the license holder complies with the following at all times:

a. the mixing of a *batch*, as defined in Subsection A above, shall at all times be conducted out of the view of the public;

b. open bottles of manufacturer-packaged alcoholic beverage or any other open alcoholic beverage shall be kept out of view of the public;

c. all frozen specialty drinks shall be dispensed from batch freezer machines into containers affixed with a lid for transportation and consumption by the customer off of the licensed establishment's premises. The use of blenders or similar devices is prohibited;

d. no additional alcoholic beverage shall be added to the batch after the batch is placed into the batch freezer machine. The sale and service of additional "shots" or any other portion of any alcoholic beverage or the introduction of any additional alcohol into a container used for the sale or service of frozen specialty drinks to the public is prohibited;

e. the preparation and/or sale of one or more drinks commonly known as "highballs," "cocktails," or any type of "mixed drink" other than frozen specialty alcoholic

beverages, as described and/or defined in this Section, is expressly prohibited on or about the licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.2B.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 33:

Family Impact Statement

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have the effect of denying minors access to the premises of the newly created class c-package store alcoholic beverage outlets.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Implementation of this proposed Rule will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8549 United Plaza Boulevard, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, June 8, 2007. A public hearing will be held on Friday, June 8, 2007 at 3 p.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8549 United Plaza Boulevard, Second Floor in Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Class C-Package Store

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

Promulgation of this rule will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units. Rather, this rule seeks to codify and/or clarify policy that is already in place in order to ensure the safe and responsible offering for sale, sale, and service of alcoholic beverages.

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

Promulgation of this rule will not effect revenue collections of state or local governmental units whatsoever.

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

Promulgation of this rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this rule should help ensure a level playing field on which all holders of newly created class c-package store retail alcoholic beverage permits will compete. This proposed rule seeks to clarify the Office of Alcohol and Tobacco Control's policy in regard to acceptable qualifications and practices off the premises of such establishments.

Murphy J. Painter
Commissioner
0705#077

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Wine Producer Permits (LAC 55:VII.324)

Under the authority of R.S. 26:85 and 793, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control proposes to promulgate LAC 55:VII.324 relative to the safe and responsible offering for sale, sale and distribution of product of wine producers at fairs, festivals, farmer's markets and similar venues.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§324. Wine Producers; Fairs, Festivals, Farmer's Markets and Similar Venues

A. For purposes of this Section, the following definitions shall apply.

1. *Fair, Festival, Farmer's Market or Other Similar Venue*—any non-profit, state or local governmental organizational event being held in a limited duration capacity.

2. *Wine Producer*—the holder of a valid unsuspended wine producers permit, as defined in R.S. 26:2(21).

B. Wine producers may, with local authority, offer for sale and sell directly to consumers at fairs, festivals, farmer's markets and other similar venues under the following terms and/or conditions.

1. Any and all sales at fairs, festivals, farmer's markets and similar venues shall be limited in duration as provided in LAC 55:VII.323.

2. Notwithstanding Paragraph 1 of Subsection B above, if the site of the fair, festival, farmer's market or similar venue is utilized by a state or local governmental entity for purpose of promoting tourism and/or agribusiness, durational limitations provided in LAC 55:VII.323 shall not apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:85 and 793.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 33:

Family Impact Statement

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have the effect of establishing policy relative to holders of Wine Producers Permits ability to offer for sale and sell their products at fairs, festivals, farmer's markets and similar venues to ensure that such products are safely and responsibly offered for sale, sold, and distributed to person of legal drinking age.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Implementation of this proposed Rule will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8549 United Plaza Boulevard, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, June 8, 2007. A public hearing will be held on Friday, June 8, 2007 at 3 p.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8549 United Plaza Boulevard, Second Floor in Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Wine Producer Permits**

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

Promulgation of this rule will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units. Rather, this rule seeks to codify and/or clarify policy that is already in place in order to ensure the safe and responsible offering for sale, sale, and service of alcoholic beverages.

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

Promulgation of this rule will not effect revenue collections of state or local governmental units whatsoever.

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

Promulgation of this rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this rule should help ensure a level playing field on which all holders of newly created Wine Producers Permits will compete. This proposed rule seeks to clarify the Office of Alcohol and Tobacco Control's policy in regard to acceptable qualifications and practices off the premises of such establishments.

Murphy J. Painter
Commissioner
0705#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

FITAP/STEP—Eligibility and Assessment
(LAC 67:III.1227, 1247 and 5727)

The Department of Social Services, Office of Family Support, proposes to amend the Administrative Procedure Act, R.S. 49:953(B) in Title 67 Part III, Subpart 2, Family Independence Temporary Assistance Program in Sections 1227 and 1247 and Subpart 16, Strategies to Empower People (STEP) Program, in Section 5727. This Rule is in pursuant to the authority of Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant.

Language is being removed from Section 1227, C and D regarding the inclusion of essential persons in the FITAP grant and FITAP assistance unit to comply with language set forth in Sections 401, 402, 403, and 408 of Title IV of the Social Security Act, which states the first goal of TANF is to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives and further states that no part of the TANF grant shall be used to provide assistance to a family unless the family includes a minor child who resides with the family or a pregnant individual. Current language at Section 1227 allows for certain other individuals who are not related to the child (essential persons) to be included in the assistance unit and/or grant.

Section 1247.E.1-2 restores language concerning the eligibility requirements for cash assistance stated in Title IV of the Social Security Act. Section 5727.B.1-4 restores language that addresses criteria in the Family Transition Assessment (FTA) to assist participants upon their transition from cash assistance. Text in these Sections was erroneously omitted from LR 31:102 and 103 (January 2005) due to incorrect document formatting. Failure to amend the language in Sections 1227, 1247, and 5727 could result in noncompliance with federal regulations and the imposition of penalties and sanctions by the Administration for Children and Families, the federal agency responsible for overseeing Louisiana's TANF Block Grant.

Changes to Sections 1247 and 5727 were made effective February 9, 2007, by an Emergency Rule published in the February issue of the *Louisiana Register*.

**Title 67
SOCIAL SERVICES**

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Programs

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1227. Living in the Home of a Qualified Relative

A. - B.5. ...

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2, 42 U.S.C. 608 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 32:264 (February 2006), LR 33:

§1247. Time Limits

A. - D.3. ...

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6 and R.S. 46:460.5(A)(3), Act 58, 2003 Reg. Session; Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:494 (March 2004), LR 31:102 (January 2005), LR 33:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter C. Step Program Process

§5727. Family Transition Assessment

A. ...

B. The FTA shall include but is not limited to:

1. a plan for on-going success in the work force;
2. identification of short and long-term goals;
3. identification of potential barriers and an action plan to overcome these barriers; and
4. information regarding eligibility for supportive services including, but not limited to: Medicaid benefits, food stamp benefits, child care, transportation, Louisiana Child Health Insurance Program, the earned income tax credit, and TANF-funded services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 31:103 (January 2005), LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority

and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will define and clarify the functioning of families in assuring that each member of the assistance unit is related and have proven relationships.

4. What effect will this have on family earnings and family budget? This Rule may affect a family's budget if an essential person is included in their household, the family would have a decrease in their monthly cash grant once the ineligible person(s) is removed.

5. What effect will this have on the behavior and personal responsibility of children? This Rule can enhance the effect on the behavior and personal responsibility of children, as it can assure cash assistance received for the children is only provided to related persons per TANF regulations.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these programs are strictly an agency function.

All interested persons may submit written comments through June 28, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed Rule will be held on June 28, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FITAP/STEP
Eligibility and Assessment**

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

This rule change proposes to amend Section 1247 and Section 5727 of the Louisiana Administrative Code to restore language that was erroneously omitted from LR 31:102 and 103 (January 2005) due to incorrect document formatting.

The rule change also proposes to remove language from Section 1227, C and D regarding the inclusion of individuals who are not related to the child (essential persons) in the FITAP grant and FITAP assistance unit to comply with language set forth in sections 401, 402, 403, and 408 of Title IV of the Social Security Act. These essential persons will no longer be included in the determination of the grant amount for a household, which will result in smaller grant amounts being issued, effective September 2007. It is anticipated that this rule will result in a savings of \$5,460 in federal funds for FY 07/08 and \$6,522 in federal funds for FY 08/09. Any savings will be used for other TANF eligible-activities.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$160. The agency has sufficient funds to cover this cost.

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

This rule will have no effect on revenue collections of state or local governmental units.

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

There are no significant anticipated costs or economic benefits to any persons or nongovernmental groups as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0705#066

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Fur Trapping Season (LAC 76:V.129)

The Wildlife and Fisheries Commission does hereby advertise its intent to establish a fur trapping season for the state of Louisiana.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§129. Fur Trapping Season

A. The statewide open trapping season for nongame quadrupeds shall open on November 20 and close on March 31. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:259(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connect with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Philip E. Bowman, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to July 5, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fur Trapping Season

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. No additional cost or savings are anticipated.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

The proposed rule will set the trapping season for nongame quadrupeds to open on November 20th and close on March 31st of each year. It also will allow the Secretary to close, extend, delay, or re-open the season as biologically justifiable. By knowing when the trapping season will begin and end each year, licensed trappers will be able to better plan their fur trapping activities.

No additional costs, workload, paperwork or impact on receipts and/or income to directly affected persons or nongovernmental groups will be incurred.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Wynette Kees
Deputy Undersecretary
0705#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

White Lake Wetlands Conservation Area (LAC 76:III.335)

The Wildlife and Fisheries Commission does hereby give notice of its intent to revise the White Lake Wetlands Conservation Area management plan in accordance with the following Rule.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

**Chapter 3. Particular Game and Fish Preserves,
Wildlife Management Areas, Refuges and
Conservation Areas**

§335. White Lake Wetlands Conservation Area

A. The general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area Management Plan is as follows.

White Lake Wetlands Conservation Area Management Plan		
Activities	Season	Cost
Alligators Wild Alligator Harvest Alligator Egg Collection	LDWF Season June & July	40% of public bid Public bid
Waterfowl Teal Lottery Hunts Youth/Physically Challenged	LDWF Season First Weekend	\$100 per gun No cost
Hunts Marsh Lottery Hunts Rice Lottery Hunts Group Hunts	LDWF Season LDWF Season LDWF Season	\$150 per gun \$150 per gun \$25,000 per group
Fishing	March 15-August 15	\$40 per permit

1. The number/quantity of alligators, eggs, hunters, groups and permits for the above activities shall be established annually based upon biological and technical data presented by the department to the board.

B. Schedule of Costs for Public Use of Facilities for Non-Consumptive Activities

1. Daily Use

a. \$300—includes one day use of lodge for meetings with nothing provided (for up to 15 people, weekdays only).

b. \$300 + \$10/person—includes one day use of lodge for meetings with coffee, cold drinks and bottled water provided.

c. \$300 + \$20/person—includes one day use of lodge for meetings with coffee, cold drinks, bottled water and lunch provided. The lunch provided will consist of a sandwich tray and chips or something similar. It will not include a hot lunch.

d. Exemptions from daily cost—state agencies, local and federal agencies and universities conducting research in cooperation with the department. Costs for beverages or lunch apply (\$10/person for drinks, \$20/person for drinks and lunch).

2. Overnight Use

a. \$400 + \$25/person/night—includes overnight stay at lodge with nothing provided except linens. (For up to 12 people, weekdays only).

b. \$400 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water and linens provided.

c. \$900 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water, meals (breakfast, lunch and supper) and linens provided.

d. Exemptions from Daily Cost—state agencies, local and federal agencies and universities conducting research in cooperation with the department. Costs for beverages or lunch apply (\$10/person for drinks, \$20/person/meal).

e. Exemptions from costs for meals apply to all invited to department sponsored events.

3. Skeet Range

a. \$10/person/25 clay pigeons.

b. \$15/person/25 clay pigeons, 25 shotgun shells provided.

c. Exemptions—any persons using the skeet range at department sponsored events.

4. Boat Tours

a. \$10/person/ride. Limited to authorized function attendees.

b. Exemptions—any state, local or federal agency in cooperation with the department on mutual projects. Any university in cooperation with the department on research projects.

5. Use of facilities is subject to availability as well as staff availability and other scheduled events on the area.

AUTHORITY NOTE: Promulgated in accordance with Act 613 of the 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:538 (March 2007), amended LR 33:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to L. Brandt Savoie, Deputy Assistant Secretary, Office of Wildlife, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than Thursday, July 5, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: White Lake Wetlands
Conservation Area**

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.

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

The proposed rule change is anticipated to have a slight positive effect on state revenue collections deposited in the White Lake Property Fund. The increase in state revenue collections will depend on the number of applications received, the specific activities requested and the availability of the facilities and staff at the requested time of usage. Since no historical usage information for the new non-consumptive activities is available, no estimate of the increase in state revenue collections from these activities can be provided. State revenue collections for consumptive activities are assumed to remain the same, except for fishing, which is estimated to increase by \$750.00, due to the proposed \$10.00 fee increase.

Local revenue collections of governmental units are not anticipated to be significantly impacted.

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

The proposed rule change adds a schedule of costs for public use of facilities for non-consumptive activities on the White Lake Wetlands Conservation Area. It increase the cost of the fishing permit from \$30 to \$40 and sets the wild alligator harvest season on the area to be identical to the Louisiana Wildlife and Fisheries alligator season. Individuals who use the facilities or participate in the new non-consumptive wildlife and fisheries activities that are being offered will be required to pay a fee, except for state, local and federal agencies and universities who are conducting research in cooperation with the Department. Businesses who supply goods and services to participants in these activities and users of the public facilities may experience a slight increase in sales of equipment and associated items.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0705#033

Robert E. Hosse
Staff Director
Legislative Fiscal Office