

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Seed Commission

Germination Tolerance Standards (LAC 7:XIII.105 and 207)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, adopts regulations regarding germination tolerances for seed and the sugarcane (tissue culture) greenhouse requirements.

This Rule updates germination tolerance standards in order to meet current germination standards set by the Association of Official Seed Analysts in 2005 and to amend Sugarcane (Tissue Culture) Certification Standards in order to prevent the introduction and spread of potentially harmful insects and diseases to foundation sugarcane stock. This Rule is enabled by R.S. 3:1431 and 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§105. Tolerances

A. Except as otherwise provided in this Section, the tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be applicable in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances which are recognized by the Federal Seed Act, 7 USC 1551-1611, are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed.

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average Percent Germination		No. Replicates of 100 Seeds		Average Percent Germination		No. Replicates of 100 Seeds	
A	B	C	D	A	B	C	D
99	2	5	--	75	26	17	14
98	3	6	--	74	27	17	14
97	4	7	6	73	28	17	14
96	5	8	6	72	29	18	14
95	6	9	7	71	30	18	14
94	7	10	8	70	31	18	14
93	8	10	8	69	32	18	14
92	9	11	9	68	33	18	15
91	10	11	9	67	34	18	15
90	11	12	9	66	35	19	15
89	12	12	10	65	36	19	15
88	13	13	10	64	37	19	15
87	14	13	11	63	38	19	15
86	15	14	11	62	39	19	15
85	16	14	11	61	40	19	15

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average Percent Germination		No. Replicates of 100 Seeds		Average Percent Germination		No. Replicates of 100 Seeds	
A	B	C	D	A	B	C	D
84	17	14	11	60	41	19	15
83	18	15	12	59	42	19	15
82	19	15	12	58	43	19	15
81	20	15	12	57	44	19	15
80	21	16	13	56	45	19	15
79	22	16	13	55	46	20	15
78	23	16	13	54	47	20	16
77	24	17	13	53	48	20	16
76	25	17	13	52	49	20	16
				51	50	20	16

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 33:1609 (August 2007).

Subchapter C. Certification of Specific Crops/Varieties §207. Sugarcane (Tissue Culture) Certification Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center (LSUAC) or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, the Louisiana Department of Agriculture and Forestry, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the first ratoon. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for re-certification once they come in compliance with applicable regulations.

4. Source of certified stock is limited to:

a. three consecutive years from planting of registered stock; and

b. two consecutive harvests of certified stock.

B. Greenhouse Requirements

1. Foundation plants and plantlets shall be kept in certified greenhouses.

2. Certified greenhouses shall comply with the following requirements:

a. all sugarcane plants within the certified greenhouse must have been processed through the LSUAC sugarcane quarantine program;

b. greenhouses shall be clearly marked to warn workers that they shall not enter if they are coming from the field or from other non-certified greenhouses;

c. doors shall be kept locked when the greenhouse is not in use;

d. sticky traps or other monitoring devices shall be used to monitor aphids and other insects;

e. screens of such mesh as to prevent entry of aphids and other insects shall be placed over all openings (vents, fans, windows, etc.);

f. aphids, whiteflies or other harmful insects shall be controlled within the greenhouse;

g. cutting tools shall be decontaminated on a regular basis and always when moving to another group of foundation plants or plantlets;

h. different varieties must be clearly identified and separated.

3. Foundation stock shall be tested on a yearly basis for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

4. LDAF must approve greenhouses before foundation plants can be entered into the certification program.

5. Inspections

a. Producer shall inspect and/or sample the greenhouse on a regular basis for harmful diseases and insects. If symptomatic plants are found either visually or by sample test results, they will be removed and destroyed. The grower will keep a log showing that inspections were made and if plants were removed.

b. If problems are observed during these inspections the producer should notify LDAF.

c. LDAF may inspect certified greenhouses several times during the year as needed. If symptomatic plants are found during these inspections they must be rogued and disposed of properly.

C. Field Inspections and Sampling

1. At least four field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The third inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

D. Land Requirements. The land shall be fallowed one summer from the previous crop.

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
** Sugarcane Mosaic Virus	None	10.00%	10.00%
** Sugarcane Smut	None	0.50%	0.50%
Harmful Insects: ***Sugarcane Borer	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

F. Stock Handling

1. General Requirements

a. During harvest, constant care should be taken in the handling of certified seed to ensure genetic identity and purity.

b. Stock shall be labeled or identified in a manner such as to represent a lot or field.

c. Planting stock shall be subject to inspection by the Louisiana Department of Agriculture and Forestry at any time during the harvest season.

G. Reporting System

1. No certified seed tags will be issued for certified sugarcane stock.

2. The certifier shall be furnished certification forms by the Louisiana Department of Agriculture and Forestry and shall:

a. issue a copy of the certification form to the purchaser for each load;

b. send a copy of each issued certification form to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by the Louisiana Department of Agriculture and Forestry upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry,

Bob Odom
Commissioner

0708#024

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Alternate Assessment Results and District Accountability (LAC 28:LXXXIII.4302, and 4313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28: LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes to Bulletin 111 revise the use of alternative assessment results in accountability as suggested by the LDE's Technical Advisory Committee. Section 4302 revises district accountability to better align with the high school redesign efforts initiated by the governor. Section 4313 defines the requirements for exiting district improvement in anticipation of districts' first opportunity to exit.

**Title 28
EDUCATION**

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 43. District Accountability

§4302. District Responsibility Indicators

A. Teacher Certification Indicator. The Teacher Certification Indicator is based on the percentage of state

core classes (English, mathematics, science, and social studies) taught by three categories of teachers, those with:

1. standard teaching certificate for area of assignment;
2. non-standard certificate for area of assignment (out of field or temporary authority—TAT, OFAT, TEP); or
3. no authority to teach (no certification).

B.1. The LDE shall calculate two teacher certification indices:

- a. low performing schools (one star and academically unacceptable);
- b. other schools—not low performing (two star and above).

2. In instances when a district's schools all fall into 1 category (low performing or other), the index for that category shall also be considered the overall teacher certification indicator.

3. The low performing school index is assigned a 75 percent weighting and the other school index a 25 percent weighting in the teacher certification indicator.

4. Each teacher certification index is calculated by first determining the percentage of state core classes taught by each of the three categories of teachers in the appropriate school group (low performing or other—not low performing).

5. The percentages of state core classes taught by teachers in each category are weighted and converted to points by the following factors:

- a. 1.0 times the percentage of classes taught by teachers with standard certification;
- b. 0.5 times the percentage of classes taught by teachers with non-standard certification;
- c. 0.0 times the percentage of classes taught by teachers with no authority to teach.

6. Sum the weighted points for low performing schools and again for other schools.

7. Weight the low performing schools point total by 75 percent.

8. Weight the other schools point total by 25 percent.

9. The district teacher certification Indicator is the sum of the values from Paragraphs 7 and 8 (above).

10. Example of the Calculation of the District Teacher Certification Indicator

District Teacher Certification Indicator Calculation					
Certification	Assigned Value	Percentage in Low Performing Schools	Points	Percentage in Other Schools	Points
Standard	1.0	92.4%	92.4	92.2%	92.2
Non-Standard	0.5	5.0%	2.5	4.8%	2.4
No Authority to Teach	0.0	2.6%	0.0	3.0%	0.0
Subtotals			94.9		94.6
Low Performing Weight	75%	x 94.9	Low Performing Weighted Value		71.2
Other Schools Weight	25%	x 94.6	Other Schools' Weighted Value		23.7
Teacher Certification Indicator					94.9

11. Districts shall be assigned a label based on the value of the District Teacher Certification Indicator as follows.

District Teacher Certification Indicator	
Indicator Value	Label
97.0 – 100.0	Exceptional
94.0 – 96.9	Adequate
90.0 – 93.9	Marginal
< 90.0	Unacceptable

C. Eighth Grade Persistence Indicator. The 8th Grade Persistence Indicator is based on a district's success at keeping 8th grade students enrolled in school.

1. The 8th Grade Persistence Indicator shall be calculated using an aggregate of two years of student data, and because of extensive time afforded districts to correct exit data, it shall use data lagged by 1 year.

a. Example

The Spring 2007 8th Grade Persistence Indicator shall be calculated using data from academic years 2003-04 and 2004-05.

2. Students enrolled in a district for at least one full day of a given academic year, less those students exiting the district school system for legitimate reasons (as defined in the Student Information System User Guide) shall be included in the denominator used to calculate the 8th Grade Persistence Indicator.

3. Since the calculation aggregates two years of student data, those students eligible for inclusion in the denominator in one or both of the appropriate two years shall provide the count to be used as the denominator.

4. The numerator is comprised of those students in the denominator who are enrolled in public education for at least one day the following academic year.

5. Example of the Calculation of the District 8th Grade Persistence Indicator

District 8th Grade Persistence Indicator Calculation						
Enrolled			Returned Oct 1			
2003-04	2004-05	Total	2004	2005	Total	Percent Returned
669	713	1382	660	702	1362	98.6%

6. Districts shall be assigned a label based on the value of the District 8th Grade Persistence Indicator as follows.

District 8th Grade Persistence Indicator	
Indicator Value	Label
98.0-100.0	Exceptional
96.0-97.9	Adequate
94.0-95.9	Marginal
< 94.0	Unacceptable

D. Financial Risk Indicator. The factors included in the Financial Risk Indicator were originally developed in 2004-05. The use of this data as a district responsibility indicator will be defined following any needed revisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:634 (April 2005), amended LR 33:1611 (August 2007).

§4313. Corrective Actions

A. The Louisiana Department of Education shall report district scores and labels on every school district.

B. Beginning in 2004, districts shall be evaluated on their District Responsibility Index label and on the subgroup component. Districts that receive a DRI Index label of unresponsive and/or fail all clusters, in the same subject, on the subgroup component shall complete a district self-assessment and submit it to the Louisiana Department of Education. Following the Spring 2006 district accountability release, the District Responsibility Index and the associated labels shall be discontinued. At that time, districts must complete a self-assessment only after failing all 3 clusters in the same subject.

1. The DOE shall review each self-assessment.

2. The DOE may recommend that BESE schedule a District Dialogue with the district.

C. - E. ...

F. Districts shall exit district improvement if they pass Subgroup AYP in the same subject for which they entered District Improvement in the same cluster for 2 consecutive years. An example is in the following table.

Examples of Districts That Entered District Improvement (DI) in 2004 Due to Math Results							
	2005			2006			Result
	K-5	6-8	9-12	K-5	6-8	9-12	
Cluster Performance	Pass	Fail	Fail	Fail	Pass	Pass	Remain in DI
	Pass	Pass	Pass	Fail	Fail	Fail	Advance to DI Level 2
	Pass	Fail	Fail	Pass	Fail	Fail	Exit DI
	Fail	Pass	Pass	Fail	Fail	Pass	Exit DI

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:1612 (August 2007).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Complaint Procedures (LAC 28:CXV.349)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to Bulletin 741—Louisiana Handbook for School Administrators: §349—Complaint Procedures. This Rule establishes procedures to handle complaints by the Louisiana Department of Education on issues related to *The Elementary and Secondary Education Act* of 1965, 20 U.S.C. §6301 et seq., (ESEA). The Rule defines the applicable programs covered by the Rule, identifies the process for filing a complaint, establishes timelines for the resolution of the complaint, and requires that complaints are tracked and reported to the State Board of Elementary and Secondary Education. The Department of Education was cited by the U.S. Department of Education for the lack of a formal complaint process on issues related to programs in ESEA. A complaint procedure is required in §9305 of the ESEA and 34 CFR Chapter II, §299.10.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration §349. Complaint Procedures

A. These complaint procedures are established for resolving complaints which may be filed against the DOE or an agency pursuant to provisions of the *Elementary and Secondary Education Act of 1965*, 20 U.S.C. §6301 et seq., (ESEA).

B. The following definitions apply to this Section.

Agency—a local educational agency, educational service agency, consortium of those agencies, or entity.

Applicable Program—any of the following ESEA programs for which the DOE has submitted a consolidated state plan or consolidated state application under the ESEA, which may include:

- a. Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies);
- b. Title I, Part B, Subpart 3 (Even Start Family Literacy Programs);
- c. Title I, Part C (Education of Migratory Children);
- d. Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk); , the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions

to *Bulletin 741—Louisiana Handbook for School Administrators*: §349, Complaint Procedures;

- e. Title I, Part F (Comprehensive School Reform);
- f. Title II, Part A (Teaching and Principal Training and Recruitment Fund);
- g. Title II, Part D (Enhancing Education through Technology);
- h. Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement);
- i. Title IV, Part A, Subpart 1 (Safe and Drug-Free Schools and Communities);
- j. Title VI, Part A, Subpart 2 (Community Service Grants);
- k. Title IV, Part B (21st Century Community Learning Centers);
 - l. Title V, Part A (Innovative Programs);
 - m. Title VI, Part A, Subpart 1, Sections 6111 and 6112 (Improving Academic Achievement Programs); and
 - n. Title VI, Part B, Subpart 2 (Rural and Low-Income Schools Program).

Covered Program—a federal program not defined as an applicable program for which the DOE is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by rule of the DOE.

C. This Subsection sets forth the specific procedures for resolving complaints that are filed pursuant to the ESEA.

1. DOE will receive complaints from individuals or organizations alleging:

- a. a violation of law in the administration of an applicable program; or
- b. a violation of a federal statute or regulation that applies to a covered program for which federal law permits the filing of a complaint with the DOE.

2. The complaint must be in writing and must include:

- a. a statement that DOE or an agency has violated a requirement of a federal statute or regulation that applies to an applicable program or a covered program;
- b. the facts on which the statement is based, including the name of the agency or agencies, and the specific requirement alleged to have been violated;
- c. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed;
- d. the signature and contact information for the complainant or his or her designated representative; and
- e. the complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by the DOE.

3. Upon receipt of a complaint against an agency that meets the requirements of §349.C.2, the DOE will acknowledge receipt of the complaint in writing and provide written notice to the agency against which the violation has been alleged. DOE will provide the agency with the opportunity to resolve the complaint without a finding, with the participation and agreement of the complainant.

4. If the complaint concerns a violation by the DOE and meets the applicable requirements of §349.C.2, the State Superintendent of Education will appoint an impartial person(s) to conduct an investigation and resolve the complaint. The person(s) so appointed will acknowledge receipt of the complaint in writing.

5. All complaints must be resolved within 60 days of the date the DOE receives the complaint. Within that 60-day timeline, the DOE, or the impartial investigator when a complaint is filed against the DOE, will:

- a. carry out an independent on-site investigation, if the DOE or impartial investigator determines that an investigation is necessary;
- b. give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- c. provide the DOE or agency with the opportunity to respond to the complaint, including, at the discretion of the agency, a proposal to resolve the complaint;
- d. review all relevant information and make an independent determination as to whether the DOE or agency is violating a requirement of the ESEA; and
- e. issue a written decision to the complainant that addresses each allegation in the complaint and contains:
 - i. findings of fact and conclusions;
 - ii. the reasons for the final decision; and
 - iii. a statement of the complainant's right to request the Secretary of the U.S. Department of Education (Secretary) to review the final decision, at the secretary's discretion.

6. Complaints regarding participation by private school children must be appealed to the secretary no later than 30 days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

7. Written decisions on complaints alleging violations by DOE will be provided to BESE.

8. Timelines for DOE's final decision may be extended if exceptional circumstances exist with respect to a particular complaint.

9. The DOE's final decision must be implemented and include, if needed:

- a. technical assistance activities;
- b. negotiations; and
- c. corrective actions to achieve compliance.

10. Nothing herein shall preclude the availability of an informal resolution between the complainant and the DOE or agency, nor shall anything herein preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

11. DOE will implement a process for tracking complaints received by DOE to facilitate timely investigation and resolution.

12. DOE will maintain a complaint log which includes the following components:

- a. date of receipt of complaint;
- b. name of complainant;
- c. name of agency, or DOE if complaint is against DOE;
- d. resolution, including technical assistance activities and corrective action plan, if needed;
- e. date of resolution;
- f. date of follow-up on technical assistance activities and corrective action plan, if assigned, and the results of that activity.

D. An agency will disseminate, free of charge, adequate information about the complaint procedures to parents of

students, and appropriate private school offices or representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 20 U.S.C. §6320, 20 U.S.C. §7883(a); 20 U.S.C. §7844(a)(3)(C); 34 C.F.R. § 106.8(b), and 34 C.F.R. §§299.11-299.12.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1613 (August 2007).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2375, Business Education; §2381, Health Occupations; §2383, Marketing Education; and §2387, Trade and Industrial Education. The action is being proposed to up-date Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction §2375. Business Education

A. The Business Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	12	1
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1

Course Title(s)	Recommended Grade Level	Units
Web Design II	10-12	1
Word Processing	11-12	1

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007).

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1-2
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nursing Assistant I	10-12	1-3
Nursing Assistant II	11-12	1-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1-2
Sports Medicine II	11-12	1-2
Sport Medicine III	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007).

§2383. Marketing Education

A. Marketing Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Customer Service	12	1
Entrepreneurship	11-12	1
Marketing Education Elective I, II	9-12	1/2-3
Marketing Management	11-12	1
Marketing Research	11-12	1
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007).

§2387. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3
Switching Basics & Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3

Course Title(s)	Recommended Grade Level	Units
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007).

Weegie Peabody
Executive Director

0708#006

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Ancillary School Service Certificates (LAC 28:CXXXI.407, 408, 409, and 410)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §407, Educational Interpreter and §408, Educational Transliterators. This revision in the requirements for Educational Interpreter/Transliterators links the definition of interpreters/transliterators to IDEA's related services definition and separates the requirements for Educational Interpreters and Educational Transliterators. This policy also removes the requirement of first obtaining a provisional certification prior to the issuance of a qualified certificate and allows a provisionally certificated interpreter and/or transliterator the option of a three year window for renewal instead of two years. The grandfather clause for certification is eliminated along with an additional assessment option being added. A streamlined process was needed in recognizing qualifications of candidates applying for a Qualified Certificate. The changes also distinguish between the different requirements for Educational Interpreters and Educational Transliterators.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 4. Ancillary School Service Certificates Subchapter A. Child Nutrition Program Supervisor §407. Educational Interpreter

A. An Educational Interpreter certificate is issued to individuals who provide sign language interpreting services by facilitating communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

B. This certificate is issued to individuals who have at least a standard high school diploma or a General Equivalency Diploma (GED) and who meet the guidelines outlined in this document. There are two basic types of certification for Educational Interpreters: Provisional and Qualified.

C. Provisional Educational Interpreter Certificate

1. Eligibility Requirements—issued to applicants who fulfill one of the following:

- complete an accredited interpreter preparation program with a minimum of a certificate of completion;
- hold certification as a sign language interpreter/transliterators by a national or state organization or certifying body;
- achieve an advanced level or higher, as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or
- pass the Pre-Hiring screening of the Educational Interpreter Performance Assessment (EIPA).

2. Renewal Guidelines

a. The Provisional Educational Interpreter certificate is valid for one year, may be renewed annually at the request of the Louisiana employing authority, and can be held for a maximum of three years.

b. This certificate is renewable upon completion of 10 contact hours of professional development annually. Course credit leading to a Qualified Certificate may be applied towards the 10 hours. These hours shall be accrued beginning with the issuance of the Provisional Educational Interpreter Certificate.

D. Qualified Educational Interpreter Certificate

1. The Qualified Educational Interpreter certificate is issued at the Elementary and/or Secondary level.

2. Eligibility requirements: Issued to applicants who fulfill all of the following:

- pass the Educational Interpreter Assessment, Written Test;
- achieve a level of 3.0 on one of the standardized videotape versions of the Educational Interpreter Performance Assessment: American Sign Language (ASL), Manually Coded English (MCE), or Pidgin Signed English (PSE) at the Elementary and/or Secondary level.

3. Renewal Guidelines

a. May be renewed every five years at the request of the Louisiana employing authority upon completion of six semester hours of credit or equivalent continuing professional development (90 Contact hours).

b. The six hours of credit or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or related to the applicant's professional competency.

c. These hours shall be accrued beginning the date of issuance of the Qualified Educational Interpreter Certificate.

E. An individual who does not meet the Qualified Certificate requirements may apply for a provisional certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 33:1616 (August 2007).

§408. Educational Transliterater

A. An Educational Transliterater certificate is issued to individuals who provide cued language transliteration services by facilitating communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

B. This certificate is issued to individuals who have at least a standard high school diploma or a General Equivalency Diploma (GED) and who meet the guidelines outlined in this document. There are two basic types of certification for Educational Transliteraters: Provisional and Qualified.

C. Provisional Educational Transliterater Certificate

1. Eligibility Requirements: Issued to applicants who fulfill one of the following:

a. hold certification as a cued speech transliterater from a national or state recognized organization or certifying body; or

b. pass the Cued American English Competency Screening.

2. Renewal Guidelines

a. The Provisional Educational Transliterater certificate is valid for one year, may be renewed annually at the request of the Louisiana employing authority, and can be held for a maximum of three years.

b. This certificate is renewable upon completion of ten contact hours of professional development annually. Course credit leading to a Qualified Educational Transliterater Certificate may be applied toward the 10 hours. These hours shall be accrued beginning with the issuance of the Provisional Educational Transliterater Certificate.

D. Qualified Educational Transliterater Certificate

1. Eligibility requirements: Issued to applicants who fulfill the following:

a. pass the Cued Language Transliterater State level Performance Assessment; or attain a level of 3.5 on the Educational Interpreter Performance Assessment-Cued Speech (EIPA-CS); and

b. pass the Cued Language Transliterater State Level Written Assessment.

2. Renewal Guidelines

a. May be renewed every five years at the request of the Louisiana employing authority upon completion of six semester hours of credit or equivalent continuing professional development (90 Contact hours).

b. The six hours of credit or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or related to the applicant's professional competency.

c. These hours shall be accrued beginning the date of issuance of the Qualified Educational Transliterater Certificate.

E. An individual who does not meet Qualified Educational Transliterater Certificate requirements may apply for a provisional certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1617 (August 2007).

§409. School Librarian

A. School Librarian—valid for five years.

1. Eligibility requirements:

a. master's degree in library science from a regionally accredited institution; and

b. passing score on Praxis Library Media Specialist examination (#0310).

2. Renewal Guidelines

a. Complete 150 continuing learning units of district-approved and verified professional development over the five year time period during which the certificate is held.

b. The Louisiana employing authority must request renewal of an Ancillary School Librarian Certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 33:1617 (August 2007).

Editor's Note: §408, Junior Reserve Officers Training Corps Instructor (ROTC), has moved to §410 and is being reprinted to show the new placement.

§410. Junior Reserve Officers Training Corps Instructor (ROTC)

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

B. Provisional Certification: Valid for five years.

1. Eligibility requirements:

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

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

2. Renewal Guidelines. May be renewed upon request of the Louisiana employing authority.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:281 (February 2007), repromulgated LR 33:1617 (August 2007).

Weegie Peabody
Executive Director

0708#007

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Counselor K-12
(LAC 28:CXXXI.659)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana*

Standards for State Certification of School Personnel: §659, Counselor K-12 (Counselor in a School Setting). This revision in the requirements for add-on certification as a school counselor will allow three years of successful experience as a school counselor to substitute for the required three-semester-hour supervised practicum in a school setting. The change will allow more candidates to meet the add-on certification requirements for school counselor and will increase the pool of certified school counselors in the state of Louisiana.

**Title 28
EDUCATION**

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

**Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§659. Counselor K-12 (Counselor in a School Setting)**

A. - A.3.g. ...

h. Supervised Practicum in a School Setting, or three years of successful experience as a school counselor.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:1618 (August 2007).

Weegie Peabody
Executive Director

0708#008

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Foreign Language Special Certificate PK-8 (LAC 28:CXXXI.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §311, Foreign Language Special Certificate PK-8*. This revision in policy will allow the Foreign Language Special Certificate PK-8 to be valid for six years due to changes in the visa requirements. Changes in visa requirements adversely affect Foreign Associate Teachers who wish to continue to teach in Louisiana past their initial commitment. Federal visa requirements require applicants to be certified and employed for the period covered by the visa application. Applications must be submitted a year in advance. Current policy for the Foreign Language Special Certificate limits the length of visa validity for continuing Foreign Associate Teachers, to the detriment of the Foreign Language Model Program.

**Title 28
EDUCATION**

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

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§311. Foreign Language Special Certificate PK-8

A. Valid for Six Years. Teachers currently holding a three-year Foreign Language Special PK-8 certificate are eligible for the six-year certificate upon request.

B. - D. 4. ...

E. A teacher may hold a Foreign Language Special certificate for no more than six years. After six years on such a certificate, the teacher may apply for a Louisiana Level 1 professional teaching certificate. To receive a Level 1 teaching certificate, the teacher must meet all certification requirements, including Praxis examinations for the area(s) and level(s) of certification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007).

Weegie Peabody
Executive Director

0708#009

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Library Service (LAC 28:CXXXI.673)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §673, School Library Service*. This revision in the requirements for add-on certification as a school librarian will allow three years of successful experience as a school librarian to substitute for the required three-semester-hour school librarian practicum. The change will allow more candidates to meet the add-on certification requirements for school librarian and will increase the pool of certified school librarians in the state of Louisiana.

**Title 28
EDUCATION**

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

**Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas**

§673. School Library Service

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

c. elementary and/or secondary school library practice, three semester hours; or three years of successful experience as a school librarian.

NOTE: Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:1618 (August 2007).

Weegie Peabody
Executive Director

0708#010

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2006 Incorporation by Reference for Air Quality
(LAC 33:III.507, 2160, 3003, 5116,
5122, 5311, and 5901)(AQ284ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ284ft).

This rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6.(a) (July 1, 2006); revisions to 40 CFR Parts 60, 61, and 63, in 72 FR 27437-27443 (May 16, 2007); and 40 CFR Part 63, Subpart HH, in 72 FR 26 (January 3, 2007), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The rule incorporates by reference (IBR) into the Air regulations, LAC 33:Part III, the following federal regulations in the July 1, 2006, edition of the Code of Federal Regulations (CFR): 40 CFR Part 51, Appendix M, Capture Efficiency Test Procedures; 40 CFR Part 60, New Source Performance Standards; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP); 40 CFR Part 63, NESHAP for Source Categories; 40 CFR Part 68, Chemical Accident Prevention and Minimization of Consequences; and 40 CFR 70.6(a), Part 70 Operating Permits Program. The rule also incorporates revisions to 40 CFR Parts 60, 61, and 63, in 72 FR 27437-27443 (May 16, 2007). No new Subparts for 40 CFR Part 60, 61, or 63 are added in the IBR of the July 1, 2006, edition of the CFR, or revisions on May 16, 2007. Any exception to the IBR is explicitly listed in the regulations. The rule also incorporates by reference the federal provisions for area (minor) sources in NESHAP from Oil and Natural Gas Facilities, 40 CFR Part 63, Subpart HH, using the Federal Register notice for the final federal rule, 72 FR 26 (January 3, 2007). This federal rule was not included in the July 1, 2006, edition of the CFR. In order for Louisiana to maintain equivalency with federal regulations,

certain regulations in the most current CFR, July 1, 2006, must be adopted into the Louisiana Administrative Code (LAC). This rulemaking is necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. . . .

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2006. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007).

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2006, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1619 (August 2007).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2006, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 61, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

40 CFR Part 61	Subpart/Appendix Heading

[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to major sources.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air

Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the revisions to 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities, applicable to area sources, promulgated on January 3, 2007, in the *Federal Register*, 72 FR 26, and revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to area sources.

Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007).

Herman Robinson, CPM
Executive Counsel

0708#026

RULE

**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 has amended the Air regulations, LAC 33:III.506 (Log #AQ285).

This 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 concurrently revises 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. Without this rule, the state would 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

40 CFR Part 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Subpart T]	
Subpart X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
Subpart HH	National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
* * *	
[See Prior Text in Subpart LLL – Subpart IIIII]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2006.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the

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. 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 rule are to improve air quality through a reduction of intrastate and interstate emissions of NO_x from EGUs subject to CAIR.

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

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 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, and that does not have an effective and active long-term contract with a utility unit. 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 *cogeneration units* 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, including the capacity factor, 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, including the capacity factor, 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, including the capacity factor, 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 specified ozone season.

ii. For a non-coal-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, 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 specified ozone season.

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 33:1622 (August 2007).

Herman Robinson, CPM
Executive Counsel

0708#027

RULE

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 has amended the Hazardous Waste regulations, LAC 33:V.109, 305, 323, 517, 2309, 3013, 3719, 4339, 4357, 4501, and 4901 (Log #HW097).

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

Title 33

ENVIRONMENTAL QUALITY

Part 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 33:1625 (August 2007).

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 33:1625 (August 2007).

§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 33:1625 (August 2007).

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 33:1625 (August 2007).

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 33:1626 (August 2007).

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 33:1626 (August 2007).

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), LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:1626 (August 2007).

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 33:1626 (August 2007).

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 33:1626 (August 2007).

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 33:1627 (August 2007).

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 33:1627 (August 2007).

Herman Robinson, CPM
Executive Counsel

0708#028

RULE

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

Peace Officer Training (LAC 22:III.4771)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby promulgate rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

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

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4771. Emergencies and/or Natural Disasters

A. All previously certified and registered peace officers who have retired from full time law enforcement service for five years or more will be granted the authority to serve as "provisional peace officers" for the agency from which they retired during a state of emergency within a declared emergency zone. The provisional peace officer applicant must successfully qualify with his/her duty weapon as soon as possible with a P.O.S.T. certified firearms instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 33:1627 (August 2007).

Michael A. Ranatza
Executive Director

0708#001

RULE

**Office of the Governor
Division of Administration
Board of Cosmetology**

Cosmetology (LAC 46:XXXI.309, 321, and 701)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended certain Rules regarding examination of applicants, responsibilities of students and safety and sanitation requirements.

The revisions are necessary to make requirements regarding all applicants for examination uniformed, to provide establish the procedure for use of hours earned in a cosmetology school without completion of the program and to establish safety and sanitation requirements.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§309. Examination of Applicants

A. - E. ...

F. All applicants must wear solid black or white colored garments as outlined in §321.C while testing.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), LR 33:1628 (August 2007).

§321. Responsibilities of Students

A. - C. ...

D. Hours. Student hours shall become invalid six years after the date the hours were earned.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), LR 33:1628 (August 2007).

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology

Salons and Cosmetology Schools

A. - Q. ...

R. Prohibited equipment and substances. No beauty shop, salon or cosmetology school shall permit the use of and no individual licensed by the board shall use the following in the performance of cosmetology:

1. credo blades or any blade designed for the removal of multiple layers of skin;

- 2. formaldehyde for sanitization of equipment; or
- 3. nail enhancement products containing methyl methacrylate (MMA) monomer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), LR 33:1628 (August 2007).

Jackie Burdette
Executive Director

0708#083

RULE

**Office of the Governor
Office of Financial Institutions**

Louisiana International Banking
(LAC 10:III.1101 and 1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 6:551.7 and 6:551.24, the Commissioner of the Office of Financial Institutions has promulgated a Rule to provide for the administration and regulatory oversight of the Louisiana International Banking Statutes (R.S. 6:551.1 et seq.). The Rule establishes fees and assessments to cover anticipated regulatory costs.

Title 10

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

Part III. Banking

Chapter 11. Louisiana International Banking

§1101. General Provisions

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered depository institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege will not be afforded to applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1628 (August 2007).

§1103. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:551.7 and 6:551.24, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the International Banking Statutes, R.S. 6:551.1 et seq.

Description	Fee
Application for a foreign bank, bank holding company, or financial holding company, to establish and operate a subsidiary bank in Louisiana.	\$10,000

Description	Fee
Application for a foreign bank to establish and operate a branch, an international banking facility, a representative office, or an agency in Louisiana.	\$2,000
Application for a U.S. bank or foreign bank to organize or acquire a subsidiary to engage in international banking activities specifically authorized in the Edge Act or to operate as an agreement corporation.	\$2,000
Application for a foreign bank to establish and operate an administrative office in Louisiana.	\$1,000
Examination fee for each foreign bank, branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary operating in Louisiana. Fee per examiner.	\$50 per hour
Examination fee for each branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary of an out-of-state foreign bank. This fee shall be billed to the primary state regulator of the out-of-state foreign bank being examined, and due upon receipt of the OFI invoice.	The greater of \$50 per hour per examiner or the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1628 (August 2007).

John Ducrest, CPA
Commissioner

0708#022

RULE

Office of the Governor Office of Financial Institutions

Residential Group Common Bonds and Associational Groups (LAC 10:IX.Chapter 5)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:641 et seq., (Louisiana Credit Union Law) the Commissioner of the Office of Financial Institutions promulgates a Rule to establish prudential standards to be used in reviewing an application by a Louisiana state-chartered credit union for a residential group common bond within a well-defined neighborhood, small community, or rural district; and adding associational groups. The Rule defines relative terms, establishes safety and soundness criteria, establishes the application process, as well as other necessary guidance.

Pursuant to Section 645(B) of the Louisiana Credit Union Law, a state-chartered credit union may be organized within groups that have a common bond of residence within a well-defined neighborhood, a small community, or a rural district; or an occupation, or an association, or any combination thereof. Each application must satisfy all statutory requirements, comply with the provisions of this Rule, adhere to prudent safety and soundness criteria, and clearly identify the existence of mutual interest or commonality

between persons sharing the proposed residential group common bond.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part IX. Credit Unions

Chapter 5. Criteria to Organize within Residential Groups, and Add Associational Groups

§501. Definitions

A. As used in this Rule, and unless the content details otherwise, the following definitions apply.

Application—those documents submitted in a form acceptable to the commissioner, along with all supporting information, requesting approval of a bylaw amendment that provides for a residential group common bond.

Association—those individuals (natural persons) and/or groups (non natural persons) whose members participate in specific activities, share common goals and purposes; possess a charter, bylaws, or any other equivalent documentation that contains a specific definition of who is eligible for membership; conduct periodic meetings open to all members; and sponsor other activities which demonstrate that the members of the group meet to accomplish the goals and objectives of the association.

Commissioner—the Commissioner of the Office of Financial Institutions.

Field of Membership (FOM)—those persons and entities eligible for membership in the credit union.

LOFI—Louisiana Office of Financial Institutions.

Low Income Area—an area that includes any of the following (as reported in the most recently completed decennial census or equivalent government data):

a. an area that wholly consists of or is wholly located within an empowerment zone or enterprise community in the state of Louisiana designated under Section 1391 of the IRC;

b. an area where the percentage of the population living in poverty is at least 20 percent;

c. an area in a metropolitan area where the median family income is at or below 80 percent of the metropolitan area median family income or the Louisiana median family income, whichever is greater;

d. an area outside of a metropolitan area, where the median family income is at or below 80 percent of the state-wide non-Metropolitan area median family income, whichever is greater;

e. an area where the unemployment rate is at least 1.5 times the national average;

f. an area meeting the criteria for economic distress that may be established by the CDFIs of the U.S. Treasury Department.

Residence Within—to live within a well-defined neighborhood, small community, or rural district.

Residential Group Common Bond—a common bond created by residence within a well-defined neighborhood, small community, or rural district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1629 (August 2007).

§503. Well-Defined Neighborhood, Small Community, and Rural District

A. *Well-Defined Neighborhood* shall mean a specified small part of a geographic area considered in regard to its residents or distinctive characteristics, specified by name, and must be described in writing.

1. Boundaries may be defined by streets, roads, or other delineations including boundaries of a municipality (such as the city limits) or other boundaries that reasonably demonstrate the end of one well-defined neighborhood and the beginning of another. For example, a written description typically will include the names of streets or other delineations surrounding the well-defined neighborhood.

2. Boundaries of a well-defined neighborhood may be defined as a small part of a municipality. Indicators of unifying characteristics may include, but are not limited to, recreation centers or athletic facilities, social clubs or organizations, neighborhood associations, or similar facilities or functions.

3. A written description of a well-defined neighborhood must demonstrate a viable residential common bond based upon its size, its level of activity, and safety and soundness criteria related to service of the proposed area.

B.1. *Small Community* shall mean an area where residents share common political, environmental, geographical, or economic characteristics that tend to create a mutual interest or, residents share common facilities or services such as an education or transportation system, recreational or cultural facilities, government, medical services, newspaper, fire or police protection, public utilities and services or other unifying characteristics that tend to create interaction or mutual interest. A small community must be described in writing and delineated on a map.

2. A single municipality or parish may qualify as a small community if a mutual interest can be properly documented. A credit union must demonstrate that it has or will establish, within two years, adequate facilities and staffing to serve the individuals that reside in the requested small community, including individuals residing in low income areas of the small community that have insufficient access to affordable (or non-predatory) financial services. In order to do so, a credit union must submit a business plan to the commissioner specifying how it will serve individuals in the small community, including individuals that reside in low income areas. The business plan must detail the credit and depository needs of the small community and address how a credit union plans to serve those needs. A credit union will also be expected to regularly review the business plan to determine if the small community is being adequately served. The commissioner may request periodic "service" status reports from a credit union to ensure that the needs of the small community, including individuals that reside in low income areas, are being met in an appropriate manner. The commissioner may also request such a report before allowing a credit union to further expand its field of membership.

C. *Rural District* shall mean an area that is outside a Metropolitan Statistical Area (MSA) as those areas are established from time to time by the United States Office of Management and Budget. It may also be represented by sharing common political characteristics or facilities such as utilization of a single police jury, election district, water

district, or similar governing authority. A rural district must be described in writing and be delineated on a map. A rural district may encompass a larger geographic area than a small community, if the area is demonstrated to have certain commonalities of interest. However, a rural district may not include multiple parishes.

D. Typically, the boundaries of a small community or rural district will be defined by streets and roads but may also be bounded by other delineations including boundaries of a town, municipality (such as the city limits), or other boundaries that reasonably demonstrate the end of one small community or rural district and the beginning of another. In many cases, it may be more appropriate to describe the small community or rural district by means of a map rather than listing all delineations that comprise its border. If the written description is so limited, a well drawn map may be needed to readily facilitate a determination that a prospective member qualifies for membership based upon residence within a well-defined area being served.

E. More than one credit union may be approved to serve the same residential group common bond.

F. The credit union must demonstrate that it has or will have adequate facilities and staffing to serve the requested residential group.

G. Various groups that have a common bond of residence may be combined in the same field of membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1630 (August 2007).

§505. Residential Group Common Bond

A. The applying credit union must demonstrate by the weight and accumulation of facts presented that a residential group common bond has unifying characteristics that clearly meet the applicable definition(s). The commissioner will consider the volume and value of evidence in establishing the commonality criteria to meet the definitions for a well-defined neighborhood, small community, or rural district common bond.

B. Safety and Soundness Criteria

1. Credit unions are subject to safety and soundness criteria based on the financial and managerial capacity of the credit union to serve the proposed field of membership. The commissioner will not approve any application unless the credit union can meet the criteria set forth in this Rule.

2. The following criteria may be considered in determining the financial and managerial capacity of a credit union to support a request for a residential group common bond.

a. A composite CAMEL rating of "1" or "2" was assigned at the most recent examination.

b. Any credit union receiving a CAMEL rating of "3" in any component area at its most recent examination shall be considered only after review of the following additional factors:

i. the underlying reasons for ratings outside the criteria in Subparagraph a above;

ii. the overall condition of the credit union and ability to support expanded activities;

iii. management's progress and commitment to improve such ratings; and

iv. the prospects for improving performance and ratings in the near term.

c. Credit unions with any CAMEL component rating more severe than a "3" in its most recent report of examination may not apply for a residential group common bond based on residence in a well defined neighborhood, small community, or rural district.

d. Credit Unions with a Composite CAMEL rating of "3", or more severe, may not apply for a residential group common bond until the overall condition of the credit union is restored to a satisfactory level.

e. The credit union must demonstrate in its application for a residential group common bond that it has a sufficient level and depth of management to meet the requirements of the residential common bond proposed.

f. The credit union must demonstrate in its application for a residential group common bond that it has sufficient data processing resources and capacity to serve the residential group that is being proposed.

g. If the commissioner deems it appropriate, he may require the credit union to submit a comprehensive business/strategic plan that addresses the following:

i. how the credit union intends to service the targeted well-defined neighborhood , small community, or rural district;

ii. a list of the financial services that will be provided to the targeted well-defined neighborhood, small community, or rural district;

iii. a projection of the expected size and penetration into the target market over a three year period, including an analysis of the market's current financial service providers;

iv. the impact of the proposed expansion upon the credit union's capital, property and equipment (including technology resources), and personnel resources;

v. the adequacy and sufficiency of fixed assets and data processing facilities to meet the expected levels of growth;

vi. the effect upon management's ability to recognize, monitor, and control all types of risks including, but not limited to, the following: audit, interest rate, liquidity, transaction, compliance, strategic, and reputation.

vii. a comprehensive income statement budget and proforma balance sheet reflecting realistic financial, capital, and operating goals for the next three calendar years beyond the year in which the field of membership expansion is requested.

3. If the commissioner deems it appropriate, he may require that the credit union submit revised loan and collection policies and procedures that recognize the additional complexities of a residential group common bond.

4. If the commissioner deems it appropriate, he may require that the credit union provide adequate policies related to asset/liability management, recognizing the additional complexities that could result from expanded lending and deposit taking activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1630 (August 2007).

§507. Applications

A. A residential group common bond request shall be submitted to the commissioner on the form(s) provided by the LOFI; and include the proposed amendment to the credit union's bylaws in accordance with Section 665 of the Louisiana Credit Union Law. In reviewing the application, the commissioner may consider:

1. whether the well-defined neighborhood, small community, or rural district has adequate unifying characteristics or a mutual interest such that the safety and soundness of the institution, and protection of the funds invested by members, is maintained;

2. service by the credit union that is responsive to the needs of prospective members, to promote thrift and create a source of credit at reasonable rates;

3. protection for the interest of current and future members of the credit union; and

4. the encouragement of economic progress in the state by allowing the opportunity to expand services and facilities; and

5. the purpose and/or intent of the Louisiana Credit Union Law.

B. The applicant credit union shall have the burden to show the commissioner such facts and data that support the requirements and considerations in these rules and/or any existing or future policies and procedures issued by LOFI in connection with the same and/or the Louisiana Credit Union Law.

C. The financial and managerial capacity of a credit union shall be an important consideration for the commissioner in approving any residential group common bond. The credit union must demonstrate that the size, capability, and experience of its management is adequate to meet the demands of the residential group proposed.

D. The applicant credit union shall submit a comprehensive strategic and ongoing business plan that addresses the services to be provided, impact on the credit union's capital and resources, adequacy of fixed assets and data management facilities, and ability of management to recognize, monitor and control risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1631 (August 2007).

§509. Public Policy

A. In order to protect the interests of current and future members of the credit union, to be responsive to the needs of the membership for financial services, to encourage further economic growth in the state of Louisiana, and to foster the development of credit unions under a dual chartering system in the state of Louisiana pursuant to Section 641.1 of the Louisiana Credit Union Law, groups that are within the field of membership of the credit union prior to application for a residential group common bond shall be considered to remain within the FOM of the credit union, after the approval of a residential group common bond.

B. Upon application for a residential group common bond, the goal of the credit union shall be to adequately serve the residential area that may be approved by the commissioner, as well as any other group(s) included in its FOM.

C. In approving any further expansion of a credit union's field of membership, the commissioner may give consideration to its rate of market penetration and other pertinent criteria to determine if the credit union is properly and adequately serving the FOM in the residential area as projected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1631 (August 2007).

§511. Mergers

A. A credit union serving a residential group common bond may merge with another credit union, pursuant to Section 646(A)(2) of the Louisiana Credit Union Law, if the proposed merger neither creates a safety and soundness concern nor violates any other section of the Louisiana Credit Union Law. Credit unions must meet the safety and soundness criteria for a merger, and the continuing credit union must demonstrate that it can reasonably serve its members and the members of the credit union being merged. The plan of merger must also specifically indicate that the new FOM will be comprised of the combination of membership groups of the two credit unions.

B. In any merger involving a credit union serving a residential group common bond, the surviving credit union will be subject to the conditions of this rule. While the surviving credit union may continue to serve members of the merging credit union, no additional expansion will be allowed that does not comply with this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

§513. Adding Associational Groups

A. Pursuant to his authority under the Louisiana Credit Union Law and the stated purpose of the same, the commissioner has determined that, if there are no safety and soundness concerns, it is appropriate to allow expansions of a credit union's FOM involving members and employees of an association in accordance with Sections 645(B) and 646(A)(2)(b) of the Louisiana Credit Union Law. At a minimum, the commissioner may consider the following when assessing an application to add an associational group to a credit union's FOM:

1. whether the group meets the definition of an association as contained in this Rule;
2. whether members pay dues;
3. whether members have voting rights;
4. whether the association maintains a membership list;
5. whether the association maintains separate books and records; and
6. the frequency of meetings and other group activities.

B. The association may not be created or organized by the credit union or any of its officials or employees. The association must be a separate, legal entity that maintains separate financial records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

§515. Public Notification

A. Upon approval of a residential group common bond, the commissioner shall include the name of the credit union and a brief description of the well-defined neighborhood, small community, or rural district that has been approved in LOFI's next monthly bulletin, which is available on the OFI webpage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

§517. Exceptions

A. Exceptions to this Rule and/or waivers of the requirements contained herein may be granted by the commissioner on a case-by-case basis. Any request for an exception and/or waiver must be submitted in writing and requires the written approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

§519. Effective Date

A. This Rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

§521. Severability

A. If any Section, term, or provision of this Rule, LAC 10:IX.501-519, is for any reason declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining Sections, terms, or provisions contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:1632 (August 2007).

John Ducrest, CPA
Commissioner

0708#021

RULE

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 has adopted the following 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 33:1633 (August 2007).

§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 33:1633 (August 2007).

§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 33:1633 (August 2007).

§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 33:1633 (August 2007).

§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 33:1633 (August 2007).

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 33:1633 (August 2007).

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 33:1633 (August 2007).

§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 33:1634 (August 2007).

§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 33:1634 (August 2007).

§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 (May 1989), 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 33:1635 (August 2007).

§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 33:1635 (August 2007).

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 33:1635 (August 2007).

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 33:1635 (August 2007).

§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 (June 1994), 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 33:1635 (August 2007).

§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 33:1635 (August 2007).

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 33:1635 (August 2007).

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), amended LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007).

§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 33:1636 (August 2007).

§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 33:1636 (August 2007).

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 33:1636 (August 2007).

§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 33:1636 (August 2007).

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 33:1637 (August 2007).

§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 33:1637 (August 2007).

§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 33:1637 (August 2007).

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 Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006), amended LR 33:1637 (August 2007).

§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 33:1637 (August 2007).

§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 33:1637 (August 2007).

§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 33:1637 (August 2007).

§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 33:1638 (August 2007).

§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 33:1638 (August 2007).

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 33:1638 (August 2007).

§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.

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 33:1638 (August 2007).

John M. Torrance
Executive Director

0708#032

RULE

Department of Health and Hospitals Board of Medical Examiners

Collaborative Drug Therapy Management
(LAC 46:XLV.Chapter 74)

In accordance with the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B), the Louisiana Pharmacy Practice Act, as amended during the 2006 Session of the Louisiana Legislature by Acts 2006, Number 627, R.S. 37:1164(37), and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners ("board") has adopted LAC Title 46:XLV, Subpart 3, by adding Chapter 74, §§7401-7443, to govern the practice of physicians who engage in collaborative drug therapy management with pharmacists in this state.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Profession

Subpart 3. Practice

Chapter 74. Collaborative Drug Therapy
Management

Subchapter A. General Provisions

§7401. Scope of Subchapter

A. The rules of this Chapter govern the registration and practice of physicians engaged in collaborative drug therapy management with pharmacists in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007).

§7403. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Medical Practice Act.

Collaborative Drug Therapy Advisory Committee or Advisory Committee—the Louisiana State Board of Medical Examiners' Collaborative Drug Therapy Advisory Committee, as constituted under §7417 of this Chapter.

Collaborative Drug Therapy Management Agreement or Agreement—a written document in which a pharmacist and a physician identify the terms and conditions under which they voluntarily agree to participate in collaborative drug therapy management.

Collaborative Drug Therapy Management or Drug Therapy Management—that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the board under this Chapter, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol. Drug therapy management shall be limited to:

- a. monitoring and modifying a disease specific drug therapy;
- b. collecting and reviewing patient history;
- c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure and respiration;
- d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under written protocol, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis;
- e. administration of vaccines to a patient 16 years of age or older by a pharmacist authorized to administer vaccines by the Louisiana Board of Pharmacy;
- f. providing up to a single seven-day supply of a single drug, in accordance with §7433 of this Chapter, after all refills authorized on the original prescription issued to the patient by the patient's physician have been dispensed; and
- g. providing disease or condition specific patient education and counseling.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-.15 or R.S. 40:964, or any

substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease, i.e., anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. adjustment of medication administered by inhalant for treatment of asthma;
- d. treatment and prevention of dyslipidemia;
- e. smoking cessation therapy;
- f. administration of disease specific vaccines to patients 16 years of age and older; and
- g. such other drugs, diseases or conditions, as may be subsequently recommended by the advisory committee and approved by the board.

Drug—a legend drug.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Legend Drug—for purposes of this Chapter, any drug bearing on the label of the manufacturer or distributor as required by the Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without a prescription" or "Rx Only." For purposes of this Chapter, legend drugs do not include controlled substances.

Medical Practice Act or the Act—R.S. 37:1261-92 as may be amended from time to time.

Medication—except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Pharmacist—for purposes of this Chapter an individual who has a current, unrestricted license to practice pharmacy in this state duly issued by the Louisiana Board of Pharmacy and has completed a certificate program in the area of practice covered by a collaborative drug therapy management agreement approved by the Accreditation Council for Pharmacy Education, or the academic degree of Doctor of Pharmacy that provides training in the area of practice covered by the agreement, or such other advanced training or program as may be recommended by the advisory committee and approved by the board.

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

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his/her patient.

Written Protocol—a written set of directives or instructions containing each of the components specified by §7429 of this Chapter for collaborative drug therapy management of disease specific drug therapy for a specific

patient. The written protocol shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007).

Subchapter B. Prohibitions and Exceptions

§7405. Prohibitions and Exceptions

A. No physician shall engage in collaborative drug therapy management except in compliance with the rules of this Chapter.

B. This Chapter shall not apply to a physician's practice in a hospital licensed by the Louisiana Department of Health and Hospitals, provided the medication ordered or prescribed by the physician for in-patients of the hospital is managed in accordance with a written agreement approved by the members of the medical staff of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007).

Subchapter C. Registration

§7407. Eligibility for Registration

A. No physician shall engage in collaborative drug therapy management in this state until registered with the board in accordance with the provisions of this Subchapter. To be eligible for registration a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine issued by the board and not be the subject of a pending investigation or complaint by the board or by the medical licensing authority of any other state or jurisdiction;

2. be actively engaged in the clinical practice of medicine and the provision of patient care in this state in the particular field of medicine in which collaborative drug therapy management is to take place;

3. not be currently enrolled in a medical residency training program; and

4. not be employed by or serve as an independent contractor to a pharmacist, pharmacy, or pharmaceutical company, or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, the exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law or the board's rules on the physician.

B. A physician shall be deemed ineligible for registration of collaborative drug therapy management who:

1. does not possess the qualifications prescribed by Subsection A of this Section;

2. has voluntarily surrendered or had suspended, revoked or restricted, his/her controlled substances license, permit or registration, either state or federal;

3. has had a medical license suspended, revoked, placed on probation or restricted in any manner by the board or by the medical licensing authority of any other state or jurisdiction;

4. has had an application for medical licensure rejected or denied; or

5. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

C. Upon the affirmative recommendation of the advisory committee the board may, in its discretion, waive the ineligibility restrictions of Paragraphs 7407.B.2-5 of this Section on a case-by-case basis where it has been shown to its satisfaction that the license, registration, permit, or participation in the health insurance program giving rise to ineligibility has been granted, reinstated or restored on an unrestricted basis, that following such action the individual has not been subject to further or additional disqualifying action and has demonstrated exemplary conduct or accomplishments meriting waiver consideration.

D. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285(A), or any other violation of the provisions of the Medical Practice Act or of the board's rules.

E. The burden of satisfying the board as to the eligibility of a physician for registration to engage in collaborative drug therapy management shall be upon the physician. A physician shall not be deemed to possess such qualifications unless and until the physician demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007).

§7409. Registration Procedure

A. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board.

B. Application forms and instructions may be obtained from the board's web site www.lsbme.louisiana.gov or upon contacting the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007).

§7411. Original Application; Issuance of Registration

A. An application for registration to engage in collaborative drug therapy management shall include:

1. the physician's full name, license number, home address, e-mail address, emergency contact information, and the municipal post office address of each office or other location at which the applicant practices medicine in this state;

2. a description of the physician's professional background, specialty and the nature and scope of medical practice;

3. proof documented in a form satisfactory to the board that the physician possesses the qualifications set forth in this Subchapter;

4. a fully executed copy of a collaborative drug therapy management agreement that conforms to the requirements of §7427 of these rules;

5. confirmation that the physician shall only engage in collaborative drug therapy management in the particular field of medicine in which collaborative drug therapy management is to take place and in accordance with the rules and regulations adopted by the board; and

6. such other information and documentation as the board may require to evidence qualification for registration.

B. The board may reject or refuse to consider any application for registration that is not complete in every detail required by the board or a collaborative drug therapy management agreement that fails to comply with the minimum requirements specified by §7427 of this Chapter. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application or the collaborative drug therapy management agreement as a condition to consideration.

C. A physician seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the physician's application, finds discrepancies in the application, or for other good cause as determined by the board.

D. Registration of authority to engage in collaborative drug therapy management shall not be effective until the physician receives notification of approval from the board. If all the qualifications, requirements and procedures of §§7407, 7409, and 7411 of this Subchapter are met to the satisfaction of the board, the board shall approve and register a physician to engage in collaborative drug therapy management.

E. Although a physician shall notify the board each time he intends to engage in collaborative drug therapy management with a pharmacist, other than the pharmacist identified in the physician's original application, registration with the board is only required once. The board shall maintain a list of physicians who are registered to engage in collaborative drug therapy management.

F. Each registered physician is responsible for updating the board within 15 days in the event any of the information required and submitted in accordance with §§7407, 7409 and 7411 of this Subchapter changes after the physician has become registered to engage in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007).

§7413. Notice of Intent to Collaborate

A. Notification of intent to engage in collaborative drug therapy management with a pharmacist, other than the pharmacist identified in the physician's original application, shall be filed with the board by a registered physician for each pharmacist with whom the physician intends to collaborate. Such notification shall be deemed given upon the physician's filing with the board, prior to initiating collaborative drug therapy management, a notice of intent to engage in collaborative drug therapy management on a form supplied by the board, along with a fully executed copy of a collaborative drug therapy management agreement with such pharmacist that conforms to the requirements of §7427 of these rules. Prior to engaging in collaborative drug therapy management with such pharmacist the physician shall have

received confirmation and approval of notification of intent from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007).

§7415. Expiration of Registration; Renewal

A. A physician's registration to engage in collaborative drug therapy management with a pharmacist shall terminate and become void, null and of no effect upon the earlier of:

1. death of either the physician or a pharmacist;
2. loss of license of either the physician or pharmacist;
3. disciplinary action limiting the ability of either the physician or a pharmacist to enter into collaborative drug therapy management;
4. notification to the board that either the physician or pharmacist has withdrawn from collaborative drug therapy management;

5. a finding by the board of any of the causes that would render a physician ineligible for registration under this Subchapter; or

6. expiration of a physician's medical license or registration to engage in collaborative drug therapy management for failure to timely renew such license or registration.

B. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a physician's medical license unless renewed by a physician by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a physician's renewal application for medical licensure.

C. The timely submission of an application for renewal of a registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007).

Subchapter D. Collaborative Drug Therapy Advisory Committee

§7417. Constitution of Committee

A. To assist the board on matters relative to collaborative drug therapy management, a Collaborative Drug Therapy Management Advisory Committee is hereby constituted, to be composed and appointed, to have such functions, and to discharge such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007).

§7419. Composition; Appointment

A. The advisory committee shall be composed of seven members, consisting of four physicians and three pharmacists. These members shall include: one physician designated by the Louisiana State University Health

Sciences Center School of Medicine in New Orleans; one physician designated by the Louisiana State University Health Sciences Center School of Medicine in Shreveport, one physician designated by the Tulane University Health Sciences Center School of Medicine; one physician designated by the Louisiana State Medical Society; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the Xavier University of Louisiana College of Pharmacy; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the University of Louisiana at Monroe School of Pharmacy; and one pharmacist designated by the Louisiana Board of Pharmacy. The president of the Louisiana State Board of Medical Examiners or his/her designee may sit on the committee in an ex officio capacity.

B. To be eligible for appointment to the advisory committee each individual shall have maintained residency and practiced their profession in the state of Louisiana for not less than one year, hold the qualifications prescribed by this Chapter for those of their respective professions who may wish to engage in collaborative drug therapy management, and possess education, particular experience, advanced training or other qualifications that the board may deem to be of value to the advisory committee in the discharge of its duties and responsibilities.

C. Each member of the advisory committee shall be appointed by the board from among a list of one or more qualified nominees for each position submitted to the board. Accompanying each nominee shall be a personal resume or curriculum vitae for the individual. In the event a designating entity does not submit nominees within 60 days of the board's request the position or vacancy may be filled by a physician or pharmacist designated by the board. Each member of the advisory committee shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment. With the exception of the member designated by the Louisiana Board of Pharmacy, who shall serve at the pleasure of that board, all members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by a quorum of the advisory committee or by the board. The presence of four members shall constitute a quorum. The advisory committee shall elect from among its members a chairperson, a vice-chairperson and a secretary. The chair or in the absence or unavailability of the chair the vice-chair, shall call, designate the date, time and place of, and preside at meetings of the advisory committee. The secretary shall record or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007).

§7421. Duties and Responsibilities

A. The advisory committee is authorized by the board to assist by:

1. reviewing applications for physician registration and notifications of intent to engage in collaborative drug therapy management and collaborative drug therapy management agreements, to insure compliance with the requirements of this Chapter;

2. identifying disease specific conditions for which there are generally accepted standards of care that are amenable to collaborative drug therapy management. The committee shall periodically, but not less frequently than annually, provide the board with recommendations relative to additional diseases, conditions, vaccines, and categories of drugs that may be appropriate for collaborative drug therapy management;

3. providing advice and recommendations to the board respecting the modification, amendment, and supplementation of its rules concerning physicians who engage in collaborative drug therapy management;

4. serving as a liaison between and among the board, physicians and pharmacists who engage in collaborative drug therapy management; and

5. identifying and recommending to the board acceptable certificate programs and other advanced training or programs in the areas of practice covered by collaborative drug therapy management agreements.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communication, disclosing, or in any way releasing to anyone any information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007).

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. A physician registered with the board under this Chapter may engage in collaborative drug therapy management with a pharmacist:

1. to the extent authorized by a collaborative drug therapy management agreement that has been filed with and approved by the board; and

2. in accordance with a patient specific, drug specific, disease specific written protocol, satisfying the requirements of §7429 of this Chapter.

B. A physician engaged in collaborative drug therapy management shall:

1. retain professional responsibility to his/her patients for the management of their drug therapy;

2. establish and maintain a physician-patient relationship with each patient subject to the collaborative drug therapy management agreement;

3. be geographically located so that the physician, or a back-up physician as provided in §7427.D of this Chapter, is able to be physically present daily to provide medical care to a patient subject to collaborative drug therapy management;

4. receive on a schedule defined in the written protocol, a periodic status report on the patient including, but not limited to, any problem, complication or other issues relating to patient non-compliance with drug therapy management; and

5. be available through direct telecommunication for consultation, assistance, and direction.

C. A physician's registration to engage in collaborative drug therapy management with a pharmacist is personal to the physician. A registered physician shall not allow another physician or any other individual to exercise the authority conferred by such registration. A registered physician shall not engage in collaborative drug therapy management with a non-pharmacist or with any pharmacist who is not a party to the physician's collaborative drug therapy management agreement on file with the board.

D. Collaborative drug therapy management shall only be utilized for those conditions or diseases identified in and in the manner specified by §7403 of this Chapter. Additional conditions or diseases for which there are generally accepted standards of care for disease specific drug therapy may be identified by the advisory committee and approved by the board in accordance with 7403.Definitions.*Disease Specific Drug Therapy* and §7421 of this Chapter.

E. A physician shall only engage in collaborative drug therapy management of anti-coagulant therapy with a pharmacist who holds the academic degree of Doctor of Pharmacy, which degree provided training in the area of practice covered by the agreement. The board may, in its discretion, grant an exception to this limitation on a case-by-case basis and permit a physician to engage in anti-coagulant drug therapy management with a pharmacist who does not possess the academic degree required by this Subsection upon the affirmative recommendation and advice of the advisory committee that the pharmacist possesses the equivalent or other acceptable advanced training in the area of practice covered by the agreement.

F. The scope of the collaborative drug therapy management shall not include:

1. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease specific written protocol;

2. drug therapy management of more than one specific disease or condition. Administration of a vaccine or smoking cessation therapy are excepted from this provision;

3. drug therapy management of any patient by more than one registered physician and one pharmacist;

4. any patient under 18 years of age. Administration of a vaccine or smoking cessation therapy are excepted from this provision;

5. pregnant or nursing mothers;

6. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;

7. the management of controlled substances or drugs of concern; or

8. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007).

§7425. Informed Consent

A. A physician shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

B. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to collaborative drug therapy management shall be:

1. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the physician and pharmacist;

2. informed that he or she may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient relationship; and

3. provided written disclosure of any contractual or financial arrangement with any other party that may impact one of the party's decisions to participate in the agreement.

C. All services provided pursuant to a collaborative drug therapy management agreement shall be consistent with the agreement and shall be performed in a setting that insures patient privacy and confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007).

§7427. Collaborative Drug Therapy Management Agreement

A. A collaborative drug therapy management agreement shall, at a minimum, include:

1. the name, professional license number, address(es), telephone/cell number, e-mail address and emergency contact information for the physician and pharmacist and the date of signing and termination of the agreement;

2. a description of the manner and circumstances under which the physician and pharmacist will engage in collaborative drug therapy management;

3. the condition or disease to be managed;

4. the disease specific drug(s) to be utilized for such condition or disease;

5. the drug therapy management activities, as defined in §7403 of this Chapter, the physician authorizes the pharmacist to perform;

6. the procedure to be followed by the parties for drug therapy management and a plan of accountability that defines the respective responsibilities of the physician and pharmacist;

7. a plan for reporting and documenting drug therapy management activities in the medical and pharmacy records and schedule by which such are to take place. A physician shall insure that the pharmacist submits a report at least every 30 days, or more frequently if warranted by clinical conditions, to the physician regarding the status of a patient's collaborative drug therapy management, which report shall

be noted in and made part of the physician's record on the patient;

8. a plan for record keeping, record sharing and record storage. The agreement shall acknowledge that all collaborative drug therapy management records shall be treated as and governed by the laws applicable to physician medical records;

9. acknowledgement that each patient subject to the agreement shall be notified that a collaborative drug therapy management agreement exists, describes the procedures for obtaining informed consent of such patient and the plan to address patient needs when both the physician and pharmacist are absent from the practice setting; and

10. the procedure and schedule for reviewing and assessing the quality of care provided to patients subject to collaborative drug therapy management under written protocol.

B. In the event the physician authorizes the pharmacist to order, evaluate, and apply the results of a laboratory test(s) directly related to the disease specific drug therapy being managed under written protocol, the agreement shall identify the specific test(s) and describe the plan for securing such testing.

C. The agreement shall affirm that:

1. collaborative drug therapy management shall be in conformity with generally accepted standards of care for treatment of a patient's specific disease or condition;

2. all services provided pursuant to a collaborative drug therapy management shall be consistent with the agreement and performed in a setting that insures patient privacy and confidentiality; and

3. a copy of the agreement shall be maintained on site by the respective parties.

D. The agreement may include the identity of a single back-up physician possessing the qualifications for collaborative drug therapy management prescribed by this Chapter, who will serve in the absence of the registered physician to the agreement. The identifying information specified by Paragraph 7427.A.1 of this Section shall be provided for such physician, along with an acknowledgment of responsibility to adhere to the same obligations and commitments imposed upon the registered physician to the agreement, as evidenced by a dated signature.

E. An agreement is valid for a period not to exceed one year. A physician shall insure that a collaborative drug therapy management agreement is annually reviewed, updated as appropriate, signed by the physician and pharmacist and submitted to the board for review and approval of any substantive changes.

F. Each registered physician is responsible for updating the board within 15 days in the event any of the information required and submitted in accordance with this Section changes after the board has approved the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007).

§7429. Written Protocols

A. A separate protocol shall be written for each patient to be managed by collaborative drug therapy management. A copy of each written protocol shall be:

1. provided to the collaborating pharmacist;
2. made part of the patient's medical record; and
3. appended by the physician to the collaborative drug therapy management agreement with the pharmacist and maintained in a separate file at the practice site listed on the physician's registration on file with the board.

B. A physician shall develop a patient specific written protocol for a particular patient or utilize a standard written protocol, incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, a written protocol for disease specific drug therapy shall adhere to generally accepted standards of care and shall identify, at a minimum:

1. the physician, the pharmacist and telephone number and other contact information for each;
2. the patient's name, address, gender, date of birth, and telephone number;
3. the disease or condition to be managed;
4. the disease specific drug(s) to be utilized;
5. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;
6. the specific responsibilities of the physician and pharmacist;
7. the procedures, criteria or plan the pharmacist is required to follow in connection with drug therapy management;
8. the specific laboratory test(s), if any, that are directly related to drug therapy management that the physician authorizes the pharmacist to order and evaluate;
9. the reporting and documentation requirements of the physician and pharmacist respecting the patient and schedule by which such are to take place;
10. the conditions and events upon which the physician and pharmacist are required to notify one another; and
11. procedures to accommodate immediate consultation by telephone or direct telecommunication with or between the physician, pharmacist and/or the patient.

C. Every written protocol utilized for collaborative drug therapy management of a patient shall be reviewed annually by a registered physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Chapter. The physician's signature and date of review shall be noted on the written protocol and maintained by the physician in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007).

§7431. Administration of Vaccines

A. A physician who engages in collaborative drug therapy management with a pharmacist that includes administration of a patient specific order for administration of a disease specific vaccine:

1. shall:
 - a. include such authority in the collaborative drug therapy management agreement with such pharmacist that has been filed with the board; and
 - b. annex documentation to the collaborative drug therapy management agreement evidencing such pharmacist is currently authorized by the Louisiana Board of Pharmacy

to administer medication and confirming that such pharmacist shall in every instance adhere to the requirements specified by Section 521 of the Louisiana Pharmacy Board's rules relative to administration of vaccines.

2. In addition to the requirements of Section 7429 and Subsection A of this Section, a physician shall include within the written protocol for any patient of such physician to receive a vaccine:

a. the identity of the drug, dose and route of administration;

b. the date of the original order and the date of any authorized subsequent dose or administration;

c. a statement that the patient or patient's legal guardian shall be provided the manufacturer's vaccine information statement with each dose;

d. confirm that written policies and procedures for disposal of used or contaminated supplies shall be utilized;

e. require the pharmacist to immediately report any adverse event to the collaborating physician and such governmental entities as may be directed or required by the Louisiana Department of Health and Hospitals; and

f. confirm that the physician shall be promptly available for consultation regarding contraindications and adverse reactions to such physician's patient.

B. This Chapter shall not prevent or restrict the Louisiana Department of Health and Hospitals, Office of Public Health, or any other governmental entity of this state, from administering vaccines under the authority of other laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007).

§7433. Additional Refills

A. Whether or not and the extent to which a physician may authorize a pharmacist to dispense up to a single seven-day supply of a single drug for a single patient utilized for disease specific drug therapy after all refills authorized for such physician's patient have been dispensed, shall be specifically included in the collaborative drug therapy management agreement with such pharmacist, as well as the written protocol applicable to a specific patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007).

§7435. Reporting Obligations and Responsibilities

A. A physician engaged in collaborative drug therapy management shall:

1. within 15 days of the occurrence or discovery notify the board in writing of:

a. the death of a patient that was, in the physician's opinion, directly related to drug therapy management;

b. complications or errors that are, in the physician's opinion, directly related to drug therapy management;

c. a physician's termination of a collaborative drug therapy management agreement with a pharmacist and applicable reasons;

d. a pharmacist's termination of a collaborative drug therapy management agreement with a physician and applicable reasons;

e. a patient's election to withdraw from participation in collaborative drug therapy management and applicable reasons;

f. a physician's or a pharmacist's failure and/or refusal to abide by the terms, conditions or restrictions of a drug therapy management agreement or written protocol and applicable reasons;

g. the physician's retirement or withdrawal from active clinical practice in this state or relocation to another state to engage in practice; or

h. the revocation, suspension or other restriction imposed on a pharmacist's license that would prohibit the pharmacist from entering into a collaborative drug therapy management agreement;

2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of a physician or pharmacist engaged in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007).

§7437. Records

A. Included with a physician's medical record on a patient subject to collaborative drug therapy management shall be a copy of:

1. the prescription or order implementing drug therapy management;

2. the written protocol applicable to the patient evidencing documentation of annual review;

3. documentation of all activities performed by the physician and pharmacist;

4. consultations and reports by and between the physician and pharmacist; and

5. documentation of the patient's informed consent to collaborative drug therapy management.

B. A physician registered to engage in drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any or all collaborative drug therapy management agreement(s), amendments thereto, applicable written protocols and such other records or documentation as may be requested by the board to assess a physician's compliance with the requirements of this Chapter, the Act or other applicable rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007).

Subchapter F. Sanctions

§7439. Action against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1646 (August 2007).

§7441. Action against Registration

A. For noncompliance with any of the provisions of this Chapter the board may, in addition to or in lieu of administrative proceedings against a physician's license, suspend, revoke, or cancel a physician's registration to engage in collaborative drug therapy management or impose such terms, conditions or restrictions thereon as the board may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1646 (August 2007).

§7443. Unauthorized Practice

A. Nothing in this Chapter shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the board, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Medical Practice Act.

B. Any physician who associates with or assists an unlicensed person engage in the practice of medicine shall be deemed to be in violation of R.S. 37:1285(A)(18), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1271, 1285, 1286, 1290, and R.S. 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1646 (August 2007).

Robert L. Marier, M.D.
Executive Director

0708#070

RULE

**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 adopts §1310 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part 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 33:1646 (August 2007).

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.

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

0708#090

RULE

**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 amends 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 Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

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

Subpart 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 33:1647 (August 2007).

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 33:1647 (August 2007).

§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 33:1648 (August 2007).

§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 33:1648 (August 2007).

§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 33:1648 (August 2007).

§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 33:1649 (August 2007).

§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 33:1649 (August 2007).

§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 33:1649 (August 2007).

§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 33:1649 (August 2007).

§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 33:1650 (August 2007).

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 33:1650 (August 2007).

§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 33:1651 (August 2007).

§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 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1651 (August 2007).

§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 33:1651 (August 2007).

§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 33:1651 (August 2007).

§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 33:1651 (August 2007).

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 33:1651 (August 2007).

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 33:1652 (August 2007).

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.

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

0708#091

RULE

**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 amends 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 amendments 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 33:1653 (August 2007).

§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 (bswpc).

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 33:1654 (August 2007).

§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 33:1656 (August 2007).

§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 overfill, 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 overfill, 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 overfill, 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 33:1656 (August 2007).

§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 33:1658 (August 2007).

§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 33:1658 (August 2007).

§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 33:1659 (August 2007).

James H. Welsh
Commissioner

0708#098

RULE

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") has amended 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.

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 33:1661 (August 2007).

§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 Spouse Date of Birth N/A

(if not applicable, check N/A) (if not applicable, check N/A)

Name and Date of Birth of Dependents (if not applicable, check N/A) 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), amended LR 33:1662 (August 2007).

James J. Donelon
Commissioner

0708#041

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 90—Payment of Pharmacy
and Pharmacist Claims
(LAC 37:XIII.Chapter 115)**

Under the authority of Louisiana Insurance Code, R.S. 22:250.51 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Insurance has adopted Regulation 90 to establish standards and procedures to be used for the timely payment and processing of claims submitted by a pharmacist or pharmacy for reimbursement from health insurance issuers, their agents, or any party responsible for payment of prescription drugs, other products and supplies, and pharmacist services.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 115. Regulation 90—Payment of Pharmacy
and Pharmacist Claims**

§11501. Purpose

A. The purpose of Regulation 90 is to implement R.S. 22:250.51-62 relative to the making of the prompt and correct payment for prescription drugs, other products and supplies, and pharmacist services covered under insurance or other contracts that provide for pharmacy benefits. It is the intent of the legislature that payments for covered prescription drugs, other products and supplies, and pharmacist services provided by pharmacists and pharmacies are paid timely. It is also the intent of the legislature that the provisions of this Part shall be interpreted to achieve these ends. Additionally, these statutory provisions establish the intent of the legislature to assure that pharmacists and pharmacies who submit claims for covered prescription drugs, other products and supplies, and pharmacist services are paid timely and payments are based on calculations that reflect nationally recognized pricing references such as average wholesale price and maximum allowable cost.

B. To carry out the intent of the legislature and assure full compliance with the applicable statutory provisions, this regulation sets forth the standards for payment of claims for prescription drugs, pharmaceutical products and pharmacist services on behalf of health insurance issuers including,

health maintenance organizations, to pharmacies and pharmacists and supersedes current regulations on uniform claim forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1662 (August 2007).

§11503. Scope and Applicability

A. Except as otherwise specifically provided, the requirements of Regulation 90 apply to all health insurance issuers including health maintenance organizations that offer coverage in their insurance contracts for pharmacy services in accordance with the statutory requirements of Part VI-F of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950, R.S. 22:250.51 et seq. Additionally, Regulation 90 applies to all contracts between a pharmacist and/or, pharmacy and/or a health insurance issuer, its agent, or any other party responsible for reimbursement for prescription drugs, other products and supplies, and pharmacist services. Any and all contracts entered into after July 1, 2005 shall be required to be in compliance with R.S. 22:250.51 et seq. Additionally, Regulation 90 shall apply to all contracts in existence prior to July 1, 2005. Regulation 90 shall include but not be limited to those contracts that contain any automatic renewal provisions, renewal provisions that renew if not otherwise notified by a party, any provision that allows a party the opportunity to opt out of the contract, evergreen contracts, or rollover contracts and therefore these contracts shall be required to come into compliance. Regulation 90 shall apply to all contracts as enumerated above as of the first renewal date, first opt out date, first rollover date or first annual anniversary on or after July 1, 2005.

B. Notwithstanding any provision to the contrary in any contract, evergreen contract, rollover contract or any agreement or contract that contains any automatic renewal provision, renewal provision that renews if not otherwise notified by a party or any provision that allows a party the opportunity to opt out of the contract, any and all contracts shall comply with Regulation 90 as of January 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007).

§11505. Definitions

Agent—a person or entity designated by a health insurance issuer to act on behalf of, or in place of, a health insurance issuer for purposes of the payment and adjudication of claims for prescription drugs, other products and supplies, and pharmacist services.

Commissioner—the Commissioner of Insurance

Covered Benefits—benefits available to a covered person under an insurance policy, benefit plan, or other contract for coverage of pharmacy benefits which also includes any covered prescription drugs, other products and supplies, and pharmacist services. The term shall not include prescription drug benefits offered through and regulated by the Centers for Medicare and Medicaid Services.

Covered Person—an insured, enrollee, member, or subscriber. In the case of a minor, the term includes an insured or legal guardian authorized to act in the best interest of such minor and therefore acts on behalf of the covered person.

Date upon Which a Correctly Completed Uniform Claim Is Furnished—the date the non-electronic uniform claim form is received by the health insurance issuer, health maintenance organization, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will use the postmark date of claims to determine if the date of receipt reasonably reflects the date claims are actually received by the health insurance issuers.

Date upon Which an Electronic Claim Is Adjudicate—the date an electronic claim is determined to be payable by the health insurance issuer, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will review the date the electronic claim was submitted and adjudicated by health insurance issuers.

Department—the Louisiana Department of Insurance.

Evergreen Contract—includes but is not limited to the following:

1. a contract for an initial fixed term that contains a provision extending the terms of the existing contract beyond its expiration date, for a definite or indefinite period of time, and is terminable at the option of a party with notice provided to the other party within a specified period of time;
2. perpetual agreements that contain an initial fixed term and terminable only by written notice from a party given within a specified period of time;
3. a contract with an initial term that is extended beyond its expiration date and terminable only by written notice from a party;
4. a contract that continues in perpetuity for either a definite or indefinite period of time that is terminable at the option of a party after giving required notice;
5. a contract with an initial term that is extended beyond its expiration date and continues in perpetuity until its duration specified in the contract or terminable only by written notice from a party.

Just and Reasonable Grounds Such as Would Put a Reasonable and Prudent Businessman on His Guard—an articulable set of facts, as opposed to mere speculation or assumption, that fully complies with established jurisprudence. For health insurance issuer examinations, the department will reasonably determine whether denials are based on an articulable set of facts.

Rollover—includes but is not limited to the following:

1. a contract for an initial fixed term that expires and is on or after expiration of the original fixed term, rolled over by affirmative action of a party to form a new contract or amend the existing contract for an additional period of time;
2. a contract that is formed or amended by affirmative action of a party on or after the expiration date of the existing contract;
3. a contract that can be rolled over by affirmative action of a party at any time after the existing contract's original terms or any extension of it that was entered into prior to (or after) its original expiration date;
4. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the

contract, after the expiration or extension of the existing contract, to either form a new contract or amend the contract for an additional specified term;

5. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the contract, after expiration of the existing contract, to either form or amend the contract for an additional specified term.

Paid Date—the date a claim is adjudicated and any amount due and payable is released by the health insurance issuer, its agent, or other third party that makes payment directly to the pharmacy, pharmacist, member, enrollee, subscriber or policyholder. Any difference between the date of adjudication and the date the payment is released is required to be documented in the health insurance issuer's claim handling procedures filed with the department.

Prohibited Billing Activities—those activities outlined in R.S. 22:250.41 et seq.

Uniform Claim Forms--are forms prescribed by the department and shall include the National Uniform Bill-82 (UB-82) or its successor for appropriate hospital services, and the current Health Care Financing Administration Form 1500 or its successor for physical and other appropriate professional services. If, after consultation with insurers, providers, and consumer groups, the commissioner determines that the state assignable portions of either form should be revised, he shall make a revision request to the State Uniform Bill Implementation Committee and if approved, prescribe the use of the revised form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007).

§11507. Claim Handling Procedures for Non-Electronic Claims

A. Pursuant to R.S. 22:250.53.B, health insurance issuers or health maintenance organizations are required to submit to the Department, for approval, a "Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of non-electronic claims and procedures in place to ensure compliance with R.S. 22:250.41 et seq. The Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims shall include, but not be limited to, the following:

1. a process for documenting the date of actual receipt of non-electronic claims; and
2. a process for reviewing non-electronic claims for accuracy and acceptability.

B. The filing of the Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims document shall indicate compliance by a health insurance issuer or health maintenance organization with the filing requirements of R.S. 22:250.53. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to be not in compliance with the substantive requirements of R.S. 22:250.53.

C. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11509. Claim Handling Procedures for Electronic Claims

A. Pursuant to R.S. 22:250.54, health insurance issuers and health maintenance organizations are required to submit to the department, for approval, a "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of electronic claims and procedures in place to ensure compliance with R.S. 22:250.54 et seq. The "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" shall include, but not be limited to, the following:

1. a process for electronically dating the time and date of actual receipt of electronic claims;
2. a process for reviewing electronic review of transmitted claims for accuracy and acceptability; and
3. a process for reporting all claims rejected during electronic transmission and the reason for the rejection.

B. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

C. The filing of the "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" document shall indicate compliance by a health insurance issuer and health maintenance organization with the filing requirements of R.S. 22:250.54. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to be not in compliance with the substantive requirements of R.S. 22:250.54.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11511. State of Emergency

A. Pursuant to any Executive Order issued by the governor transferring authority to the department on matters pertaining to insurance, and pursuant to the plenary authority vested in the commissioner under Title 22, the department shall be authorized to issue emergency regulations during a state of emergency that suspends and/or interrupts any of the provisions found in Title 22 or take any or all such action that the commissioner deems necessary in reference to provisions in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11513. Severability Clause

A. If any Section or provision of Regulation 90 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions that can be given effect without the invalid sections or provisions or application, and for these purposes, the Sections or provisions of this regulation and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11515. Effective Date

A. Regulation 90 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1665 (August 2007).

A public hearing on the proposed regulation will be held on March 27, 2007, at 10 a.m. at 1702 North Third Street at the Poydras Building in Plaza Hearing Room. All interested persons may submit data, views, or arguments, orally or in writing to Claire Lemoine, 1702 North Third Street, Baton Rouge, LA 70802. All comments must be submitted no later than 4:30 p.m. on March 27, 2007.

James J. Donelon
Commissioner

0708#033

RULE

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 amends 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. 40:1664.1 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 33:1665 (August 2007).

§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 33:1665 (August 2007).

§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 33:1665 (August 2007).

§3007. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1664.1 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 33:1665 (August 2007).

§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 33:1665 (August 2007).

§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.40:1664.1 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.40:1664.3, in return for financial or other compensation. The term shall include the following:

a. for the purposes of the licensing requirements contained in R.S. 40:1664.4, employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors;

b. for the purposes of licensing requirements, the firm owner or owners shall be considered 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. 40:1664.1 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 33:1666 (August 2007).

§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.40:1664.1 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.40:1664.3 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.40:1664.3 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 by R.S. 40:1664.1 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 33:1668 (August 2007).

§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 33:1668 (August 2007).

§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.40:1664.1 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 33:1669 (August 2007).

§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. 40:1664.1 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.40:1664.1 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 33:1669 (August 2007).

§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 any time 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 33:1670 (August 2007).

§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 33:1671 (August 2007).

§3025. Fees—General Information

A. Every fee required in accordance with the provisions of R.S. 40:1664.1 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. 40:1664.1 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 33:1671 (August 2007).

§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

Certificate	Initial	Renewal
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. 40:1664.9 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 33:1671 (August 2007).

§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. 40:1664.1 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 33:1671 (August 2007).

§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 33:1672 (August 2007).

§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. 40:1664.1 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. 40:1664.1 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. 40:1664.1 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 33:1673 (August 2007).

§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 33:1674 (August 2007).

§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 33:1674 (August 2007).

§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 monitored off-site 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 statements 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 lettering 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 33:1675 (August 2007).

§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. 40:1664.1 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 33:1677 (August 2007).

§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., 40:1664.1 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 33:1678 (August 2007).

§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. 40:1664.1 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. 1664.1 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 33:1678 (August 2007).

§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 33:1679 (August 2007).

§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 33:1679 (August 2007).

§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.

C. 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 33:1679 (August 2007).

§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 33:1680 (August 2007).

§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 33:1681 (August 2007).

§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), amended LR 33:1682 (August 2007).

§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. 40:1664.1 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.40:1664.1 et seq.

5. A person shall not perform any act for which a certificate or license is required unless he is:

- a. first certified or licensed to perform such acts; and
- b. employed by a firm certified to perform those acts; and
- c. 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.40:1664.1 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.40:1664.1 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), amended LR 33:1682 (August 2007).

Jill Boudreaux
Undersecretary

0708#035

RULE

**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 has enacted 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 33:1683 (August 2007).

Jill Boudreaux
Acting Undersecretary

0708#042

RULE

**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 has amended 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 33:1683 (August 2007).

Jill P. Boudreaux
Acting Undersecretary

0708#043

RULE

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, has promulgated 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 33:1684 (August 2007).

Murphy J. Painter
Commissioner

0708#053

RULE

**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 has promulgated 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 33:1685 (August 2007).

Murphy J. Painter
Commissioner

0708#054

RULE

**Department of Social Services
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, has amended the Louisiana Administrative Code, Title 67, Part V, Subpart 4, Family Services, pursuant to the authority granted to the department by the Child Care and Development Fund and to establish standard rates for day care services reimbursed by the department.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 4. Family Services

Chapter 23. Daycare

§2301. Daycare Services

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of

Family Support Child Care Assistance Program. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:1685 (August 2007).

Ann S. Williamson
Secretary

0708#077

RULE

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, amended 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 was 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.

Section 1247.E.1-2 restored language concerning the eligibility requirements for cash assistance stated in Title IV of the Social Security Act. Section 5727.B.1-4 restored 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.

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 33:1686 (August 2007).

§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 33:1686 (August 2007).

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 33:1686 (August 2007).

Ann S. Williamson
Secretary

0708#079

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Dove Hunting Zones (LAC 76:V.323)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby establish dove hunting zones.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§323. Mourning Dove Hunting Zones

A. For the purposes of this Section, the term *dove* refers to the following species, and only the following species:

mourning doves, white-winged doves, Eurasian collared-doves, and ringed-turtle doves.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1687 (August 2007).

Bryant O. Hammett, Jr.
Secretary

0708#049