

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Minimum Specifications of Termite Control Work (LAC 7:XXV.121 and 141)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding the completion of the wood destroying insect report and the minimum specifications for termite control work.

The Department of Agriculture and Forestry deems the continuation of these rules and regulations necessary to insure the safety of individuals who might come in contact with termiticides if an operator left a pre-treatment of a slab prior to completion of a job. These rules and regulations will also give instructions as to completing WDIR form LPCA - 142. It is also necessary to provide the requirement that pest control operators must call certain information into the Department's closest District office prior to making a pre-treatment of a slab application. These rules comply with and are enabled by LSA R.S. 3:3203.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§121. Wood Infestation Report

A. - B.2. ...

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR form LPCA-142, and shall be completed as follows:

1. - 9C.

9D. Treatment was or will be performed by inspection company? YES or Number If Yes, explain as follows:

a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and contract type.

b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.

10. Additional comments (If necessary, continue on reverse side).

11. Do not mark in this section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May

1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 25:

§141. Minimum Specifications for Termite Control Work

A. - D.3.c. ...

E. Pre-treatment of Slabs

1. Treat as required by label and labeling.

2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation, to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1. above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed in to the Department of Agriculture and Forestry District Office nearest the pre-treatment property, a minimum of one (1) hour prior to beginning the application of termiticides. The information provided shall include a street address, city, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District—Point Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:

A public hearing will be held on these rules on November 30, 1998 at 9:30 a.m. at 5825 Florida Blvd, Baton Rouge, Louisiana 70806.. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Specifications of
Termite Control Work**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Louisiana Registry inadvertently omitted these regulations from the Rules and Regulations. There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no additional costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
9810#016 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Marketing
Market Commission**

**Certification of Poultry, Poultry Products, and Shell Eggs
(LAC 7:V.911)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission, proposes to amend regulations regarding the cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee.

No preamble concerning these rules and regulations is available.

Title 7

AGRICULTURE AND ANIMALS

**Part V. Advertising, Marketing and Processing
Chapter 9. Market Commission—Poultry and Eggs
Subchapter A. Certification of Official State Grades of
Poultry, Poultry Products and Shell Eggs**

§911. Contractor's Obligations

A. - B. ...

C. The cost of all examination and certification services on all eggs and poultry requiring a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed. The cost of all examination and certification services on all eggs and poultry that does not require a federal grade certificate to be written by a Louisiana Department of Agriculture and Forestry employee shall be charged at a rate of .025 cents per pound for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:412 and R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on November 25, 1998 to Mr. James Pruitt, Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certification of Poultry, Poultry
Products, and Shell Eggs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no implementation costs to state or local governmental units, as existing personnel will be utilized to administer these rules. It is anticipated that there could be savings to local school and state institutions in food cost because improvement of quality should result in less loss.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that there will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Vendors will be charged \$.025 per pound for grading and certification of poultry and poultry products, and \$.025 per dozen for grading and certification of shell eggs. These grading

and certification costs will be imposed when there are violations of the standards and requirements and the product must be used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment. These rules will apply to all producers of poultry and poultry products in the state.

Skip Rhorer
Assistant Commissioner
9810#015

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Appointment of Eligibles from Certificates

The State Civil Service Commission will hold a public hearing on Wednesday, November 10, 1998 to consider these proposed changes to Civil Service Rules. The hearing will be at 9:00 a.m. in the Commission Hearing Room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, Louisiana. Consideration will be given to the following:

Reenact Rule 8.9

8.9 Appointment of Eligibles from Certificates

(a) In the filling of a single vacancy from a certificate of eligibles, the appointment must be made from one of the top five grade groups.

(b) A grade group shall be considered as a final grade with at least one available candidate. If a final grade does not have at least one available candidate, it shall not be considered a grade group.

(c) In the filling of multiple vacancies from a single certificate, appointments shall be made singly in succession. The first appointment shall be made from the top five grade groups. In the filling of each successive vacancy, an appointing authority may add one more grade group to the grade groups considered for the previous vacancy. When an appointment exhausts the eligibles from one of the grade groups, an appointing authority may add one additional grade group for consideration in the next appointment in addition to that previously authorized by this section.

(d) An appointing authority may consider as not available for appointment an individual who is a former permanent status classified employee who was been previously dismissed or who resigned to avoid dismissal.

(e) An appointing authority shall determine the effective date of the appointment, but in no case shall the effective date be prior to the time the appointee was eligible for appointment under this rule or prior to the time the appointee began work. An effective date later than four weeks following the expiration date of the certificate must be approved by the Director.

Explanation

This proposal makes three significant changes to the rule of five.

1. For a grade to be considered a grade group, it must have at least one available candidate with that grade. This will

usually provide agencies with a few more eligible candidates to select from. This will also eliminate the most common misinterpretation of the current rules.

2. If you exhaust a grade group, you may proceed to an additional grade group with at least one available candidates to replace the depleted grade. This will usually provide agencies with a few more eligible candidates to select from.

3. For each additional vacancy you fill, you may proceed to an additional grade group with at least one available candidate. The current rule does not add enough additional useful in filling multiple vacancies.

This combination will give agencies a small increase in eligible candidates for the first vacancy. The most significant contribution is that it makes it more likely that agencies can use certificates for multiple vacancies.

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

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

Allen H. Reynolds
Director

9810#026

NOTICE OF INTENT

Department of Economic Development Used Motor Vehicles and Parts Commission

Licensing Requirements and Hearing Procedures (LAC 46:V.Chapters 29-33 and Chapter 47)

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 Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding licensing requirements, propose rules regarding hearing procedures and repeal §2909 which pertains to sign requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 29. Used Motor Vehicle Dealer

§2905. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new

requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage 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 this 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. ...

B. - E. ...

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 Part Commission, LR 15:258 (April 1989), amended LR 15:375 (May 1989), LR 24:

§2909. Sign Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 2:119 (April 1976), repealed by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

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 24:

Chapter 33. Automotive Dismantler and Recycler

§3303. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly

visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. ...

B. - D. ...

E. 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 is described in R.S. 32:754.

F. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but not limited to, the following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. 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. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

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

G. An out of state parts dealer may open a parts business this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:755 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), amended LR 24:

Chapter 47. Hearing Procedures

§4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the Chairman.

B. The hearing officer shall have all the powers of the Commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order

consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4707. Rights of the Parties

Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4709. Evidence

The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and
8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4713. Rulings

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any

decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the event there is no contest may eliminate, compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4715. Rehearings

No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensing Requirements and Hearing Procedures

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

There are no implementation costs anticipated from the proposed amendments and adoption of this rule.

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

There will be no effect on revenue collections as a result of the proposed rule.

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

Independent used motor vehicle dealers will be required to have a telephone installed in the business name. The used motor vehicle dealer will incur the cost of a business phone as opposed to the cost of a residential phone. There will be a minimal cost for signs on a shared dealer lot. Salesmen are covered under the dealer's insurance policy; they are being required to list the individual names on the certificate of insurance. This rule explicitly requires that a salesman for an Automotive Dismantler have a license. This is already required under state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All licensees will be incurring the same costs and operating under the same laws and rules, thereby, eliminating any unfair competition.

John M. Torrance
Executive Director
9810#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Adult and Evening Instructional Programs
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to Standard 1.124.03 of *Bulletin 741, Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901A. The proposed amendment will no longer require individuals 19 years of age and above to take a pretest (California Achievement Test or the Test of Adult Basic Education) and score a 12.9 on all parts of the pretest in order to qualify for the GED Test. The revision further requires individuals 17 or 18 years of age or 16 years of age with an approved age waiver to take the Official Half-Length GED Practice Test and score a minimum of 40 on each part with an average score of 45 to qualify for the GED at state approved sites of instruction.

Title 28 EDUCATION

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741—Louisiana Handbook for School
Administrators

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

17:22 (2), (6); R.S. 17:151.1; R.S. 17:151.3; R.S. 17:176; R.S. 17.232; R.S. 17:191.11; R.S. 17:1941; R.S. 17:2007; R.S. 17:2050; R.S. 17:2501-2507; P.L. 94-142; R.S. 17:154(l); R.S. 17:402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 24:1085 (June 1998), LR 24:

Louisiana Handbook for School Administrators, Bulletin 741
* * *

Adult and Evening Instructional Programs

To qualify for the General Educational Development (GED) Test, an individual shall be 19 years of age or above. Individuals between 17-18 years of age or 16 years of age with an approved age waiver may qualify for the General Educational Development (GED) Test by taking the Official Half-Length GED Practice Test and scoring a minimum of 40 on each part with an average score of 45. Qualifying scores on the Official Half-Length GED Practice Test shall be certified by State-approved adult education sites of instruction.

* * *

Interested persons may submit written comments until 4:30 p.m., December 8, 1998, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

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

We estimate that there will be a cost to the State Adult Education Administration of \$32,264 to implement this policy change. (Approximately \$22,264 for leasing additional GED test booklets and \$10,000 for a public awareness campaign.)

There will be a cost to the locals for Test Administrators and Proctors as a result of more persons taking the GED Test. We assume that the amount of the fee assessed (between \$10-\$35 per person) to take the test will be the same as the amount of the additional costs associated with the administration, which is approximately \$62,325.

With this policy change, BESE no longer mandates a *pretest* for the GED for individuals 19 years of age and above. The required pretest for individuals 17-18 year olds and 16 year olds with an approved age waiver may now be administered by state approved adult education sites of instruction rather than limited to Local Education Agencies, which will eliminate duplication of pretesting to qualify for the GED Test. Savings on pretest costs may be reinvested into adult education instruction by the reallocation of resources within the adult education program.

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

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

There is no effect on revenue collection for the state with the adoption of this bulletin amendment. However, local revenue

collection will increase proportionally to the number of persons taking the GED. Most local GED test centers charge from \$10.00 to \$35.00 per person to cover test administration expenses. We anticipate an increase of approximately 2,770 individuals taking the GED test in 1999-2000. This equates to approximately \$62,325 revenue collected from GED test takers.

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

This rule change may increase the number of students who receive GEDs and can go on to further education and training. Those persons who pass the test could also be eligible for the job market sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We estimate an increase in the number of GEDs issued as a result of this policy change, and research shows that persons with GED equivalency diplomas have a better chance of being employed than persons without GED equivalency diplomas.

Marlyn Langley
Deputy Superintendent
Management and Finance
9810#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—School Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment adds the School Accountability System as a part of Bulletin 741.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:

Bulletin 741—Louisiana Handbook for School Administrators

I. Preface

A. The Louisiana Public Education Accountability System is intended to drive fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The system is designed to encourage and support school improvement by:

1. clearly establishing the state's goals for schools and students;
2. creating an easy way to communicate to schools and the public how well a school is performing;
3. recognizing schools for their effectiveness in demonstrating growth in student achievement; and
4. focusing attention, energy, and resources on those schools that need help improving student achievement.

B. The accountability system is based on the concept of continuous growth. Every school can improve. Every school is expected to show academic growth. Every school is compared to itself.

1. The underlying beliefs of the accountability system are:
 - a. all students can and must learn at significantly higher levels;
 - b. the need to improve student achievement is urgent;
 - c. continuous growth in student achievement must occur in all schools;
 - d. the focus must be on measurable student achievement results;
 - e. poverty impacts student learning; however, it does not prevent students from achieving;
 - f. low-performing schools must receive technical assistance and necessary resources to improve;
 - g. rewards and corrective actions can motivate educators, communities, and students to improve student learning;
 - h. parents, educators, and community members should be involved in the ongoing development and revision of school and district improvement plans;
 - i. districts and school sites must have the flexibility to improve learning in schools;
 - j. the general public must be kept involved in and informed about the accountability process;
 - k. it is essential that all stakeholders (i.e., students, parents, educators, and community) work together to reach the state education goals;
 - l. the accountability system must be kept simple;
 - m. the State must provide adequate funding to support the accountability system and not back down on funding or standards once instituted.

2.006.00 The school shall participate in a school accountability system based on student achievement and minimum standards as approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:10.1

10/20-Year Goals

2.006.01 The State Board of Elementary and Secondary Education shall determine the ten- and twenty-year goals based on the four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only).

Measures of Student Achievement

2.006.02 A school's newest performance shall be measured using four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, student attendance, and dropout rates (grades 7 - 12 only). Measurement of academic achievement for special education students shall be determined by the State Board of Elementary and Secondary Education (SBESE).

School Performance Scores

2.006.03 A School Performance Score shall be calculated for each school. These scores shall range from 0 to beyond 100, with a score of 100 indicating a school has reached the Ten-Year Goal and a score beyond 100 indicating a school is striving to reach the Twenty-Year Goal.

Each indicator shall be given a weight as follows:
 Criterion Referenced Tests: 60 percent Grades K-12
 Norm Referenced Tests: 30 percent Grades K-12
 Student Attendance: 10 percent Grades K-6; 5 percent Grades 7-12
 Dropout Rate: 5 percent Grades 7-12

School Performance Scores shall be calculated in Spring, 1999 for Grades K-8 and in Spring, 2001 for Grades 9-12. K-8 schools determined to be Academically Unacceptable shall begin Level I Corrective Actions during Fall, 1999. The first time Monetary Rewards may be given is Spring, 2001 for K-8 and Spring, 2003 for Grades 9-12.

Growth Targets

2.006.04 A school's Growth Target shall be calculated by subtracting its School Performance Score from 100 (i.e., the Ten-Year Goal) and dividing this difference by the number of two-year intervals remaining in the ten-year cycle. Growth Targets shall be recalculated every two years using a school's newest School Performance Score.

All schools shall receive a label based upon the school's success in reaching its Growth Target.

Growth Labels
 A school exceeding its Growth Target by a percentage determined by SBESE shall receive a label of Exemplary Academic Growth.

 A school meeting its Growth Target or exceeding it by a percentage determined by SBESE shall receive a label of Recognized Academic Growth.

 A school improving, but not meeting its Growth Target shall receive a label of Minimal Academic Growth.

 A school with flat or declining School Performance Scores shall receive a label of School in Decline.

When the Ten-Year Goal is reached, schools shall begin working toward the state's Twenty-Year Goal. These schools shall be designated as Academically Distinguished Schools. Academically Distinguished Schools shall not receive Corrective Actions as long as their School Performance Scores are above 100 (i.e., the Ten-Year Goal), but they shall be required to show each cycle to receive rewards.

The State Board of Elementary and Secondary Education (SBESE) shall set a minimum level of performance for schools called the Minimum Score. Schools with a School Performance Score below the Minimum Score shall be identified as Academically Unacceptable Schools. These schools immediately receive Level I Corrective Actions. Academically Unacceptable Schools shall receive Level I Corrective Actions in 1999-2000 for K-8 and 2001-2002 for Grades 9-12. SBESE shall determine the appropriate score for the Minimum Score. The Minimum Score shall be "fixed" and not raised over time.

Rewards

2.006.05 Schools shall receive rewards when they meet or surpass their Growth Targets and show growth in the performance of students who are classified as high poverty.

The rewards shall be granted to the school, and school personnel shall decide how monies will be spent; however, monetary rewards shall not be used for salary stipends.

Other forms of recognition shall also be provided for schools that meet or exceed their Growth Targets.

Corrective Actions

2.006.06 A school that does not meet its Growth Target shall receive Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

In Level I Corrective Actions, the state shall utilize a diagnostic process to identify needs, develop and implement consolidated improvement plan including an integrated budget. The process must include opportunities for significant parent and community involvement.

In Level II Corrective Actions, the district shall work with advisory Distinguished Educators, teachers, parents, and others to implement revised School Improvement Plan and assist principals in developing capacity to change.

In Level III Corrective Actions, the Distinguished Educator shall continue to assist with improvement efforts and with design of reconstitution plan.

A school shall enter Corrective Actions:

If it has a School Performance Score below the Minimum Score (Academically Unacceptable School); or

If it fails to attain its Growth Target in any two-year interval, unless it is a school of Academic Distinction.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count. Parents may move their child to another school district if the parents provide the transportation to the school.

Schools shall move into more intensive levels of Corrective Actions if they fail to demonstrate adequate growths during each two-year cycle.

An Academically Unacceptable School shall move to the next level of Corrective Action if its two-year growth does not place it above the Minimum Score and it does not meet its Growth Target.

An Academically Distinguished School shall not receive Corrective Actions.

All other schools have School Performance Scores in the mid-range. These schools shall be addressed in the following manner:

If a school in the mid-performance range attains its Growth Target, it shall exit Corrective Actions;

If it attains a score less than 25 percent of its Growth Target, it shall move to the next level of Corrective Actions;

If it fails to attain more than 25 percent of its Growth Target, it shall stay in Level I for two cycles;

If it has already been in Level I for two cycles, it shall move to Level II. It shall stay in Level II until it either:

Reaches its Growth Target and exits Corrective Actions; or

Attains 25 percent of its Growth Target in any cycle. If it fails to attain this Growth Target, it shall move to Level III.

2.006.07 Districts shall develop and submit a Reconstitution Plan to the State Board of Elementary and Secondary Education (SBESE) for any school in Level III. A Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student achievement. The plan shall specify how and what reorganization shall occur. The State Board of Elementary and Secondary Education (SBESE) shall monitor the implementation of the Reconstitution Plan.

1.006.07 If in Level III Corrective Action, the school and district will cooperatively develop a Reconstitution Plan and submit to the State Board of Elementary and Secondary Education (SBESE).

Exit Corrective Actions

2.006.08 A school shall exit Corrective Actions if an Academically Unacceptable School moves above the Minimum Score and achieves its Growth Target or if any other school in the mid-range achieves its Growth Target.

Transfer Policy

2.006.09 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Level II Corrective Actions or any other school begins Level III Corrective Actions.

Transfers shall not be made to Academically Unacceptable Schools or schools undergoing Level I, II, or Level III Corrective Actions.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

2.006.10 The State Department of Education shall provide support to the school through District Assistance Teams, Distinguished Educators, a School Improvement Fund, and a Best Practices Resource Guide.

District and other personnel, as appropriate, shall be trained to become members of District Assistance Teams.

Distinguished Educators shall be highly effective educators selected and trained by the State Department of Education to take two or more years of leaves-of-absence to help schools in Level II and Level III Corrective Actions.

Distinguished Educators may include assisting schools in the development of improvement plans, facilitating the development of a school curriculum that aligns with state tests, working with the school to involve parents and community members, and assisting with the professional development of school personnel.

The selection of outstanding teachers, principals, and administrators from local districts to serve as Distinguished Educators shall be based upon the assumption that they will be specially selected, trained and shall possess a more authentic understanding of problems being faced by the schools. Additionally, Distinguished Educators shall be allowed to return to their districts/universities with special capabilities that would be of value to their schools and districts.

The State Department of Education shall identify best school improvement practices and disseminate the information to schools and districts through a published report.

2.006.11 The Board of Elementary and Secondary Education shall report annually on the state's progress in reaching its individual School Report Cards to provide information on every school's performance. The School Report Cards shall include the following information: School Performance Scores, school progress in reaching Growth Targets; school performance when compared to similar (like) schools; and subgroup performances.

Appeals Procedures

2.006.12 An appeals process shall be established that shall enable schools and districts to appeal various issues to the State Board of Elementary and Secondary Education (SBESE).

Data Collection

2.006.13 A test score shall be entered for all eligible students within a given school. For any eligible students who does not take the test (including those who are absent), a score of "0" shall be entered. To assist schools in dealing with absent students, the State Department of Education shall provide an

extended testing period for test administration. Schools may appeal their School Performance Scores if students were sick on a long-term bases and their absences resulting a school's receiving a lower score.

2.006.14 Only those enrolled in schools as of October 1 each year shall be used in the calculation of a school's School Performance Score. However, the scores of all students shall be included when calculating a District's score.

2.006.15 Schools that serve only students in K-2 shall be paired with schools in the district that receive their students. Schools with only K-2 students shall then be judged based upon the performance of paired schools. Local school boards shall determine how schools will be paired.

2.006.16 Special Purpose Schools (Alternative Schools, Schools in Correctional Facilities, Adult Education Facilities, shall have an alternative accountability system to be implemented no later than 2001. The establishment of new alternative schools shall be closely monitored by the State Department of Education to ensure that students are not placed within alternative schools to avoid testing in regular school environments.

2.006.17 The District Accountability System shall be determined by The State Board of Elementary and Secondary Education (SBESE).

The accountability system shall be monitored and refined as necessary. However, major changes shall not be made to the system until Year 2009 (Grades K-8) and 2011 (Grades 9-12).

The accountability system shall be reviewed by the Louisiana LEARN Commission or its successor, and recommendations for changes shall be made to BESE.

Interested persons may submit written comments until 4:30 p.m., December 10, 1998, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—School Accountability System

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

The estimated implementation costs to state governmental units will be \$10,590,682 (see Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and in service training; collection and analysis of data for the state's diagnostic process; personnel assigned to the District Assistance Teams; development and implementation of consolidated improvement plans, and transportation costs for students that chose to attend another school within the district as part of Level II or Level III corrective action. The state may fund some or all of these local costs. To the extent the state funds such costs, local costs will be reduced accordingly.

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

There will be no effect on revenue collections by state/local governmental units.

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

School and District Accountability Plan is based on the concept of continuous growth; every school can improve and is expected to show academic growth. Economic benefits may be realized by K-12 students by acquisition of knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Level II or III corrective actions may incur additional transportation costs for such students since the rule specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teaching quality is negatively affecting student performance. School districts will need to find qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in corrective actions may find it more difficult to recruit and retain teachers. As such, school districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9810#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Exemption of Methyl Acetate as a VOC
(LAC 33:III.2117)(AQ182)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2117 (Log Number AQ182).

Methyl acetate will be added to the list of compounds that are exempt from the requirements of LAC 33:III.Chapter 21. As of May 11, 1998, EPA will no longer give SIP (State Implementation Plan) credit for controls on methyl acetate emissions. This compound has a negligible contribution to tropospheric ozone formation and has potential for use in paints, inks, and adhesives. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

§2117. Exemptions

A. The following compounds are considered exempt from the control requirements of this Chapter: methane; ethane; 1, 1, 1 trichloroethane (methyl chloroform); methylene chloride (dichloromethane); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); acetone; parachlorobenzotrifluoride (PCBTF); perchloroethylene (tetrachloroethylene); cyclic, branched, or linear completely methylated siloxanes; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); and methyl acetate. The following classes of perfluorocarbons are also considered exempt from the control requirements of this Chapter: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

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 LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:

A public hearing will be held on November 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ182. Such comments must be received no later than December 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Exemption of Methyl Acetate as a VOC**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units from this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no significant economic impact on directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will not have any known effect on competition or employment.

Hale Bohlinger
Deputy Secretary
9810#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Civil Penalty Assessment
(LAC 33:I.Chapter 7)(OS026)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 7(OS026).

This proposed rule will establish a consistent department-wide approach for the assessment of civil penalties. Included in this assessment is the consideration of multiple violations, gravity of any violation committed, and that economic incentives for noncompliance are eliminated. This regulation is designed to promote the goals of deterrence, as well as, to provide fair and equitable treatment of the regulated community. The Louisiana Environmental Quality Act, R.S. 30:2050.3, requires the secretary to establish criteria for the assessment of consistent department-wide penalties based upon the nine factors found in R.S. 30:2025(E). The basis and rationale for this rule are to comply with R.S. 30:2050.3.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part 1. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures
Chapter 7. Penalties
§701. Scope**

A. The intent of this Chapter is to assure that, after the department has determined a penalty is to be assessed for one or more violations, each penalty is assessed in a fair and equitable manner; that penalties are appropriate for the gravity of the violation committed; that economic incentives for noncompliance are eliminated; that penalties are sufficient to deter persons from committing future violations; and that compliance is expeditiously achieved and maintained.

B. After considering the nine factors in R.S. 30:2025(E)(3)(a), the department realizes there may be numerous circumstances where violations have occurred that are not significant enough to warrant a penalty action.

C. This Chapter is to be utilized by the department only after it has determined that a penalty is to be assessed for a specific violation unless otherwise specified by rule or regulation. Nothing in this Chapter applies to the determination of whether to assess a penalty, or to the compromise or settlement of a penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

§703. Definitions

For purposes of this Chapter, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Nine Factors—the factors listed in R.S. 30:2025(E)(3)(a) and considered by the department in determining whether or not a civil penalty is to be assessed and in determining the amount agreed upon in compromise.

Penalty Event—any violation [as defined in R.S. 30:2004(21)] for which the administrative authority, after consideration of the factors listed in R.S. 30:2025(E)(3)(a), determines a penalty is warranted.

Violation Specific Factor— the two of the nine factors considered when plotting a violation on the penalty matrix. Each factor is weighed consistently without regard to the violator, and no special circumstances or violator-specific factors are considered when plotting the violation on the penalty matrix. These factors include:

- a. the nature and gravity of the violation; and
- b. the degree of risk to human health or property caused by the violation.

Violator-Specific Factor—the five of the nine factors considered when adjusting the difference between the minimum and maximum penalty range within a particular cell on the penalty matrix. The degree of adjustment in a particular penalty range on the penalty matrix will vary depending upon the specific and unique circumstances of these five factors. These factors include:

- a. the history of previous violations or repeated noncompliance;
- b. the gross revenues generated by the respondent;
- c. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
- d. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation; and
- e. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

Response Costs—the costs to the state of any response action made necessary by a penalty event that are not voluntarily paid by the violator. These costs shall include, but are not limited to, the costs of surveillance staff activities and the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

§705. Penalty Determination Methodology

A. A penalty range for each penalty event is calculated based on the two violation-specific factors. The two violation-specific factors are plotted on the penalty matrix to determine a penalty range for a particular penalty event (see Table 1). The various penalty ranges for a penalty event are found inside each cell of the penalty matrix.

1. **Penalty Matrix—Degree of Risk to Human Health or Property.** The first stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its degree of risk to human health or property. The following criteria are used to categorize each penalty event with regard to its degree of risk to human health or property:

- a. **Major.** Refers to a violation in which actual harm or substantial risk of harm to the environment or public health occurs. The noncompliance results in, or may result in, the temporary or permanent loss of a use of the environmental resource. A violation of major impact and hazard may be one characterized by high volume and/or frequent occurrence and/or high pollutant concentration. Such violations may have a detrimental impact on sensitive environments or include the discharge of toxic pollutants;
- b. **Moderate.** Refers to a violation that has the potential for measurable detrimental impact on the environment or public health. A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions; and
- c. **Minor.** Refers to a violation that does not directly present actual harm or substantial risk of harm to the environment or public health. Violations that are isolated single incidences and that cause no measurable detrimental effect to the environment or public health may be considered minor. Violations that are administrative in nature may also be considered minor.

2. **Penalty Matrix—Nature and Gravity of the Violation.** The second stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its nature and gravity. The following criteria are used to categorize each penalty event with regard to its nature and gravity:

- a. **Major.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement. The respondent deviates significantly from the requirements of the statutes, regulations, or permit to such an extent that little or no implementation of requirements occurs;
- b. **Moderate.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in substantially negating the intent of the requirement. The respondent deviates from the requirements of the statutes, regulations, or permit, but some implementation of the requirements occurred; and
- c. **Minor.** Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in some deviation from the intent of the requirement. The respondent deviates somewhat from the requirements of the statutes, regulations, or permit; however, substantial implementation of the requirements occurred.

B. Once a penalty event has been categorized as major, moderate, or minor for both its degree of risk to human health or property and its nature and gravity, a penalty range is obtained by plotting these two categorizations with the corresponding cell of the penalty matrix.

Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation			
		Major	Moderate	Minor
Major		\$25,000 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
Moderate		\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor		\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

C. Violator-Specific Factors (Adjustment Factors) Per Event. The next stage of the penalty calculation involves the adjustment of the penalty using the following violator-specific factors:

1. the history of previous violations or repeated noncompliance;
2. the gross revenues generated by the respondent;
3. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation; and
5. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

D. The five violator-specific factors are used to adjust the penalty amount for each penalty event. Each violator-specific factor is assigned a percentage adjustment on a case by case basis. The upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The five percentages are added together to calculate a total percentage adjustment for the penalty range for the penalty event. The total upward or downward percentage adjustment is also limited to 100 percent. The total percentage adjustment is multiplied by the difference between the minimum and maximum penalty amount for the chosen matrix cell. The product is then added to, or subtracted from, the minimum penalty amount in the chosen matrix cell.

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formula(s) to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$

$$P_n = 2(A_n + [B_n \times (C_n - A_n)]) *$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where 100 percent B_n -100 percent.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* *Note:* The statutory maximum is double in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025 (E)(2).

F. The values for each penalty amount (P_n) are added to determine a penalty subtotal (P_s):

$$P_s = P_1 + P_2 + P_3 \dots$$

G. The department shall consider the monetary benefits realized through noncompliance. Any monetary benefits calculated may be added to the penalty subtotal. However, the amount calculated may not cause the penalty subtotal to exceed the maximum penalty amount allowed by law.

H. Response costs (R_c) are then added to the penalty subtotal (P_s) to determine the total penalty amount (P_t):

$$P_t = P_s + R_c$$

I. In accordance with R.S. 30:2025 (E)(1)(a), the department reserves the right to assess an additional penalty of not more than \$1,000,000 for any penalty event that is done intentionally, willfully, or knowingly, or results in a discharge or disposal that causes irreparable or severe damage to the environment or if the substance discharged is one which endangers human life or health.

J. In circumstances where the respondent has provided, or has agreed to provide, a grant, donation, or other form of assistance with respect to a designated pollution source, as provided in R.S. 30:2031, the penalty amount may be reduced by the monetary value of such grant, donation, or other form of assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

A public hearing will be held on November 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS026. Such comments must be received no later than December 8, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS026.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/ola/irdd/olaeregs.htm>.

Dale Givens
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Civil Penalty Assessment**

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

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

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

No significant increase or decrease in revenues is expected with the promulgation of this rule.

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

No significant economic costs or benefits to directly affected persons are expected as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

J. Dale Givens
Secretary
9810#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Certification for Substance Abuse Counselors**

Certification for Substance Abuse Counselors
(LAC 46:LXXX.101, 105, 301, 701, 703, 707, 711, 901,
905, 1101, 1103, 1105, 1303, 1505, 1509, 1511, 1701)

Under the Authority of R.S. 37:3372-3384, the Louisiana State Board of Certification for Substance Abuse Counselors hereby gives notice of its intent to amend rules and regulations relative to certification and regulating certified substance abuse counselors, certified compulsive gambling counselors, and certified prevention counselors.

Chapter 1. General Provisions

§101. Scope

The rules of LAC 46:LXXX are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the board) within the Department of Health and Hospitals, the certification for substance abuse counselors, compulsive gambling counselors, prevention counselors and the practice of substance abuse counseling, compulsive gambling counseling and prevention counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:627 (May 1993), LR 25:

§105. Definitions

* * *

Compulsive Gambling—the persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits.

Compulsive Gambling Counselor—any substance abuse counselor who, by means of his special knowledge acquired through formal education and practical experience is qualified to provide gambling addictive behavior counseling to compulsive gamblers who have gambling addictive behaviors and other gambling problems behavior and who is certified as such by the board. The board shall consider any person

providing such services as purporting to be a compulsive gambling counselor.

* * *

Counselor in Training—any person who has not yet met the qualifications to become certified in a particular field but has made an application to be certified in a particular field and is registered as such by the board.

Performance Domains—for prevention counseling are: program coordination, education and training, community organization, public policy, planning and education, and professional responsibility.

Prevention Counselor—any person who, by means of his special knowledge acquired through formal education and practical experience, is qualified to provide prevention intervention services and is certified as such by the board. The board shall consider any person providing such services as purporting to be a prevention counselor.

Prevention Intervention Services—the provision of prevention services and intervention to those at risk of abuse of alcohol, tobacco, and other drugs.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:628 (May 1993), LR 25:

Chapter 3. Practice

§301. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. The practice of compulsive gambling counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to compulsive gamblers to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of compulsive gambling. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of counseling.

C. The practice of prevention counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to those at risk of alcohol, tobacco and other drugs and to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of abuse and no longer in need of prevention intervention services. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the performance domains of prevention counseling.

D. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor, compulsive gambling counselor, or prevention counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse, gambling or prevention. A substance abuse counselor, compulsive gambling counselor or prevention counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:628 (May 1993), LR 25:

Chapter 7. Certification

§701. Requirements

- A. ...
1. - 5. ...
 6. provides evidence of having earned educational credit sufficient to satisfy the requirements for counselor certification which include:
 - a. ...
 - b. possess a bachelor's degree from an accredited institution of higher education in one of the following areas:
 - i. social work;
 - ii. social welfare;
 - iii. sociology;
 - iv. substance abuse;
 - v. psychology;
 - vi. mental health counseling;
 - vii. education counseling, or
 - viii. family, child, and consumer science;
 7. provides evidence of having successfully completed the experiential requirements for substance abuse counselor certification which include:
 - a. two years of full-time clinical training in board approved institutions in the actual performance of each of the core functions with clients while under the supervision of a qualified professional, with a minimum of one contact hour per week;
 - b. - c. ...
 8. - 12. ...
 13. holds a valid and current certificate as a substance abuse counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999, and seeks certification as a substance abuse counselor.
- B. - C. ...
- D. Initial Certification
1. The board shall issue a certification as a Board Certified Compulsive Gambling Counselor to each candidate who:
 - a. is at least 21 years of age and has earned a High School diploma or its equivalent;
 - b. is a citizen of the United States;
 - c. is not in violation of any ethical standards subscribed to by the board;

d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two year;

e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;

f. possess and maintain a board certification for substance abuse counseling;

g. holds a valid and current certificate as a gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;

h. successfully completes thirty clock hours of gambling addiction courses from a board-certified education program;

i. demonstrates professional competency in gambling counseling by passing a written and oral examination prescribed by the board;

j. makes application and pays the fees prescribed by the board;

k. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling;

l. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in gambling counseling;

m. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

E. Certification by Transition from LASACT, Inc.

1. The board shall issue a certificate to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application and examination;
 - b. meet the requirements in §701.A.1, 2, 3, 4, 5, and 7;

c. holds a valid and current certificate as a compulsive gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

F. Certification by Reciprocity from Other States

1. The board may issue a certificate, without examination in this state, to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application and examination;
 - b. possesses a valid certificate to practice as compulsive gambling counselor in any other state of the United States;
 - c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.D.

G. Initial Certification

1. The board shall issue a certification as a Board Certified Prevention Counselor to each candidate who:

- a. is at least 21 years of age and has earned a High School diploma or its equivalent;
- b. is a citizen of the United States;
- c. is not in violation of any ethical standards subscribed to by the board;
- d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gamblers during the previous two years;
- e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;
- f. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;
- g. successfully completes thirty semester hours of prevention related courses approved by the board. Equivalency may be met by board-approved educational programs at the rate of fifteen contact hours per one semester hour;
- h. posses a bachelor's degree from an accredited institution of higher education in one of the following areas:
 - i. social work;
 - ii. social welfare;
 - iii. sociology;
 - iv. substance abuse;
 - v. psychology;
 - vi. mental health counseling;
 - vii. education;
 - viii. education counseling; or
 - ix. family, child and consumer science;
- i. complete experiential requirements prescribed by the board, including the following:
 - i. two years of full-time prevention experience in board-approved institutions related to alcohol, tobacco and other drugs;
 - ii. one hundred twenty-clock hours in the performance domains, with a minimum of ten hours in each performance domain while under the supervision of a qualified professional, with a minimum of one contact hour per week. The performance domains are:
 - (a). program coordination;
 - (b). education and training;
 - (c). community organization;
 - (d). public policy;
 - (e). planning and evaluation; and
 - (f). professional responsibility;
- j. demonstrates professional competency in prevention counseling by passing a written and oral examination prescribed by the board;
- k. makes application and pays the fees prescribed by the board;
 - 1. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in prevention counseling;
 - m. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive

- training sufficient to adequately prepare him to be able to demonstrate professional competency in prevention counseling;
 - n. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.
 - G. Certification by Transition from LASACT, Inc.
 - 1. The board shall issue a certificate to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application and examination;
 - b. meet the requirements in §701.A.1, 2, 3, 4, and 5;
 - c. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.
 - H. Certification by Reciprocity from Other States
 - 1. The board may issue a certificate, without examination in this state, to any person who:
 - a. submits an application and pays the fees equivalent to those required for the initial application examination;
 - b. possess a valid certificate to practice as a prevention counselor in any other state of the United States;
 - c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.F.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:631(May 1993), LR 25:
- §703. Application and Examination**
- A. Request for Application
 - 1. Persons desiring information regarding certification as a Board Certified Substance Abuse Counselor, Board Certified Compulsive Gambling Counselor or Board Certified Prevention Counselor shall be sent an information brochure and a request for application for.
 - 2. - 4. ...
 - B. - D. ...
 - E. Approval and Issue
 - 1. ...
 - 2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the Certification Committee. The board shall issue certification as a BCSAC, BCCGC, or BCPC to the candidate upon a formal affirmative vote of the majority of the board present and voting provided there is a quorum present.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:632 (May 1993), LR 25:
- §707. Continuing Professional Education**
- A. Within the two years prior to application for certification renewal, all board certified substance abuse counselors, board certified compulsive gambling counselors, and board certified prevention counselors must have completed at least 48 clock hours of education directly

applicable to substance abuse counseling, gambling counseling or prevention counseling whichever is applicable.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:633 (May 1993), LR 25:

§711. Lapsed Certificate; Reinstatement; Surrender

A. - B. ...

C. Non-Payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention counselor who does not renew his certificate shall surrender the certificate by returning it to the office of the LSBCSAC.

2. A former board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor who desires to exercise the option of the Grace Period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgment is made, in writing, that the certificate is not valid during the period in which it is inactive or lapsed.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:634 (May 1993), LR 25:

Chapter 9. Denial, Suspension, Revocation of Certification: Appeal

§901. Authority

A. The board shall have the power to deny, revoke, or suspend its certification of any person upon proof that such person:

1. - 4. ...

5. is impaired in delivery of professional services because of alcohol or drug abuse, compulsive gambling, or because of medical or psychiatric disability;

6. ...

7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor, certified compulsive gambling counselor or certified prevention counselor;

8. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:634 (May 1993), LR 25:

§905. Suspension of Certification

A. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC who voluntarily surrenders his

certificate. The suspension shall be for a defined period of time or until specific conditions required by the board are satisfied.

B. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC against whom there is a complaint containing allegations which reasonably suggest that a violation of the act or rules and regulations of the board of a most serious nature may have occurred pending an outcome of investigation and/or a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

Chapter 11. Complaints

§1101. Complaint Procedure

A. The board shall develop policies and procedures to receive, review, investigate, and act upon complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

§1103. Filing a Complaint

A. Any person desiring to report a complaint or alleged violation against a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person shall notify the LSBCSAC office. This initial contact notification of a complaint may be in person, by phone, or in writing. The person reporting the complaint or alleged violation may request a complaint form directly or may request that a member of the Ethics Committee contact him.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:635 (May 1993), LR 25:

§1105. Investigation

A. If the allegations in the complaint reasonably suggest a violation of the act or rules and regulations of the board, the Ethics Committee shall initiate an investigation. The Ethics Committee shall notify the subject that a complaint has been filed and provide a copy of the official complaint form. The board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person who is the subject of the complaint shall be required to provide a signed and notarized response within 15 days of being notified of the complaint.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance

Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:636 (May 1993), LR 25:

Chapter 13. Impaired Counselors

§1303. Identification

A. - B. ...

C. The board may appoint or designate an examining committee of board certified substance abuse counselors, board certified compulsive gambling counselors, board certified prevention counselors, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into a counselor's fitness and ability to practice this profession with reasonable skill and safety to clients.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:636 (May 1993), LR 25:

Chapter 15. Code of Ethics

§1505. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor, compulsive gambling counselor or prevention counselor is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the board in rendering counseling services.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:637 (May 1993), LR 25:

§1509. Affirmation

A. Every BCSAC, BCCGC and BCPC must agree to affirm:

1. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

§1511. Confidentiality

A. No substance abuse counselor, gambling counselor or prevention counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. - B. ...

C. ...

1. - 3. ...

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBSCAC harmless, and agreeing to comply with the requirements of the LSBSCAC.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19:638 (May 1993), LR 25:

Interested persons may submit written comments through November 30, 1998, to Michael Hollingsworth, Chairman, Louisiana State Board of Certification for Substance Abuse Counselors, 4637 Jamestown Avenue, Suite A, Baton Rouge, Louisiana 70808.

Michael Hollingsworth
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certification for Substance Abuse Counselors

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

It is anticipated that implementation of the proposed rule will increase operating expenditures by approximately \$1,500 for FY 98/99, \$447 for FY 99/00, and \$1,500 for FY 00/01 to certify applicants for compulsive gambling counseling and prevention counseling. Funds are available.

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

The proposed rule will allow the LA State Board of Certification for Substance Abuse Counselors (LSBSCAC) to charge applicants \$100 to become certified. They will be recertified every two years. It is estimated that 235 individuals will request certification in FY 98/99 and 70 individuals in FY 99/00. The increase in revenues for FY 98/99 would be \$23,500 and \$7,000 for FY 99/00. The revenues for FY 00/01 would be \$23,500 with the need to recertify.

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

Individuals requesting certification would be required to pay the \$100 certification fee every two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have no impact on competition and employment in the public and private sectors.

Michael Hollingsworth
Chairman
9810#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Continuing Education—Nursing Practice
(LAC 46:XLVII.Chapter 33)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing, pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:920, intends to amend Title 46:XLVII pertaining to continuing education/nursing practice requirements of the board for registered nurse licensure. The proposed amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Licensure

§3335. Continuing Education—Nursing Practice

A. Authority of the Louisiana State Board of Nursing (Board). The Board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a registered nurse from R.S. 37:911, R.S. 37:918(4) and (12) and R.S. 37:920.E (1), (2), and (4).

B. Definitions for the Purposes of §3335.

Accredited Post Secondary Institution—a degree granting institution that conducts a program preparing registered nurses and awards degrees at any or all of the following levels: associates, bachelors, masters, and doctoral, and which is accredited by a nationally recognized accrediting body.

Approved Offering—a continuing education offering provided by an approved provider.

Approved Provider—individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency which has been approved by the Board, accredited by the American Nurses Credentialing Center's Commission on Accreditation (ANCC), or approved to provide nursing continuing education by an ANCC accredited approver.

Board Approved Contact Hours—contact hours which have been approved by the Board or through the ANCC.

Clinical Competence—the possession and use of professional knowledge and skills in relation to direct patient/client care.

Certifying Body—an agency qualified to evaluate an individual, an institution, or an educational program and

attesting that certain predetermined standards for safe and ethical practice of the profession or service are met.

Competence—the possession of professional knowledge and skills necessary to practice or function at the legally qualified level.

Contact Hour—a unit of measurement that describes 50 minutes of participation in an educational activity which meets the Board's continuing education criteria.

Continued Competence—the possession and maintenance of current professional knowledge and skills.

Continuing Education—a planned educational activity designed to update the knowledge and skills of the participant, beyond the entry level, or to prepare for practice in a different area of nursing.

Continuing Education Activities—

a. *Course*—an intense, planned educational activity, presented over time, which includes content related to a specific subject for which academic credit or contact hours are awarded.

b. *Offering*—a continuing education activity of short duration for which a minimum of one contact hour is awarded.

c. *Program*—a series of offerings with a common theme and common overall goals. Offerings may occur consecutively or concurrently.

Criterion—a standard, rule, or test by which something can be judged, measured, or valued.

Current—occurring in the present time; contemporary.

Documentation of Nursing Practice—the presence of written evidence of nursing practice.

Examination—an exercise designed to evaluate progress, qualifications, or knowledge.

Full-Time Nursing Practice—a minimum of 2080 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer.

For self-employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

Inactive Licensure Status—is recorded when the RN requests inactive licensure status rather than renew a current RN license.

Lapsed License—delinquent licensure status due to failure to renew or to request inactive licensure status.

National Council Licensure Examination for Registered Nurses (NCLEX-RN)—the examination approved by the Board and administered to measure competency for initial licensure as a registered nurse.

Nursing Practice—the performance, with or without compensation, by an individual licensed by the Board as a registered nurse, of functions requiring specialized knowledge and skill derived from the biological, physical, and behavioral sciences [Nurse Practice Act, R.S. 37:913 (13) and (14)], which includes, but is not limited to, direct patient care, supervision, teaching, administration, and other positions which require use of nursing knowledge, judgment, and skill.

Part-Time Nursing Practice—a minimum of 160 hours employment as a registered nurse, but less than full-time employment within the one-year audit period.

Practice Hour—sixty minutes of nursing practice.

Refresher Course—instruction designed to up-date professional knowledge and skills to the legally qualified level.

Requirement—something needed or demanded by virtue of a law, regulation, etc.

C. Continuing Education/Nursing Practice Requirements. Registered Nurses are required to meet the continuing education nursing practice requirements for relicensure and to certify compliance on the application for relicensure. The following options are available to fulfill these requirements.

1. License Renewal. For licensure renewal the applicant shall be in compliance with one of the following:

- a. a minimum of 5 Board approved contact hours of continuing education and full-time practice as a registered nurse during the previous calendar year; or
- b. a minimum of 10 Board approved contact hours of continuing education and a minimum of 160 hours of practice as a registered nurse during the previous calendar year; or
- c. a minimum of 15 Board approved contact hours of continuing education during the previous calendar year; or
- d. initial licensure by examination or by endorsement during the previous calendar year; or
- e. current certification in a specialty area of nursing by a certifying body whose requirements have been approved by the Board as being equivalent to or exceeding the above requirements.

2. Exceptions. A licensee may request an exemption, on the license renewal application, supported with documentation, from the continuing education/nursing practice requirements, or for an extension of time within which to fulfill the requirements, for one of the following reasons.

- a. The licensee is requesting inactive status for the license. In this case, the requirements apply when the licensee seeks to reactivate the license.
- b. The licensee served on active duty in the armed forces for a minimum of six months during the licensure period.
- c. The licensee has been unable to work due to a physical or mental disability for 2/3 of the most recent audit period and submits medical evidence of readiness or ability to return to work.
- d. The individual is currently enrolled as a bonafide student in a Board approved refresher course.
- e. The individual presents evidence of an emergency or extenuating circumstances. At the time of filing an application for relicensure based on an exception, the licensee shall attach documentation of the exception.

3. Penalty for Non-Compliance

a. Failure to comply with these requirements shall prohibit license renewal and result in the licensee being placed on a delinquent/lapsed licensure status. Upon presentation of evidence of meeting the continuing education/nursing practice requirements, the license may be reinstated with a potential for disciplinary action.

b. Falsification of data on the renewal or audit forms may result in disciplinary action.

D. Reinstatement of License

1. For reinstatement of a license which has lapsed, been suspended, has been inactive, or has been retired, for less than 4 years, the applicant shall provide documentation of a minimum of 15 Board approved contact hours of continuing education for each year of inactive licensure status, or current licensure in another state and compliance with §3335.C.1.

2. For reinstatement of a license which has lapsed, been suspended, or has been inactive for four years or more, the applicant shall provide documentation of one of the following:

- a. completion of a Board approved refresher course consisting of a minimum of 160 hours of instructor planned, supervised instruction, including theory and clinical practice; or
- b. enrollment and completion of a bonafide nursing course in an approved school, which consists of 160 hours of instructor planned, supervised instruction, including theory and clinical practice, in lieu of a refresher course; or
- c. individualized remediation including an assessment of needs, a program of study designed to meet these needs, and an evaluation of the learning outcomes of the program. Such program shall be sponsored by an approved provider in an accredited post-secondary educational institution whose faculty hold masters degrees in nursing; or
- d. a minimum of 60 Board approved contact hours of continuing education within the previous 4 years; or
- e. successful completion of the NCLEX-RN examination during the previous calendar year (Licensees who choose the option of taking the NCLEX-RN shall complete the required application, pay the established fee, and follow the current process for testing.); or
- f. current licensure in another state, and compliance with §3335.C.1.

E. Continuing Education Activities. Continuing education course credit may be given for the following continuing education activities. Contact hours may be awarded for the following:

1. continuing education activities that meet the criteria for content of continuing education as specified in §3335.F. and which are offered by approved providers as specified in §3335.G or H;

2. academic courses in an accredited post secondary institution which are related to specific knowledge and/or technical skills required for the practice of nursing as specified in §3335.F and, §4507, A.3 and E.2, or which lead to an advanced degree in nursing or to a certificate in advanced nursing practice, with continuing education credit calculated as follows:

a. academic credits leading to a Bachelor of Science Degree in Nursing (BSN), acquired post licensure as a registered nurse, shall be applicable toward meeting the continuing education requirements for relicensure for a maximum of four consecutive years;

b. academic courses recorded as an audit, credit examination, or registration for thesis or dissertation shall not apply toward meeting the continuing education requirements or relicensure;

c. contact hours shall be calculated from credit hours as follows:

- i. quarter hours. One credit hour equals 10 contact hours;
- ii. trimester hours. One credit hour equals 12 contact hours;
- iii. semester hours. One credit hour equals 15 contact hours.

3. program, courses or independent study offerings which have been approved for voluntary or mandatory continuing education by other boards of nursing, the ANCC approval process, or specialty nursing organizations which have equivalent approval criteria;

4. review courses for initial certification in an approved area, such as ACLS, PALS, or advanced IV therapy, etc, provided they meet the criteria for approved offerings (Review courses for recertification do not meet the continuing education requirements for relicensure.); and

5. other continuing education activities as approved or accepted by the Board at its sole discretion;

6. presenting a total continuing education activity shall not be considered continuing education for the presenter. Instructors who present part of a continuing education activity may receive a certificate and credit if the total activity is attended;

7. there is no limit on the number of contact hours that may be earned through independent study.

F. Content of Continuing Education Activities. The following areas are acceptable subject matter to fulfill continuing education requirements for relicensure in Louisiana:

1. nursing practice topics related to counseling, teaching, or care of clients in any setting;

2. sciences upon which nursing practice, nursing education, and nursing research are based, e.g., nursing theories; biological, physical, and behavioral sciences; and advanced nursing in general or specialty areas;

3. professional, social, economic, spiritual, and ethical/legal aspects of nursing; and

4. nursing management, nursing administration, or nursing education.

G. Criteria for Approved Providers. Continuing education providers may be designated by the Board as *Approved Providers* upon showing evidence of meeting the following criteria:

1. have a consistent, identifiable authority, who has the overall responsibility for the operation of the Nursing Continuing Education Provider Unit;

2. have a Continuing Education Nurse Planner with a BSN or higher degree and an active RN license who:

a. has the overall responsibility for planning, implementing, and evaluating the continuing education activity; and

b. accepts full responsibility to ensure that all nursing continuing education activities meet the Board's criteria specified in §3335.H, and including, but not limited to: determining content specified in '3335 F., selecting faculty presenters with expertise in the content area, advertising, issuing certificates, and keeping records.

3. document registered nurse, including RN consumer, participation in the planning and implementation of nursing continuing education activities for which nursing contact hours are awarded. The Nursing Continuing Education Planning Committee shall include, at a minimum, the Nurse Planner and at least one other registered nurse;

4. utilize a program plan which includes a statement of purpose, measurable educational objectives, outline of content, teaching methodology, contact time for each objective, and an evaluation of the attainment of the objectives and of the overall effectiveness of the offering.

5. develop an overall provider unit annual evaluation plan;

6. participate in a Board site visit to validate compliance with provider criteria;

7. maintain participant and program records for a minimum of five years. The record storage system assures confidentiality and allows for retrieval of essential information for each offering including:

a. title of offering;

b. names and addresses of participants and number of contact hours awarded to each;

c. names and titles of planning committee members;

d. name, title, and curriculum vita for each faculty member;

e. starting and ending dates;

f. name and address of facility where offering is held;

g. program plan as specified in §3335.G.4;

h. description of target audience;

i. number of contact hours awarded for the offering;

j. summary of participants' evaluation; and

k. copy of any co-providership agreement, if applicable.

8. provide notification of the availability of each continuing education activity as specified in §3335.H.1.d. The Board Approved Provider number shall be included on all advertising materials and certificates. A copy of each brochure/flyer shall be mailed to the Board prior to implementation of the continuing education activity.

9. evidence of accreditation/approval as a provider unit through the ANCC may be submitted in lieu of evidence of meeting the above criteria. Providers approved through the ANCC are recognized by the Board as approved providers of nursing continuing education;

10. initial application for Continuing Education Provider Approval:

a. an application, on a form supplied by the Board, shall be filed, with the required fee, at least six months in advance of the intent to implement the approved provider mode of operation;

b. present evidence of having implemented three approved continuing education activities within the previous one and one half years, or submit applications for three proposed approved continuing education activities;

c. fees payable upon submission of an application for total provider unit review are \$500 for two years, with \$100 being non-refundable.

11. application for Continuing Education Provider Reapproval:

a. an application, on a form supplied by the Board, shall be filed with the Board, at least 90 calendar days prior to the expiration of approval;

b. should an approved provider status expire, no contact hours shall be awarded for nursing continuing education during the interim period of the expiration date and the date of reapproval of the Board Approved Provider Status;

c. fees payable upon submission of an application for total provider unit review are \$500 for two years, with \$100 being non-refundable;

H. Individual Continuing Education Activities

1. Agencies or individuals that intend to seek provider approval shall file a preliminary application for Board approved provider status and submit the required fee. Individual offerings will only be approved as a pre-requisite for provider status. Upon showing evidence of meeting the following criteria, the continuing education activity may be approved by the Board, for a period of one year:

a. have a consistent, identifiable authority who has the overall responsibility for the execution of educational offerings;

b. have a Continuing Education Nurse Planner with a BSN or higher degree and an active RN license who:

i. has the overall responsibility for planning, implementing, and evaluating the nursing continuing education activity;

ii. accepts full responsibility for the continuing education activity, including, but not limited to:

(a). determining content as specified in §3335.F,

(b). selecting faculty presenters with expertise in the content area,

(c). advertising,

(d). issuing certificates, and

(e). keeping records;

iii. have a nursing continuing education planning committee, including at a minimum, the Nurse Planner and at least one other registered nurse;

iv. the continuing education activity utilizes principles of adult education that includes:

(a). a philosophy of continuing education;

(b). a statement of purpose;

(c). selection of a teaching faculty with expertise in the subject matter that includes registered nurses and/or others with expertise in the nursing related subject matter;

(d). measurable educational objectives;

(e). topical outline of content;

(f). teaching methodology;

(g). contact time appropriate for the content and the objective; and

(h). an evaluation form that includes: attainment of each objective, effectiveness of the speaker(s) and methodology, appropriateness of facilities, relevance of the content to the objectives, and the overall effectiveness of the continuing education activity.

c. maintain participant and program records for a minimum of five years. The record storage system shall

maintain confidentiality and allow for retrieval of essential information for the continuing education activity including:

i. the completed application form;

ii. the continuing education activity approval letter;

iii. names and addresses of participants and number of contact hours awarded to each; and

iv. participant summary evaluation report.

d.i. the following content shall be included on the brochure/flyer and submitted with the Application for Continuing Education Activity Approval:

(a). date;

(b). time;

(c). location;

(d). target audience;

(e). registration fee;

(f). items covered by the fee;

(g). refund policy;

(h). objectives;

(i). agenda;

(j). speaker credentials;

(k). contact hours to be awarded;

(l). the continuing education activity approval statement; and

(m). a statement indicating compliance with the Americans with Disabilities Act (ADA);

ii. a final copy of the brochure/flyer shall be mailed to the Board prior to implementation of the continuing education activity.

2. Application Process

a. The Application for Continuing Education Activity Approval shall be submitted to the Board at least 90 calendar days prior to implementation of the continuing education activity.

b. Fees payable upon submission of an application for review of an offering are \$25 (non-refundable) plus \$5 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

c. The provider shall submit to the Board immediate written notification of any change in an approved continuing education activity.

d. A continuing education activity approved through the ANCC is recognized by the Board as meeting the continuing education requirements for relicensure.

I. Monitoring System. Fulfillment of the requirements for continuing education/nursing practice for relicensure shall be ascertained as follows.

1. Verification of Continuing Education/Nursing Practice. On the application for relicensure, licensees shall sign a statement certifying compliance and agreeing to supply supporting documents upon request. Maintaining documentation of continuing education for at least five years is the responsibility of each individual. Falsification of the renewal application may result in disciplinary action.

2. Audit of Licensees. The Board shall randomly select no less than 3 percent of the licensees for audit of compliance with the requirements for relicensure. Additionally, the Board has the right to audit any questionable documentation of activities. Such shall be governed by the following.

a. The licensee shall submit verification of compliance with continuing education requirements or exceptions for the period being audited. Verification includes legible copies of certificates of attendance, and/or transcripts/grade reports, or documentation of compliance with exceptions as provided in §3335.C.2.

b. Licensees who use the nursing practice option as partial evidence of continued competence shall document nursing practice on the audit form provided by the Board. Said documentation shall be signed by an individual who has practiced in a supervisory, collaborative or peer relationship. The staff of the Board will evaluate exceptions to the standard form of documentation on an individual basis.

c. Verification shall be submitted within 30 calendar days of the mailing date of the audit notification letter.

d. Failure to complete the audit satisfactorily by the specified date or falsification of information will result in the licensure being rescinded to become invalid and may result in disciplinary action against the licensee in accord with the process and procedures provided in LAC 46:XLVII.3407.

e. Failure to notify the Board of a current mailing address will not absolve the licensee from the audit requirement.

3. Audit of Approved Providers. The Board reserves the right to audit Approved Providers to ascertain compliance with the criteria for approval. Upon a finding of a deviation from the criteria for approval, after a hearing before the Board, approval status may be withdrawn or the provider may be placed on probation for a specified period of time. Approval status may be restored upon submission of evidence that the provider satisfactorily fulfills the criterion/criteria in question.

4.a. Appeal. A licensee or a provider who wishes to request reconsideration shall do so within 20 calendar days from the date of receipt of notification of the action of the Board. The appellant shall submit a statement which shows cause why action should not have been taken by the Board. This statement shall be acted upon by the Board within 20 calendar days.

b. A final decision of the Board may be appealed in the 19th Judicial District Court within 30 calendar days of the receipt of the decision.

J. Refresher Course. To be approved by the Board, a refresher course shall meet the following criteria.

1. The sponsoring institution shall have access to adequate facilities, resources and qualified educational staff to implement both the required theoretical and clinical components of the refresher course.

2. The course shall be based on clearly stated objectives which are realistic for the time allotted in the course and appropriate for the course content.

3. The course content shall provide a review of basic nursing care concepts, principles, and skills related to patients across the life cycle.

4. The sponsoring institution shall submit the course syllabus for approval at least 90 calendar days prior to implementation of the course, or submit evidence of approval of the course by another board of nursing or by the ANCC at least 20 days prior to the beginning of the course.

5. Fees payable upon submission of a refresher course for approval are \$250 with \$50 being non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 25:

Inquiries concerning the proposed amendments may be directed, in writing, to Barbara L. Morvant, Executive Director, Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed Rules, in writing, to the Board of Nursing, 3510 N. Causeway Boulevard, Suite 501, Metairie, LA 70002. Written comments must be submitted to and received by the board no later than 4:30 p.m. on November 25, 1998.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education—Nursing Practice**

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

The \$500 one-time increase in operational expenses represents the cost of reprinting the revised rule and distributing copies to interested parties, mostly the providers of nursing continuing education. Licensees can be notified of the revisions via the Board's newsletter, *The Examiner*.

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

No effect on revenue collection is anticipated as a result of these rule revisions. The Board of Nursing generates revenues from the review and approval of continuing education providers, program offerings and refresher courses. These revenues are incorporated into the operating budget of the Board and the \$500 will be provided for through the operating budget.

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

The providers of nursing continuing education will be directly, but minimally, affected by the proposed rule revisions because of the changes in the review and approval of individual offerings. Louisiana registered nurses will not be directly affected since no change is made in the amount of continuing education required for relicensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated negative effect on competition regarding the employment of registered nurses. Minimal competition among providers of continuing education may result from these rule revisions; however, the competition should increase the quality of continuing education.

Barbara L. Morvant
Executive Director
9810#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Dental Operations (LAC 46:LXXXV.710)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.710 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, La. R.S. 37:1518 et seq.

The proposed amendments to §710 define the tasks and procedures within veterinary dentistry which may be performed by properly trained laypeople and registered veterinary technicians while under the direct supervision of a licensed veterinarian. The amendments also provide specific definitions within the practice of equine dentistry and livestock dentistry. The amendments make clear that dental operations which are not defined as permissible for performance by properly trained laypeople and registered veterinary technicians under the direct supervision of a licensed veterinarian must be performed by a licensed veterinarian.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§710. Dental Operations

A. - B. ...

C. In branches of veterinary medicine other than equine dentistry and livestock dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform supragingival scaling and polishing of teeth, making and developing dental radiographs, taking impressions, production of dental models, and the charting of dental pathology. All other dental operations must be performed by a licensed veterinarian.

D. In the branch of veterinary medicine dealing with equine dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform the rasping (floating) of molar, premolar, and canine teeth, and the removal of deciduous incisor and premolar teeth (caps). All other dental operations, including but not limited to the extraction of teeth, amputation of large molar, incisor, or canine teeth, the extraction of first premolar teeth (wolf teeth) and repair of damaged or diseased teeth must be performed by a licensed veterinarian.

E. In the branch of veterinary medicine dealing with livestock dentistry, with proper training and under the direct supervision of a licensed veterinarian, laypeople and registered veterinary technicians employed by a licensed veterinarian may perform rasping (floating) of premolar and molar teeth, and the removal of deciduous incisor teeth (caps). All other dental operations, including but not limited to the extraction of teeth, amputation of incisors, premolars, and molar teeth, and repair

of damaged or diseased teeth must be performed by a licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 25:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on November 24, 1998.

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on November 24, 1998, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dental Operations

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$100). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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

There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.

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

There are no anticipated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director
9810#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code—Commercial Seafood Inspection Program (Chapter IX)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health

and Hospitals, Office of Public Health intends to amend Chapter IX of the State Sanitary Code.

The proposed rule changes are needed in order to clarify existing record keeping requirements for shellfish harvesters and dealers and to better define existing boat sanitation requirements.

Chapter IX. Seafood

9:006. Construction and Cleanliness of Shellfish Boats

All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or bins used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted, in writing, by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. *The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels.* Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties:

A. seizure and destruction of shellfish at violator's expense;

B. bedding of shellfish on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

9:052-3. General Provisions

A. - D. ...

E. *Log Sheet Instructions: A Harvester-Dealer Time/Temperature Log Sheet (see table 1) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Prior to the taking of oysters the harvester shall make the following legible entries:*

1. *boat name/number;*
2. *harvester name/license number;*
3. *harvester signature and date;*
4. *harvesting area/lease number (note: if there is a change relating to harvesting area/lease number, the changes must be documented on log sheet);*
5. *time harvesting begins;*
6. *harvester shall declare whether oysters will be bedded, shucked, relayed or other (explain).*

Upon completion of the taking of oysters and prior to the leaving of the harvesting site, the harvester shall record the time harvesting ended and the total number of sacks harvested.

If the harvester declares sacks of oysters for both shucking and half-shell, those oysters shall be distinguished by placing the appropriate tag on the sack prior to leaving the harvesting area.

The certified dealer information shall be completed as follows.

1. *The certified dealer/agent shall legibly document in the appropriate place on the harvester dealer time/temperature log sheet the temperature of the cooler where oysters are being stored at the time unloading of the harvesting vessel begins.*

2. *The certified dealer/agent shall legibly document in the appropriate place the time when the last sack or container of oysters taken from the harvest vessel is placed in the cooler. This entry must be made immediately upon removal of the last sack or container of shellfish from the vessel.*

3. *The certified dealer/agent shall legibly document in the appropriate place the temperature of the cooler immediately upon removal of the last sack or container of oysters from the harvesting vessel and placement of same under refrigeration.*

4. *The certified dealer/agent shall immediately sign and date the log sheet in the appropriate place.*

Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet depicted in Table 1 may be submitted for consideration and approval to the Office Of Public Health.

* * *

The effective date of these amendments is January 20, 1998. Interested persons may submit questions or written comments to the following address: Charles C. Conrad, Administrator, Commercial Seafood Inspection Program, P.O. Box 60630, New Orleans, La. 70160. He is the person responding to inquiries regarding these proposed rule changes. All question or comments must be received by November 20, 1998.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Commercial Seafood Inspection Program

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

The rule changes are being made for clarification purposes only. There will be no savings or costs to local units. In FY 98/99 the Agency will incur a one-time fee of approximately \$240.00 for publication in the *Louisiana Register*.

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

There will be no effect on revenue collections of State or local governmental units. The rule changes are being made for clarification purposes only.

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

There will be no costs or economic benefits to those directly affected. The rule changes are being made for clarification purposes only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jimmy Guidry, M.D.
Assistant Secretary
9810#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units (Chapter XIII)

In accordance with the laws of the State of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the Louisiana Sanitary Code, the State Health Officer is proposing that the following amendments to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" be made:

1. Amend the listing to include an additional manufacturer and associated plant (model/series), specified as follows:

Manufacturer	Plant Designation	Rated Capacity
Aqua Klear, Inc.	AK500S90	500 gpd
870 N. Bierdeman Road	AK600S90	600 gpd
Pearl, Mississippi 39208	AK750S90	750 gpd
(601) 936-7711	AK1000S90	1000 gpd
	AK1500S90	1500 gpd

The specified changes are in compliance with the requirements set forth in Sections 6.4 through 6.6.2 of Appendix A of Chapter XIII of the Louisiana *Sanitary Code*.

Comments regarding the proposed rule should be addressed to Mr. Bobby G. Savoie, Executive Director, Division of Environmental Health Services, Office of Public Health, Department of Health and Hospitals, 6867 Bluebonnet, Box 1, Baton Rouge, LA 70810.

A public review hearing will be held on November 24, 1998 at 10:00 a.m. at the Division of Environmental Health, 6867 Bluebonnet, Room 230, Baton Rouge, LA to hear comments on the proposed rule.

David W. Hood
Secretary

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

RULE TITLE: Mechanical Wastewater Treatment Plans for Individual Homes—Acceptable Units

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

The only implementation costs would be the publication cost of approximately \$40.

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

There is no effect on revenue collections of state or local governmental units.

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

The consumer will be afforded a wider selection of products—thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition will be stimulated by the presence of the new products. Effect on employment cannot be estimated.

Jimmy Guidry, M.D.
Assistant Secretary
9810#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Hospital Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1994 which established the prospective reimbursement methodology for private hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment

to the reimbursement rates for private hospitals in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Private Hospital Reimbursement Methodology

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

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$2,520,183) for SFY 1998-99, (\$2,595,789) for SFY 1999-2000, and (2,673,663) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

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

The estimated effect on federal revenue collections are approximately (\$5,962,427) for SFY 1998-99, (\$6,141,299) for SFY 1999-2000, and (\$6,325,538) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

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

Hospitals will experience reimbursement rates less than had inflation been funded by approximately (\$8,482,610) for SFY 1998-99, (\$8,737,088) for SFY 1999-2000, and (\$8,999,201) for SFY 2000-2001 with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Intermediate Care Facilities for the Mentally Retarded—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989, which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). The current reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology contained in the October 20, 1989 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private intermediate care facilities care and services for the mentally retarded, under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private intermediate facilities

for the mentally retarded in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology contained in the October 20, 1989 rule for private intermediate care facilities for the mentally retarded to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. Subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Private Intermediate Care Facilities for the
Mentally Retarded—Reimbursement Methodology**

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

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$815,395) for SFY 1998-99; (\$839,856) for SFY 1999-2000, and (\$865,052) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

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

The estimated effect on federal revenue collections are approximately (\$1,929,117) for SFY 1998-99, (\$1,986,991) for SFY 1999-2000, and (\$2,046,600) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

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

Private Intermediate Care Facilities for the Mentally Retarded will experience reimbursement rates less than had inflation been funded by approximately (\$2,744,512) for SFY 1998-99, (\$2,826,847) for SFY 1999-2000, and (\$2,911,652) for SFY 2000-2001 with the implementation of this rule.

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

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Nursing Facilities—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register* Volume 10, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private nursing facilities in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 24, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

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

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$4,176,598) for SFY 1998-99; (\$4,301,896) for SFY 1999-2000, and (\$4,430,953) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

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

The estimated effect on federal revenue collections are approximately (\$9,881,289) for SFY 1998-99, (\$10,177,728) for SFY 1999-2000, and (\$10,483,060) for SFY 2000-2001. However, \$80 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

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

The private nursing facilities will experience reimbursement rates less than had inflation been funded by approximately (\$14,057,887) for SFY 1998-99, (\$14,479,624) for SFY 1999-2000, and (\$14,914,013) for SFY 2000-2001 with the implementation of this rule.

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

The Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state

plan are available at least to the extent that they are available to the general population in the state.

Thomas D. Collins
Director
9810#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Licensing and Insurance Compliance—Regulation 66
(LAC 37:XIII.Chapter 51)

In accordance with LSA-R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by L.R.S. Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B, notice is hereby given that the Commissioner of Insurance intends to adopt the following regulation to require that persons designated as directors, presidents, vice-presidents, or any other person who performs as such in the articles of incorporation of domestic regulated entities will be required to file biographical information with the Commissioner of Insurance for review.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 51. Regulation 66—Requirements for
Officers, Directors, and Trustees of
Domestic Regulated Entities**

§5101. Purpose

A. The purpose of this regulation is to require that officers, directors and trustees of domestic regulated entities, as defined herein, file biographical information with the Commissioner of Insurance for review. The purpose of this review is to determine whether a domestic regulated entity continues to meet minimum licensing standards upon a change in officers, directors or trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5103. Definitions

A. For the purpose of this Regulation the following definitions shall be applicable:

Director—persons designated in the articles of incorporation, by-laws or other organizational documents as such, and persons designated, elected or appointed by any other name or title to act as directors, and their successors.

Domestic Regulated Entity—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the Commissioner. This definition shall specifically include, but is not limited to, stock

and mutual insurers, domestic service insurers, non-profit funeral service associations, reciprocal insurers, Lloyd's plans, fraternal benefit societies, automobile service clubs, vehicle mechanical breakdown insurers, property residual value insurers, animal insurers, health maintenance organizations, non-profit beneficiary organizations and risk indemnification trusts, third party administrators, interlocal risk management agencies or any plan of self insurance providing health and accident or workers compensation coverage to employees of two or more employers.

This term shall not include insurance agents, agencies, managing general agents, viatical settlement brokers or reinsurance intermediary brokers.

Officer—a president, vice-president, treasurer, actuary, secretary, controller, partner and any other person who performs for the domestic regulated entity functions corresponding to those performed by the foregoing officers. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or worker compensation coverage to employees of two or more employers.

Trustee—the trustee of a trust, which provides health and accident or workers compensation coverage to employees of two or more employers.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5105. Review of Officers, Directors and Trustees by Commissioner Required

A. No person shall serve as an officer, director or trustee of a domestic insurer who has not first submitted the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

B. No domestic regulated entity may elect, appoint or otherwise accept an officer, director or trustee an individual who has failed to submit the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5107. Procedure for Requesting Letter of No Objection from Commissioner

A. Each person elected, appointed or who otherwise becomes as an officer, director or trustee of a domestic regulated entity shall, within thirty days of being elected, appointed or otherwise chosen, submit to the Commissioner a request for a letter of no objection regarding his service in that capacity. The request shall be made, in writing, on forms provided by the Commissioner.

B. Each request for a letter of no objection shall include:

1. such biographical information as the Commissioner shall reasonably require to determine compliance with this regulation and the applicable statutes;

2. a statement from the domestic regulated entity indicating the position for which the individual has been elected, appointed or otherwise chosen;

3. a sworn statement from the individual confirming that he has no conflict of interest which would interfere with his service in the position;

4. a copy of the acceptance of trust, oath of office or other such document signed by the individual. The form of this document will be provided by the Commissioner and shall include a statement that the individual agrees to abide by and direct the activities of the domestic insurer in compliance with all applicable provisions of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5109. Conditions for Refusal of Letter of No Objection

A. The Commissioner may refuse to issue a letter of no objection if he finds that:

1. the competence, experience and integrity of the individual is such that it would not be in the best interest of policyholders, members or clients of the domestic regulated entity or of the public to allow the person to serve in the proposed position;

2. the individual has been convicted of or has pled nolo contendere to or participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude or public corruption;

3. the individual knowingly makes a materially false statement or omission of material information in the request for a letter of no objection;

4. for any other reason now or hereinafter as the law may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5111. Waiver of Submission of Biographical Information

A. The Commissioner may waive the requirement that an individual submit biographical information under the following conditions:

1. the individual has served as an officer, director or trustee of a domestic regulated entity for a period of five consecutive years;

2. the individual has received a letter of no objection from the Commissioner within one year of being elected, appointed or otherwise chosen as an officer, director or trustee and no material change has occurred in the biographical information submitted in support of that request;

3. individuals who qualify for a waiver of the submission of the biographical information must submit the document required by §5107.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5113. Scope and Limitations

A. On its effective date, this regulation shall apply to all individuals serving as an officer, director or trustee of a domestic regulated entity and to all individuals nominated or otherwise suggested for such positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

A public hearing on this proposed regulation will be held on Monday, November 30, 1998 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 9 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to John B. Fontenot, Staff Attorney, Department of Insurance, 950 North Fifth Street, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-4673. Comments will be accepted through the close of business at 4:30 p.m., Monday, November 30, 1998.

James H. "Jim" Brown
Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensing and Insurance Compliance—Regulation 66

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

It is anticipated that the costs, if any, to implement Regulation 66 will be minimal to none. The costs associated with this rule, primarily postage costs, will be absorbed by the Department of Insurance's existing budget. There are approximately 500 domestic entities that would be subject to the proposed regulation. Insufficient data are available to determine how many new officers, trustees and directors are appointed, named or elected by those entities in any given year. There will be no effect on local governmental units.

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

No fees would be charged in connection with Regulation 66; therefore, there would be no effect on revenue collections by local or state governmental units.

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

It is not anticipated that Regulation 66 would result in any significant costs or economic benefits to directly affected persons. There are approximately 500 entities that would be

subject to the proposed regulation. There will be minimal costs to these entities associated with providing the necessary biographical information when warranted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that Regulation 66 would have any effect on competition and employment.

Donald J. McLean, Jr. Robert E. Hosse
Assistant Commissioner General Government Section Director
Management and Finance Legislative Fiscal Office
9810#024

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

Hearing Rules (LAC 40:I.Chapter 55)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to repeal in their entirety LAC 40:I.2101 through 2173 and enact rules governing the procedure before the workers' compensation court, LAC 40, Part I, Subpart 2, Chapter 55, to provide for the procedural rules for the workers' compensation court. The proposed rules can be viewed in their entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 and also at the Office of Workers' Compensation Office at the address listed below.

Inquiries concerning the proposed repeal and enactment may be directed to: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804-9094, Attention: Dan Boudreaux, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the Department within 10 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Department within 20 days of the date of this notice.

Garey Forster
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hearing Rules

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

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

those costs directly associated with the publication of these rules. The rules are a recodification of existing procedures and practices, which have not been rewritten since 1990; and will allow for a set of complete and consistent procedures for use by all offices. There is no anticipated impact on local governmental units before the Hearings Section for resolution of disputed w.c. claims.

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

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

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

There will be no cost or economic benefits to directly affected persons or nongovernmental groups. This is simply a recodification of the existing procedures and practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule(s) should not affect compensation among the participants in the workers' compensation system. However, a more accountable and accessible resolution process for disputed workers' compensation claims would create a more productive and cost effective workplace, whether public or private for the increased safety of employees throughout the state.

Garey Forster
Secretary of Labor
9810#041

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of the State Fire Marshal

Amusement Ride Safety
(LAC 55:V.Chapter 25)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1484.3, relative to the authority of the Office of the State Fire Marshal to promulgate and enforce rules and regulations, notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 25. Amusement Attractions and Rides

§2501. Definition of Terms

Amusement Inspection—the official inspection by the Mechanical Safety Manager, or his designee, of a ride or device.

A.N.S.I.—the American National Standards Institute.

Approved—acceptable to the assistant secretary. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the assistant secretary.

A.S.T.M.—the American Society of Testing Materials.

Barrier—a physical obstruction designed and constructed to safely bring a kart to a full stop or guide the kart safely back on the track.

Child—a person 12 years of age and under.

Cone—a tapered cylinder used for marking the apex of the curves.

Containing Device—a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

Course/Route/Defined Area—the designed path the kart will follow.

Existing Kart Tracks Kart—tracks in business prior to January 1, 1997.

Governor—a speed limiting device.

Guardian—a person 18 years of age and over.

Guardian Restriction—a condition placed on an amusement ride or attraction where a passenger must be accompanied on the ride by a guardian.

Guards—a device to protect the public from coming in contact with any rotating chains, belts, hot engines or muffler parts.

Helmet—a covering approved by the Department of Transportation (D.O.T.) to protect the head from impact and injury.

Kart—any mechanically powered vehicle, other than those regulated by the Consumer Products Safety Commission.

Kart Ride—shall include but not be limited to karts, kart track, refueling areas, spectator areas and other areas used in any manner of the kart operation.

MPH—the number of miles the kart may travel in one (1) hour.

New Construction—any new kart tracks which are constructed after January 1, 1997.

Pinching Hazard—any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

Pit Area—the designated area where patrons are loaded and unloaded from karts.

Primary Structural Members—any part of the flume or pool structure that carries or retains any static loads or stress caused by water pressure or structure weight.

Puncture Hazard—any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

Refueling Area—a location remote from any area accessible to the public where the karts are refueled.

Restraining Device—a safety belt, harness, or other device which offers actual physical support, or restraint to the patrons of a kart.

Ride Action—a term which shall be used to describe the movements and/or motions of an amusement ride or attraction which are generated for amusement purposes; and/or the bodily actions or reactions experienced by the passengers which are a result of the movement or motions. Bodily actions or reactions which are a result of the commission of an act or acts of malicious negligence and/or horseplay shall not be construed as resulting from the ride action.

Ride Operator—any person or persons actually engaged in or directly controlling an amusement ride or attraction.

Rope, Wire Rope and Cable—are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

Roll Bar—a metal frame designed to extend above the patron's head, support the weight of the kart and patron, and protect the patron should the kart overturn.

Safety Retainer—a secondary safety wire, rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

Safety Walls—that part of the water flume designed to keep a slider within the geometric confines of the flume.

Serious Injury—death or injury to a member of the public which requires immediate in-patient overnight hospitalization incurred during the operation of any amusement ride.

Splash Pool—a landing pool at the end of the flume from which bathers exit to the deck.

Splash Pool Decks—those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

Stress—force per unit of area.

Track—the physical surface on which the kart operates.

Tread Contact Surface—foot contact surfaces of ladder, step, stair, or ramp.

Water Amusement Ride—an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

Water Flume—a sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2503. Administration

A. The Office of the State Fire Marshal which administers the provisions of R.S. 40:1484.1 et seq. relating to the Amusement Ride Safety Law, is located at 5150 Florida Blvd., Baton Rouge, LA 70806.

B. The following Nationally recognized standards are adopted and used in the formulation and enforcing of these rules and regulations; should there arise a conflict between these standards and R.S. 40:1484.1 et seq. or the rules and regulations, the provisions of R.S. 40:1484.1 et seq. and/or the rules shall apply:

1. ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (approved July 15, 1994; published September 1994);

2. ASTM F747-95 Standard Terminology Relating to Amusement Rides and Devices (approved April 15, 1995; published June 1995);

3. ASTM F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (approved December 15, 1993; published February 1994);

4. ASTM F846-92 Standard Guide for Testing Performance of Amusement Rides and Devices (approved May 15, 1992; published July 1992);

5. ASTM F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (approved January 15, 1993; published March 1993);

6. ASTM F893-87 Standard Guide for Inspection of Amusement Rides and Devices (approved May 29, 1987, reapproved 1995; published July 1987);

7. ASTM F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994);

8. ASTM F1193-95 Standard Practice for An Amusement Ride and Device Manufacturer Quality Assurance Program (approved January 15, 1995; published March 1995);

9. ASTM F1305-94 Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses (approved April 15, 1994; published June 1994);

10. NFPA 101, Edition 1997, Life Safety Code; and

11. NFPA 70, Edition 1996, National Electrical Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2505. Inspections

A. Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with R.S. 40:1484.1 et seq. and/or these rules, such units shall be taken out of service and clearly marked with a red tag reading *Out of Service*; provided, however, such defects do not jeopardize the safety of the entire ride.

B. The assistant secretary or his designee, upon presenting credentials to the ride owner/operator, is authorized without prior notice to inspect and investigate at reasonable times, and within reasonable limits and manner, any area where amusement rides or amusement attractions are assembled or are in use.

1. Inspections shall include, but are not limited to, a review of necessary documents, observation of and/or examination of the ride assembly or set up.

2. Inspection of the ride shall include, as a minimum, foundation, blocking, fuel containers, mechanical and electrical condition and safe operation of the ride.

3. Amusement rides/attractions shall be operated in accordance with the manufacturer recommended restrictions and limitations, such as, but not limited to height, weight, age or passenger placement. In the event the manufacturer has not provided such recommended restrictions, such restrictions and limitations must be established by the operator and shall be submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2507. Prohibited Use

A. The assistant secretary shall order in writing, a cessation of operation of an amusement ride or attraction, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the assistant secretary.

B. No person shall use or permit to be used, an amusement ride or attraction which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

C. During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens an amusement ride or attraction, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operating condition.

D. An amusement ride or attraction which is exposed to wind or storm with lightning or wind gust above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

E. If the inspector finds that an amusement ride or attraction presents an imminent danger, to life, injury, mechanical/electrical failure, he will attach to such ride a Cessation Order tag and the amusement ride or attraction shall not be used until the ride is made safe to the satisfaction of the assistant secretary and the tag has been removed by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2509. Medical and First Aid

A. The operator shall ensure the availability of medical aid. In the absence of an infirmary, clinic, or hospital used for the treatment of an injured person, within a ten mile radius of the amusement rides and attractions, the operator shall ensure that a person or persons shall be trained to render first aid. First aid supplies recommended by the American Red Cross' *Anatomy of a First Aid Kit* obtainable from the Office of the State Fire Marshal or the local Red Cross office, shall be readily available.

1. The operator shall have conspicuously posted at the park, carnival, fair or festival office, the telephone numbers and locations for physician, hospital, ambulance service and local fire department to be called in the event of an emergency.

2. The operator shall within twenty four (24) hours of knowledge of the event, report to the assistant secretary any amusement ride or attraction incident which results in serious injury.

3. This report shall describe the nature of the incident, name and address of the affected individual, and a description of the injury, as well as the name and location of the facility where the individual was treated.

4. An incident associated with an amusement ride or attraction which immediately result in a fatal injury shall be reported to the assistant secretary in person or by phone within twelve (12) hours.

5. After determination and consultation with the operator, the assistant secretary may require the scene of such incident to be secured and not disturbed to any greater extent than necessary for the removal of the deceased or injured person or persons. If the ride is removed from service by the assistant secretary an immediate investigation shall be completed and the ride shall not be released for repair and operation until after a complete investigation has been made by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2511. Inspection Fee and Permit

A. A copy of the Certificate of Inspection issued by the assistant secretary shall be continuously displayed on the ride when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicates of such permits shall be issued by the assistant secretary for a fee of \$7.50 per each permit.

B. The operator of an amusement ride or attraction shall notify the assistant secretary when ownership is transferred to another. In such case, the new operator shall obtain a new permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2512. Operation of Amusement Rides or Attractions

A. The ride operator shall be at least 16 years of age.

B. The operator of an amusement ride or attractions, exclusive of water amusement rides and karts, shall operate the amusement ride or attraction in compliance with the standards adopted in Section 2503.B of these rules, or the equivalence thereof as submitted to and approved by the assistant secretary.

C. The operator shall refuse a passenger seeking admission to an amusement ride or attraction if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

D. The operator of an amusement ride or attraction shall deny entry to any person, if in the opinion of the operator the entry may cause above normal exposure to risk of discomfort or injury to the person who desires to enter, or if in the opinion of the operator the entry may jeopardize the safety of other patrons or employees.

E. A suitable number of non-combustible trash collection containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

F. All parts of amusement ride and temporary structures used by passengers or customers shall be maintained in a clean condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2513. Maintenance and Inspection Records

A. The operator shall retain, for a period of twelve (12) calendar months, maintenance and inspection records for each amusement ride in accordance with the following ASTM Standards listed in Section 2503.B, F770-93, F853-93, F893-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2515. Rebuilt and Modified Amusement Rides/Attractions

A. If an amusement ride is materially rebuilt or modified, the operator shall notify the assistant secretary and submit for approval documentation equivalent to that required in ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994) on work that was done.

B. The ride shall be reidentified, by the operator, by a different name or identification number or both.

C. The ride shall be subject to all other provisions of all applicable rules, regulations and statutes as if it were a new ride not previously used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2517. Assembly and Disassembly

The operator of an amusement ride shall comply with the construction manual, or the equivalency thereof as determined by the assistant secretary, for the assembly and disassembly of the ride. The construction manual, or the equivalency thereof as determined by the assistant secretary, shall be kept with the amusement ride attraction and shall be available for use by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2519. Brakes and Stops

A. On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

B. If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in accordance with the manufacturer's design, or the equivalency thereof as determined by the assistant secretary.

C. On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2521. Internal Combustion Engines

A. Internal combustion engines for amusement rides or attractions shall be capable of handling the assigned load.

B. Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

C. Where an internal combustion engine for an amusement ride or attraction is operated in an enclosed area, the exhaust fumes shall be discharged to outside the enclosed area, as required by NFPA 70, National Electrical Code, 1996 Edition.

D. Internal combustion engines for amusement rides or attraction shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure in accordance with NFPA 70, National Electrical Code, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2523. Wire Rope

A. Wire rope on amusement rides or attractions shall be thoroughly examined weekly. Wire rope found to be damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag or as approved by the assistant secretary. Any of the following conditions shall be cause for rope replacement:

1. in running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand of one rope lay;

2. in pendants or standing ropes, evidence of more than one broken wire in one rope lay;

3. abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires;

4. corrosion;

5. kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure;

6. heat damage;

7. reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1-1/4 inch to 1 1/2 inches;

8. birdcaging or other distortion resulting in some members of the rope structure carrying more load than others; or

9. noticeable rusting or development of broken wires in the vicinity of attachments. When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

B. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride or attraction shall not be lengthened or repaired by splicing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2525. Hydraulic Systems

A. Hydraulic systems and other related equipment used in connection with amusement rides or attractions shall be free of leaks and maintained to ensure safe operation at all times.

B. An amusement ride or attraction which depends upon hydraulic pressure to maintain safe operation shall be

provided with a positive means of preventing loss in hydraulic pressure that could result in injury to passengers.

C. Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passengers or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2527. Pressure Vessels, i.e., Vacuum Tanks

A. Air compressor tanks, storage tanks and appurtenances used in connection with amusement ride or attractions shall be designed and constructed in accordance with Section VIII of the ASME Code Edition and Addendum mandatory at time of construction; and shall also be equipped and maintained to ensure safe operation.

B. Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code, 1995 Edition, 1996 Addendum, and the 1997 Addendum.

C. Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a National Board Commissioned inspector, registered with the State of Louisiana to conduct these inspections and a record of each inspection shall be kept.

D. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2529. Protection Against Moving Parts

A. The interior and exterior parts of all amusement rides or attractions with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws, or other projections which might cause injury.

B. Interior parts of passenger carrying apparatus upon which a passenger may be forcibly thrown by the action of the ride or attraction shall be adequately padded.

C. Amusement rides or attractions which are self-powered and which are operated by a passenger shall have the driving mechanism guarded and the guard secured in place as to prevent passengers from gaining access to the driving mechanism.

D. Handholds, bars, footrest and other equipment as may be necessary for safe entrance and exit to and from amusement rides or attractions shall be provided and maintained in a safe condition. Such equipment shall be of sufficient strength to support the passengers.

E. Restraining, containing or cushioning devices or a combination of these shall comply with this subsection and be provided and used on all amusement rides where:

1. centrifugal and other forces mechanical malfunction could unseat or dislodge a passenger; or
2. inadvertent movement of a passenger could cause injury to the passenger or any other passenger; or
3. the speed of the ride presents a hazard to a passenger.

F. Restraining, containing or cushioning devices shall be designed, constructed, installed and maintained so as to provide safe support for passengers.

G. Anchorage for the restraining, containing or cushioning devices shall have a strength at least equal to the strength of such devices.

H. All passenger restraints, cushioning or containing devices shall be provided and maintained in accordance with the manufacturers designs and recommendations and shall not be modified without the approval of the manufacturer and the assistant secretary.

I. All exposed mechanical parts shall have guards installed to prevent possible personal contact while in operation. Any safeguarding means shall not be used that would cause injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2531. Electrical Equipment

A. The National Electrical Code, NFPA Number 70, 1996, is hereby adopted as the standard for application in the enforcement of the provisions of R.S. 40:1484.1, et seq. This document may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

B. All electrical wiring and equipment used for amusement rides or attractions or for lighting shall be installed and maintained in accordance with the National Electrical Code, NFPA Number 70, 1996.

1. The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

2. All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

3. Electrical wiring and equipment located outdoors shall be of such quality and construction or protection that exposure to weather will not interfere with its normal operation.

4. Elevated power lines crossing access or other roads within the proximity of an amusement ride or attraction shall be so suspended as to provide a vertical clearance of at least fifteen feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement park, whichever is greater. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2533. Temporary Wiring

A. If temporary wiring is used it shall be in compliance with the applicable section of the National Electrical Code, NFPA Number 70, 1996.

B. Temporary electrical power and lighting installations shall be permitted during the period of construction and remodeling of buildings, structures, equipment or similar activities.

C. Temporary electrical power and lighting installations shall be permitted for a period not to exceed 90 days.

D. All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2535. Grounding

All grounding shall comply with Article 525 of the National Electrical Code, NFPA Number 70, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2537. Construction

A. All amusement rides or attractions shall meet the requirements of the ASTM Standard for the Design and Manufacture of Amusement Rides (F1159-94) and the NFPA Life Safety Code 101, 1997 Edition.

B. Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

C. The ride operator shall maintain all of the information as required by the following ASTM Standards; F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (July 1994), F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January 1993) and make it available to the assistant secretary, upon request. If this information is not available it shall be developed by the owner/operator and submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2539. Means of Access and Egress

A. Safe and adequate means of access and egress from amusement rides or attractions shall be provided as required by NFPA Life Safety Code 101, 1997 Edition and the ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (April 1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2541. Walkways and Ramps

A. Walkways and ramps shall be erected with a slope not greater than one in ten except that when nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2543. Fire Prevention

A. All buildings over one story in height shall be constructed or protected in accordance with NFPA 101-Chapter 8, 1997 Edition.

B. All buildings located within 20 feet of lot lines or within 20 feet of other buildings on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

C. Fabrics constituting part of an amusement ride or attraction shall be flame resistant to meet the provisions of NFPA 101, Chapter 8, 1997 Edition.

E. Approved fire extinguishers in accordance with NFPA 10, 1994 Edition shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

1. at or near all operating gasoline or diesel engines;
2. at or near all amusement ride or attraction stands, excluding water flumes; and
3. at each food handling booth where cooking is done.

F. Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

G. Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in containers as prescribed by NFPA 30, 1996, Chapter 4. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet of any area where such liquids or gases are stored, or are transferred from one container to another. Signage shall be posted stating *No Smoking*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2545. Water Flumes, Structural Design

A. Structural Design. The flumes' structural design and materials shall be in accordance with ASTM Standard F1159-94 Practice for the Design and Manufacture of Amusement Rides and Devices (April, 1994). The flumes and pools shall be watertight and their surfaces shall be smooth and easy to clean.

B. All stairways used as part of a slide shall be constructed to meet the requirements of NFPA 101, 1997 Edition.

E. Visitor and Spectator Areas: The space used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

F. Typical Posted User Safety Warnings for Slide Operational Use:

1. no running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels;
2. no diving from flume at any time;
3. never use this slide when under the influence of alcohol or drugs;
4. only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times;
5. never form chains unless authorized by slide manager or by posted instructions;
6. keep hands inside the flume;

7. leave the landing pool promptly after exiting from slide; and

8. keep all glasses, bottles and food away from pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2547. Pumps

A. Pumps and motors shall be provided to circulate the water in the splash pool and slide.

B. Pump units shall be accessible for inspection and service in accordance with NFPA 70, 1996 Edition.

C. All motors shall have thermal overload protection in accordance with NFPA 70, 1996 Edition..

D. The motor frame shall be properly grounded, in accordance with the NFPA 70, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2549. Water Quality

A. Water quality shall be maintained to meet the requirements of the Louisiana Department of Health and Hospitals and the requirements of ASTM Standard F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2551. Electrical Safety and Lighting

A. The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, shall be used for the wiring and grounding of all electrical equipment associated with a flume and for the grounding of all metallic appurtenances.

B. Whenever flumes are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2553. Operation, Water Flumes

A. The manufacturer or the general contractor of the flume shall provide the operator with a detailed written operational manual, or guide, for all phases of operations and normal maintenance of each component of the system as per ASTM Standards F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993)

B. The guide shall be kept in a secure area and made available to each employee or inspector as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2555. Responsibility of Flume Operators

A. Flume operators shall meet the requirements of ASTM Standard F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2557. Emergency Procedures

A. A written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan.

B. The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

C. Each Water Flume location shall have available the following first-aid supplies:

1. first-aid kit, a standard 24-unit kit stocked and readily accessible for use;
2. a stretcher and blankets;
3. a standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries; and
4. an area or room shall be set aside for the emergency care of casualties.

D. All water flume locations shall have posted by the phones a list of current emergency numbers, to include the nearest available ambulance service, hospital, rescue squad, police assistant secretaries, and fire department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

§2559. Go-Kart Rules and Regulations

A. Kart Design

1. The speed of each kart shall be limited or governed to not exceed the following: The maximum adult track speed shall not exceed 25 mph and kiddie track speed shall not exceed 10 mph. Speeds other than defined will require approval from the assistant secretary.

2. Whenever the design of a kart enables the readjustment of the governor speed, the means of adjustment shall not be accessible to the patron of the kart.

3. The seat, backrest, seat belts, and leg area of every kart shall be designed to retain the patron inside the kart in the event of a collision or overturn.

4. Karts shall be fitted with a shoulder harness and/or belt restraint system as required by the kart manufacturer and acceptable to the assistant secretary.

5. Karts shall be provided with sufficient guards to prevent anyone from coming in contact with the drive chains, belts, hot mufflers, engines or rotating parts.

6. Karts shall have bumpers, wheels and body parts that are comparable to that installed by the original manufacturer.

7. Kart wheels shall be enclosed, guarded or operated so the wheels of a kart cannot interlock with or ride over the wheels of another kart.

8. The kart steering wheel, hub and all exposed components shall be padded or helmets and face shields worn to minimize the risk of injury to any patron in the event of a collision or overturn.

9. The kart fuel tank shall be designed and mounted to prevent it from damage or leaking in the event of a collision or overturn.

10. Headrests or roll bars on a kart shall extend above the patron's head and be capable of supporting the weight of the kart and patron as required by the manufacturer. In the event the manufacturer fails to recommend or address this area the karts shall be equipped with roll bars acceptable to the assistant secretary.

11. Karts shall be provided with impact absorbing bumpers, or energy absorption body parts.

12. Karts shall have sufficient muffler systems installed to prevent any noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

13. The brake and throttle controls on a kart shall be clearly identified. The brake and throttle controls shall be foot operated and return automatically to a non-operational position when released.

14. Karts shall be individually identified either by numbers, alpha characters or other markings acceptable to the assistant secretary.

B. Track Design

1. The design of the kart track shall be consistent with the kart manufacturers' recommendations. In the absence of any manufacturers' recommendations, the track design shall comply with the current industry standards acceptable to the assistant secretary.

2. Cones may be used on tracks as a warning device and to notify the patron of upcoming changes in the track conditions and are used for the following specific reasons:

- a. to notify drivers of impending course changes;
- b. to outline the track and mark key points such as the apex of the turns; and
- c. as a warning device to notify the drivers of the severity of upcoming turns by the location and number of cones prior to the turn;
- d. cone placement:
 - i. on the inside corners; one cone to alert the driver and locate the apex;
 - ii. on the outside corner; two cones to identify minor course changes;
 - iii. three cones to identify course changes which requires a slower speed to safely negotiate the turn; and

iv. four and five cones to identify areas where both slower speed and applied braking will be necessary to safely complete the course.

e. once the proper cone locations have been located for the track, these locations shall be marked with high visibility paint under the proper location of the cone. This will alert racing attendants to the correct location of the cones when they are displaced.

3. The track shall have a hard smooth surface.

4. The track shall provide road grip sufficient to enable the kart to be driven safely at maximum speed and shall be free of ruts, holes, bumps, water, oil, dirt, or other debris.

5. Track surface and design not covered by manufacturers' recommendations or in the absence of such recommendations must be approved by the assistant secretary.

6. The width of the track must be a minimum of 16 feet and maximum of 25 feet. The turns on an oval track must be a minimum of five feet wider than the straight away. The minimum radius of the turns is 15 feet.

7. The track shall have signs that indicate one direction of travel and no U-turns permitted. These signs shall be posted at various locations around the track perimeter. Signs, signal lights and other safety equipment shall be maintained in operational condition at all times when open to the public.

8. The track shall have no intersecting course configurations. Pit entrances and exits are allowed.

9. The shoulder shall be level with the track and marked with cones. White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of the kart track except where barriers are provided along the inside and outside edges of the kart track.

10. Barriers shall be designed to prevent a kart from overturning or running over or under the barrier and designed to bring a kart safely to a full stop or guide the kart safely back onto the track.

a. Barriers shall be placed:

- i. between tracks or sections of tracks within 30 feet of each other and constructed of materials that will not readily ignite;
- ii. between the track and obstructions or hazards located with 30 feet from the track;
- iii. along all non-access and non-egress edges of the pit area; and
- iv. between the track and any area accessible to spectators.

11. Fencing shall be at least 48 inches in height. The fence and gates shall be designed so a four-inch sphere cannot pass through any opening. Fencing shall be located around every kart track.

12. Pit area for loading and unloading must be separated from the track by a fence or barrier. The pit area must be the same surface as the track and have separate entrance and exit lanes.

13. Electrical installations must comply with the National Electrical Code (NFPA-70, 1997 Edition) and include lighting for night operation, if operations are conducted after dark.

14. Proposals for construction of new kart tracks in the State of Louisiana shall be submitted to the Office of the State Fire Marshal, Mechanical Safety Section and other appropriate

agencies before beginning construction. The following information shall accompany any application or proposal and shall include but not be limited to:

a. One copy of site plans and all accompanying documentation.

b. A copy of all required local, parish or state permits such as but not limited to business license, electrical, building, or plumbing permits. When all inspections are completed by local, parish or state agencies one copy of the completed inspection report shall be sent to the Louisiana State Fire Marshals Office, Mechanical Safety Section for enclosure in the facility's permanent file. Any alterations or modifications shall be approved prior to beginning work as required for new construction.

15. Fire Protection

a. Kart tracks shall be equipped with ABC dry chemical fire extinguishers with a minimum of five pounds capacity as provided for in National Fire Protection Association-10. Standard for Portable Fire Extinguishers, 1997 Edition, Chapter 1.

b. A fire extinguisher shall be readily accessible from all areas of the track and one fire extinguisher shall be kept in the pit and refueling area. The fire extinguisher location shall be prominently marked, easily accessible and approximately 36 inches above the ground.

16. Refueling Area

a. Karts shall be refueled in a designated location remote from any area accessible to the public. Fuel storage and transfer cans must meet the requirements of NFPA 30, 1997 Edition. Any fuel spillage must be promptly cleaned and prevented from running onto the track or any area accessible to the public. Warning signs must be prominently displayed stating that smoking is prohibited in the refueling area.

b. All kart motors shall be turned off during refueling.

17. Track Operation

a. Karts may only be operated by patrons within height limits set by the manufacturer. If no height limit is set by the manufacturer, patrons shall be at least 52 inches tall and have a leg length that can reach the brake and throttle controls from the patron's seat in order to drive an adult kart.

b. Only patrons less than 52 inches in height with a leg length sufficient to reach the brake and throttle controls from the patron's seat shall be permitted to operate a kiddie kart.

c. Adult karts and kiddie karts shall not be operated on the same track at the same time.

d. No kart shall be operated during a lightening storm, a period of tornado warning, fire, riot or other civil disturbance in the area of the track or in an adjacent area. If any of these events occur while the track is in operation, patrons shall be unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

e. Kart tracks shall be monitored during operation either directly by attendants, or indirectly by electronic visual and audio means acceptable to the assistant secretary.

f. A kart losing oil or fuel shall immediately be removed from the kart track. All karts must be stopped immediately and the track cleaned prior to restarting.

g. When the kart manufacturer recommends, or they are deemed necessary by the assistant secretary, the use of helmets must be provided for all patrons to use. Helmets, if used, must fit the patron's head correctly. All helmets must be cleaned with disinfectant twice daily.

h. Karts designed for single or multiple riders shall use a shoulder harness and/or belt restraint system as required by the kart manufacturer. When deemed necessary for additional protection of kart patrons the assistant secretary may require the addition and use of a shoulder harness or belt restraint system on all karts.

i. Patron's loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by kart patrons at all times during operation of a kart.

j. Patrons are prohibited from smoking during kart operation.

k. Track attendants shall not allow patrons to leave their karts either in the pit or on the track unless assisted by track or pit attendants.

l. The kart track operator shall post a conspicuous warning sign at the entrance to the kart track. The sign shall be at least two feet by two feet in sharply contrasting colors and shall contain the following warning:

Persons with the Following Conditions Are Prohibited from this Ride:

1. heart conditions;
2. back or neck ailments; or
3. pregnancy.

n. The kart track operator must have a sign posted at the ticket window or track entrance and in the pit area that conveys, at a minimum, the following rules and regulations.

i. The patron height limit specified by the manufacturer, or no less than 52 inches for adult karts and no more than 52 inches for kiddie karts.

ii. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of the kart unless track attendant is present.

iii. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by kart patrons at all times during operation of kart.

iv. No smoking in kart or pit area.

v. Persons under the influence of intoxicants will not be allowed to operate karts.

vi. The use of private karts or vehicles will be prohibited on kart track when they are open to the public.

C. Record Retention and Inspection

1. Daily inspections must be made on all karts prior to operation. Inspections shall include but not be limited to: tires, padding, steering wheel, frame welds, spindles, axles, seat or shoulder belts, roll bars, gasoline tank condition, brake and gas pedal operation, and other parts as recommended by the kart manufacturer or the assistant secretary.

2. Weekly, monthly and annual inspections shall be performed as recommended by the kart manufacturer or the assistant secretary.

3. A track operation manual shall be written in the English language and available for review by the assistant secretary.

4. The kart track shall have and demonstrate an emergency plan for evacuation of patrons and employees in the event of an emergency. This shall include but not be limited to: fires, kart collisions, dangerous weather, obstructions on the track, handling intoxicated patrons and emergency first aid.

5. The kart track shall maintain records of all required inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through the close of business November 20, 1998.

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Amusement Ride Safety**

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

The implementation costs were provided in the original legislation (SB 101) for the inspection of Amusement Rides and Attractions, in which approximately \$400,000 was budgeted for start-up costs of doing inspections. Future costs will be recovered by fees collected in accordance with the Law.

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

The source of funds will be self-generated from the fees (established in SB 101) from the inspection of Amusement Rides and Attractions. Other self-generated revenues generated by the Office of State Fire Marshal will assist in the funding of these Rules.

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

The Amusement Ride owners and operators will incur the costs related to the inspection of the Amusement Rides/Devices. The General Public (as users of these attractions) will receive the benefit of an increase in the safety of the rides.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have no estimated effect on competition and employment.

Lt. Col. Ronnie Jones
Acting Undersecretary
9810#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Fire Protection and Sprinkler Licensing
(LAC 55:V.Chapter 30)

In accordance with the provisions of R.S. 49:950, et seq. and R.S. 40:1484.3, relative to the authority of the State Fire

Marshal to promulgate and enforce rules, relative to the regulation of Amusement Attractions and Rides, notice is hereby given that the Office of the State Fire Marshal intends to amend and adopt the following rules.

Title 55

PUBLIC SAFETY

Part V. Administrative Rules on Fire Protection

Chapter 30. Portable Fire Extinguisher, Fixed Fire Extinguisher, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment Rules

§3001. Purpose

A. The purpose of these rules is to regulate the activity of leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1625 et seq. and 1651 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3003. Applicability of Rules

A. These rules shall apply to all businesses and persons engaged in the activity of leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems and/or hydrostatic testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3005. Exceptions

A. These rules shall not apply to businesses and/or persons engaging in the activity of planning, certifying, installing or servicing fire detection and alarm equipment and/or systems in one or two family dwellings which is governed by R.S. 40:1662.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3007. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of L.R.S. 40: 1625 et seq. or 1651 et seq. or these rules must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or business involved to assure that the Office of the State Fire Marshal has a correct address for the person or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3009. Certificate, License, Permit, Required

A. Each firm engaged in the activity of installing, inspecting, maintaining or servicing portable fire extinguishers or planning, certifying, installing, inspecting, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a certificate of registration in the class(es) of certification desired in accordance with LAC 55:V:3015 prior to conducting any such activity in this state.

B. Each business engaged in the activity of planning, certifying, installing, inspecting or servicing fire protection sprinkler systems shall employ a qualifying person or certificate holder and obtain a permit for such in accordance with R.S. 40:1625 et seq. prior to conducting any such activity in this state.

C. Each person or employee, except apprentices, engaged in the activity of installing, inspecting, servicing portable fire extinguishers or planning, certifying, installing, inspecting or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a license in the class and/or classes of licensure desired in accordance with LAC 55:V:3017 prior to conducting any such activity in this state.

D. Each apprentice, as defined in LAC 55:V:3013, engaged in the activity of installing, inspecting or servicing portable fire extinguishers or installing, inspecting or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a permit in accordance with LAC 55:V:3019 prior to conducting any such activity in this state.

E. Any business and/or persons described in §3009.A-D, which have not applied for and received a current and valid certificate of registration, license or permit shall immediately cease such activities. The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3011. Qualifying Persons

A. Each certified business or each business seeking certification, other than portable fire extinguisher and pre-engineered fixed fire extinguishing system firms, shall employ at least one qualifying person. No systems shall be planned, installed or submitted to this office for review if the business does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall only qualify the business for which he is employed. A contract employee cannot be used to fulfill this requirement except as provided by §3011.F.

C. The qualifying person shall be primarily and regularly engaged in the planning, supervision of the installation and

servicing of fixed fire extinguishing, fire alarms, and/or sprinkler equipment and/or systems.

D. If the qualifying person is a professional engineer currently registered with the Louisiana Board of Professional Engineers, the following endorsements shall be required for each discipline:

1.a. fire protection sprinkler systems—Mechanical Engineer;

b. engineered fixed fire extinguishing systems—Mechanical Engineer;

c. fire alarm systems—Electrical Engineer;

2. a Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline.

E. At anytime that a business finds itself without a qualifying person, such businesses shall only be able to continue certifying, inspecting or servicing existing contractual obligations but shall not be engage in any new work involving certifying, inspecting or servicing of fixed fire extinguisher equipment and/or systems, or fire alarm and detection equipment and/or systems, or fire protection sprinkler equipment and/or systems until a qualifying person has been employed as provided herein.

F. This office shall be notified in writing within ten (10) working days anytime a qualifying person's employment is terminated for any reason.

G. A business who loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have forty-five (45) days to hire another qualifying person. If after the loss of such an employee, a replacement can not be found, within the forty-five (45) 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 (6) months. Not later than thirty (30) days prior to the expiration of the six month period, the business can request an additional six (6) month period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one (1) additional six (6) month period during which a business may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within ten (10) working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license or permit as required by these rules. The examination requirement for licensure or permitting will be waived for these employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1657.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3013. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Activity—the leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, installing, inspecting, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems pursuant to R.S.40:1625 et seq. and R.S.40:1651 et seq.

Apprentice—a person to whom a permit has been issued pursuant to R.S. 40:1651 et seq., to perform various acts of service or installation while under the direct supervision of and accompanied by an employee of the same certified firm, and licensed under the same statutes to perform such acts.

Branch Office—a location other than firm's main office, from which the acts authorized by the certificate of registration are performed.

Business—for the purpose of these rules the term business shall mean 'firm' as used in R.S.40:1651 et seq. and 'fire protection sprinkler contractor' as used in R.S. 40:1625 et seq.

Certificate of Registration—that document issued by the State Fire Marshal to a person, firm, corporation, or association authorizing same to engage in such activities as defined in LAC 55:V:3015 B.

Certify—to attest to the proper charging, or filling, or inspecting, or installing, or maintaining, or recharging, or refilling, or repairing, or servicing, or testing of portable fire extinguishers, fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems.

Class A Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of installing or servicing portable fire extinguisher and hydrostatic testing not required by the U.S. Department of Transportation (U.S. DOT).

Note: Hydrostatic testing required by the U.S. DOT requires a *Class E Certificate*, as defined in §3013.

Class B Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, installing or servicing pre-engineered fixed fire extinguisher systems and those activities specifically authorized by a *Class B-1 Certificate*.

Class B-1 Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of certifying, installing or servicing pre-engineered fixed fire extinguisher systems containing wet or dry chemical agents within a kitchen ventilation system.

Class C Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, installation, inspecting, servicing, and certifying of engineered or pre-engineered fixed fire extinguisher systems.

Class D Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, installation, servicing, supervising and certifying of fire detection and alarms systems and those activities specifically authorized by a *Class D-1 Certificate*.

Class D-1 Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, installing, supervising and certifying fire detection and alarm systems in structures or

occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

Class E Certificate of Registration—that document issued by the State Fire Marshal that authorizes a firm to engage in hydrostatic testing of fire extinguishers manufactured in accordance with the specification and procedure of the United States Department of Transportation.

Contact person—that individual designated by a business to act as liaison with the Office of the State Fire Marshal.

Department of Transportation (DOT) Cylinder—all fire extinguisher cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation.

Note: DOT regulations place 21 year age restriction on drivers who transport certain DOT regulated cylinders.

Employee—one who works for a firm as defined by LSA-R.S.40:1652(1) in return for financial or other compensation. However, the term shall include the following.

a. For the purposes of the licensing requirements, contained in R.S. 40:1653(C)(1) employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered *employees* if he or she is or will be physically certifying, installing, inspecting or servicing portable fire extinguishers or planning, certifying, installing, inspecting or servicing fixed fire extinguisher systems and/or equipment or in planning, certifying, installing, inspecting or servicing fire detection and alarm systems and/or equipment or doing hydrostatic testing.

Engineered Systems—special systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines

Fire Protection Equipment/Systems—as governed by R.S. 40:1651 et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire extinguishing systems (pre-engineered or engineered) and/or fire alarm and detection systems.

Fire Protection Sprinkler Systems—as defined in R.S. 40:1625(5), including but not limited to water sprinkler systems, standpipes, and hose stations, and shall include the provisions of NFPA 13, 13D, 13R, 14, 20 and 25.

Hydrostatic Testing—pressure testing cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

Inspection—the act of checking and certifying portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection alarm equipment and/or systems and fire sprinkler systems for functional performance of equipment/system in accordance with all applicable engineered specifications, manufacturer's specifications and adopted codes and standards.

Installation—the initial placement of a portable fire extinguisher, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems or an extension, or alteration after initial placement.

License—that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by LAC 55:V:3017 and 3025.

Maintenance—repair service, including periodically recurrent inspections and tests, required to keep fire protection equipment/systems and fire protection sprinkler systems and their components in an operable condition at all times, together with replacement of the equipment/system or of its components, when for any reason they become undependable or inoperable.

Nationally Recognized Testing Laboratory—a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA—the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Non-Conforming—a system or component of a system which does not comply with applicable NFPA codes or standards.

Non-Required—a system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Office—Office of State Fire Marshal.

Permit—those documents issued by the State Fire Marshal pursuant to LSA-R.S. 40:1625 et seq. or LSA-40:1651 et seq.

Person—a natural individual, including any owner, manager, officer, or employee of any business.

Pocket License or Permit—that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee or permittee, authorizing the employee to engage in the activities as defined by LAC 55:V:3017, 3019, 3025 and 3027.

Pre-Engineered Systems—packaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

Portable Fire Extinguisher—a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

Qualifying Person—the employee of a business who is certified at the National Institute for the Certification of Engineering Technologies (NICET) Level III or has passed the written examination required to be certified at the NICET Level III in Fire Protection in the appropriate discipline or a professional engineering currently registered with the Louisiana Board of Professional Engineers with the appropriate indorsement as provided by §3011.D.

Recharge—the replacement of the extinguishing agent, the expellant or both.

Semi-Portable—any portable fire extinguisher mounted on skids or wheels.

Service—the act of repair or replacement of fire protection equipment/systems or fire protection sprinkler systems or their components to ensure the proper functioning of the equipment/system.

Shop—a facility of a certified business where designing, certifying, pre-assembling, servicing, repairing or hydrostatic testing is performed and where parts and equipment are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3015. Permits and Certificates of Registration

A. Any individual, partnership, corporation, association or joint venture must obtain from the State Fire Marshal a permit as provided for by R.S. 40:1625 et seq. before engaging in the installation, repair, alteration, addition, maintenance or inspection of fire protection sprinkler systems.

1. Each fire protection sprinkler contractor, as defined by R.S. 40:1624(4)(a) shall have at least one (1) qualifying person or certificate holder.

2. Fire protection sprinkler contractors as defined by R.S. 40:1624(4)(a) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. Any, person, partnership, corporation or association must obtain from the State Fire Marshal a certification of registration as provided for by R.S. 40:1651 et seq. before engaging in the activity of installing, or servicing portable fire extinguishers or planning, certifying, installing or servicing fixed fire extinguisher systems or fire detection and alarm systems.

1. Each firm, as defined by R.S. 40:1652(1), shall have at least one (1) licensed technician per class of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S. 40:1652(1) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

C. The following shall apply to both permits and certificates of registration.

1. Posting. Each permit or certificate shall be posted conspicuously at each firm and/or branch office premises. All businesses without a physical location in this state shall be required to purchase a duplicate permit or certificate to post in each vehicle which will come into this state to do work.

2. Changes of Ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate Officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate permit or certificate must be obtained from the State Fire Marshal to replace a lost or destroyed permit or certificate. The permit or certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in LAC 55:V.3031.

5. Revisions. The change of a business's name, location, or mailing address requires a revision of the permit or certificate of registration. Permits or certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit or certificate of registration holder must submit written notification of the change with the surrendered permit certificate of registration, accompanied by the required fee specified in LAC 55:V.3031.

6. Non-Transferability. A permit or certificate of registration is not transferable from one business to another.

7. Validity. A permit or certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3017. Licensure

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651 et seq. other than an apprentice, who installs, inspects, maintains and services portable fire extinguishers, and/or plans, certifies, installs, inspects, maintains or services fixed fire extinguishing systems and/or fire detection and alarm systems and/or engages in hydrostatic testing shall have a current and valid license issued by the State Fire Marshal.

B. Types of Licenses. Each license shall be identified by class, which indicates the authorized act or acts which may be performed by the licensee as follows.

1. Class A Technician's License authorizes the person to install, inspect, maintain and service portable fire extinguishers.

2. Class B Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify pre-engineered fixed fire extinguishing systems.

3. Class B-1 Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Class C Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify engineered or pre-engineered fixed fire extinguishing systems.

5. Class D Technician's License authorizes a person to plan, install, inspect, maintain, service, supervise and certify fire detection and alarm systems.

6. Class D-1 Technician's License authorizes the person to plan, install, inspect, maintain, service, supervise and certify fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Class E Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

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 visibly displayed 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 LAC 55:V.3031.

F. Revised licenses. The change of a licensee's employer, home address or mailing address requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within ten (10) days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in LAC 55:V.3031.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License reciprocity. The State Fire Marshal may waive any license requirements for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3019. Apprentice Permit

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651 et seq. engaged as an apprentice shall have a current and valid apprentice permit issued by the State Fire Marshal.

B. Validity. A permit shall be valid for a period of one year from the date of issuance and is non-renewable.

C. Supervision. An apprentice may perform the various acts of inspecting, maintaining, servicing or installing portable fire extinguishers, fixed fire extinguishing equipment and/or systems and fire alarm and detection equipment and/or systems only while under the direct supervision of and accompanied by a licensee holding a valid license to perform such acts. The apprentice and the supervising licensee must be employees of the same firm.

D. Identification. A permit holder shall, upon demand by the State Fire Marshal or his designated representative, show and allow the examination of such permit.

E. Posting. It is not necessary to post the apprentice permit on a wall, but it must be kept on the apprentice's person at all times whenever the apprentice is performing activity regulated by R.S. 40:1651 et seq. and these rules.

F. Pocket Permit. The pocket permit must be kept on the apprentice's person at all times and shall be visibly displayed on his/her person at all times while conducting fire protection work in the field. The pocket permit need not be visibly displayed when working in areas where the permit may be damaged or lost. The permit must still be available for inspection upon request.

G. Duplicate Permit. A duplicate permit must be obtained from the State Fire Marshal to replace a lost or destroyed permit. The permittee and his employer must submit written notification within 10 days of the loss or destruction of the permit, accompanied by the required fee as specified in LAC 55:V.3031.

H. Revised Permits. The change of a permittee's employer, home address or mailing address requires a revised permit. Permits requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit holder and his employer must submit written notification within 10 days of the necessary change, with surrendered permit, accompanied by the required fee as specified in LAC 55:V.3031.

I. Non-transferable. A permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3021. Alteration of Certificates, Licenses or Permits

A. Any alteration of a certificate of registration, license or permit renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S. 40:1625 et seq., 1651 et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3023. Application for Permits or Certificates of Registration

A. Applications for certificates of registration for fire protection firms and their branch offices and permits for fire protection sprinkler contractors shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.A.

B. The application for permits or certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;
2. identify the type of permit or certificate of registration applied for;
3. identify the principal location of the business;
4. identify the location of each branch office;
5. identify the business's Louisiana Sales Tax number and Federal Tax number;
6. identify any and all names by which the business may conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules;
7. identify the contact person as defined by these rules;
8. identify the qualifying person for businesses seeking permitting or certification in any of the following disciplines:
 - a. engineered fixed fire extinguishing systems;
 - b. fire alarm and detection systems; or
 - c. fire protection sprinkler systems;
9. include for engineered fixed fire extinguishing system and fire alarm and detection systems firms a separate employee application for their qualifying person along with the qualifying person's credentials and an originally signed and notarized employment affidavit;
10. except for fire protection sprinkler contractors, be accompanied by:
 - a. at least one application with fee from an employee seeking to obtain a technician's license in each class of certification;
 - b. a current certificate of insurance issued to the office of State Fire Marshal in the following minimum amounts:

Number	Class of Certificate	Amount
1.	Class A: Portables	\$ 300,000
2.	Class B: Pre-Engineered Systems	\$ 500,000
3.	Class B-1: Kitchen Suppression Systems	\$ 500,000
4.	Class C: Engineered and Pre-Engineered Systems	\$ 1,000,000
5.	Class D: Alarms	\$ 500,000
6.	Class D-1: Non-Required Systems	\$ 300,000
7.	Class E: Hydrostatic Testing	\$ 500,000

11. if the firm desires a Class "E" (Hydrostatic) Certificate of Registration, be accompanied by the following:

- a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and

b. a copy of the firm's identifying mark (symbol);

12. for out of state businesses, include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S. 40:1625 et seq., 1651 et seq. and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is applying to be permitted or certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the permit or certificate of registration. After issuance of a permit or certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25:

§3025. Application for Licenses

A. Original and renewal applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.

B. Applications for technician's licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to install, inspect, service, and/or certify those systems for which the applicant desires to become licensed.

C. Applications for technician's licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as provided in LAC 0155:V:3033.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3027. Application for Apprentice Permit

A. Each person employed as an apprentice by a certified firm shall apply for a permit on a form provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V:3031. Due to the supervisory requirements of R.S. 40:1653(D), no competency examination is required for an apprentice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3029. Fees—General Information

A. Every fee required in accordance with the provisions of R.S. 40:1625 et seq. and 40:1651 et seq. and these rules, shall be paid by check or money order made payable to the Office of State Fire Marshal. Cash cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal at 5150 Florida Blvd., Baton Rouge, Louisiana 70806.

C. Late fees are required by R.S. 40:1625 et seq. and 40:1651 et seq. on all permit, certificate of registration or license holders who fail to submit renewal applications on or prior to their expiration date.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the permit, certificate or license being renewed.

E. Holders of permits, certificates and licenses which have been expired for less than two years cannot be issued new certificates or licenses.

F. Permits, certificates or licenses which have been expired for two years or more cannot be renewed, and the holders thereof must apply for a new permit, certificate or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3031. Fees—Specific Information

A. Permit Fee. R.S. 40:1625 et seq. (Fire Protection Sprinkler Contractors)

Type		Fee
1.	Original (Initial) Permit Fee. [R.S. 40:1628(A)]	\$100.00
2.	Renewal Fee. [R.S. 40:1631 (D)]	\$100.00
3.	Late Renewal Fee. [R.S. 40:1631(C)]	\$150.00
4.	Revised or Duplicate Permit Fee	\$20.00

B. Certificates of Registration Fees. R.S. 40:1651 et seq. (Fire Protection Firm)

Type		Fee
1.	Original Certification Fees:	
	a. Original Certification Fee. [R.S. 40:1653(A)]	\$350.00
	b. Each additional certification Fee	\$100.00
	c. Original Hydrostatic Testing Certificate Fee. [R.S. 40:1653(E)]	\$50.00
2.	Renewal Fee. [R.S. 40:1653(A)]	

	a. Class A (portables)	\$150.00
	b. Class B (pre-engineered)	\$100.00
	c. Class B-1 (kitchen suppression)	\$50.00
	d. Class C (engineered and pre-engineered)	\$100.00
	e. Class D Certificate (alarm)	\$100.00
	f. Class D-1 Certificate (non-required alarm)	\$50.00
	g. Class E Certificate (hydrostatic)	\$50.00
3.	Late Renewal Fee. A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a certification of registration.	
4.	Change in ownership. [R.S. 40:1653(B)]	\$350.00
5.	Changes or alternations. [R.S. 40:1653(B)]	\$20.00
6.	Duplicate Certificates of Registration [R.S. 40:1653(B)]	\$20.00

C. Branch Office Fees

Type		Fee
1.	Original Application fee. Regardless of how many classes of certification of registration selected by the applicant, the original (initial) fee for a branch office is always \$100.00 [R.S. 40:1653 (A)], including branch offices of firms certified in hydrostatic testing.	\$100.00
2.	Renewal fee. [R.S. 40:1653(A)]	\$100.00
3.	Late Renewal Fees. A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a license.	
	a. Not more than 90 days	\$150.00
	b. More than 90 days, but less than two years	\$250.00
4.	Change in Ownership. [R.S. 40:1653(B)]	\$100.00
5.	Changes or alterations. [R.S. 40:1653(B)]	\$20.00
6.	Duplicates. [R.S. 40:1653(B)]	\$20.00

D. License Fees. Classes A, B, B-1, -1, C, D, and D-1

Type		Fee
1.	Original license fee. [R.S. 40:1653(C)]	
	a. The first class of license selected	\$50.00
	b. Each additional license	\$10.00
2.	Renewal Fees. [R.S. 40:1653(C)]	
	a. First class of license renewed	\$50.00
	b. Each additional class of license renewed	\$10.00

3.	Late Renewal Fees. A penalty shall be assessed in accordance with R.S. 40:1675(E) for the late renewal of a license.	
	a. Expired not more than 90 days	
	i. First class of license renewed	\$75.00
	ii. Each additional class of license renewed	\$15.00
	b. Expired more than 90 days, but less than two years	
	i. First class of license renewed	\$100.00
	ii. Each additional class of license renewed	\$20.00
4.	Changes or Alteration Fees. [R.S. 40:1653(B)]	\$20.00
5.	Duplicate License Fees. [R.S. 40:1653(B)]	\$20.00
6.	Initial Competency Examination Fee. (Non-refundable)[R.S. 40:1653(C)](per exam)	\$10.00
7.	Re-examination Fee. (Non-refundable) [R.S. 40:1653(C)](per exam)	\$10.00

E. Apprentice Permit Fees

Type		Fee
1.	Original (initial) permit fees. [R.S. 40:1653(D)]	\$30.00
2.	Changes or alterations. [R.S. 40:1653(B)]	\$20.00
3.	Duplicate permits [R.S. 40:1653(E)]	\$20.00

F. Fees for Class E Licenses

Type		Fee
1.	Original (initial) license fee. [R.S. 40:1653(E)]	\$25.00
2.	Renewal license fee. [R.S. 40:1653(E)]	\$25.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 17:972 (October 1991), amended LR 25: **\$3033. Examinations**

A. Applicants for licenses are required to take an examination and obtain at least a grade of 75 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1651 et seq.;
2. a section on the planning, certifying, installing and servicing of those types of systems for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards adopted by LAC 55:V.103.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination prior to the issuance of a new license. No examination is required for a licensee whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this Office or the examination administrator. The pre-registration form and the required fee must be received by the Office five working days prior to the examination date.

G. Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within thirty (30) days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the Office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus;
2. length of course and specific time covered per topic;
3. example of test questions;
4. a copy of the certificate granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1653.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:272 (March 1991), amended LR 25:

§3035. Portable Fire Extinguishers

A. General Provisions

1. Portable fire extinguishers shall be installed, inspected, serviced and maintained in compliance with the edition of NFPA 10 most recently adopted by the Office of the State Fire Marshal in LAC 55:V.103.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, the extinguisher shall be red tagged or removed from service and destroyed in accordance with NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103, shall be performed. If these procedures fulfill the requirements of a six year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six year maintenance procedures shall begin from that date.

B. Record Tag. Each six year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103. Previous six year maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six year maintenance was performed;
2. the name of the firm and its certificate number;
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm (preprinted or printed in permanent ink);
2. name and license number of the person who 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 diameter of the opening for external verification collars shall not exceed 1/4" the diameter of the extinguisher's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3037. Fixed Fire Extinguisher, Fire Alarm and Detection and Fire Protection Sprinkler Systems

A. All required fixed fire extinguishing systems including pre-engineered and engineered systems, fire alarm and detection systems, and fire protection sprinkler systems shall be installed, inspected, serviced, and maintained in compliance with the manufacturer's installation manuals, specifications, and the applicable codes and standards adopted in LAC 55:V.103 and 3053. All non-required and non-conforming fixed fire extinguishing systems including pre-engineered and engineered systems, fire alarm and detection systems, and fire protection sprinkler systems shall be installed, inspected, serviced, and maintained in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC 55:V.103 and 3053 as authorized by the Office of the State Fire Marshal. Non-required and/or non-conforming systems/equipment which only comprise smoke detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications, as provide by R.S. 40:1561, et seq., and NFPA 101 as adopted by LAC 55:V.103.

B. All systems shall be designed, installed 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 designed, installed, inspected and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of an engineered or pre-engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that engineered or pre-engineered system to any alarm initiated system, to include but not limited to enunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm certified in Fire Detection and Alarms must certify, plan, install, inspect or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC 55:V.103 will be certified, designed, installed, inspected and serviced by certified fire protection sprinkler contractors. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of the piping system must be installed by certified fire protection sprinkler contractors and connected to the fire alarm system by a certified fire detection and alarm firm.

C. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility.

Non-required systems shall be maintained in accordance with the applicable NFPA code, standard and manufacturer's specifications governing that particular system as long as the system is within the facility.

D. Interconnected smoke detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, or as authorized by this office must be installed, inspected, serviced and maintained by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1656(7). These systems must be submitted to this office for review prior to installation.

E. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

a. the certificate number of servicing firm, preprinted or printed in permanent ink;

b. name and license number of the person who performed the service, preprinted or printed in permanent ink;

c. month and year that the service was performed. This information must be punched.

F. A new external verification collar is not needed in the following:

1. when a CO₂ cylinder is recharged without opening the cylinder for inspection;

2. cartridge operated type of systems.

G. External verification collars shall be affixed in the following manner.

1. Any collar previously attached shall be removed prior to affixing a new collar.

2. The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

H. The diameter of the opening for external verification collars shall not be more than 1/4" larger than the diameter of the cylinder's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3039. Hydrostatic Tests

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC 55:V.103. The owner shall be informed of a needed test or replacement.

1. Recording of Tests

a. High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

b. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible.

c. The record tag shall contain the following information, which, exception for §3039.A.1.c, must be hand punched:

- i. year and month that the hydrostatic test was performed;
- ii. test pressure used;
- iii. name of the firm and its certificate number;
- iv. initials of the person performing the maintenance and his license number.

d. Previous hydrostatic test record tags shall be removed when a new one is affixed.

2. Minimum Equipment and Facilities Requirements. The following equipment shall be required depending upon the firm's class of certification:

- a. Class A (low pressure):
 - i. approved equipment for drying cylinders;
 - ii. test apparatus including appropriate adapters, fittings and tools;
 - iii. hydrostatic test labels as required by the applicable NFPA code(s) or standard(s), as adopted by the Office of State Fire Marshal in LAC 55:V.103;
 - iv. facilities for leak testing of pressurized extinguishers;
 - v. adequate safety cage for hydrostatic testing of low pressure cylinders;
 - vi. cylinder inspection light;
 - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).
- b. Class E (high pressure):
 - i. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including appropriate adapters, fittings and tools;
 - ii. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch;
 - iii. clock with sweep second hand on or close to hydrostatic test apparatus;
 - iv. approved equipment for drying cylinders;
 - v. facilities for leak testing of pressurized extinguishers;
 - vi. cylinder inspection light;
 - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3041. Installation Tags

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire alarm and suppression systems. On kitchen hood 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 or fire protection sprinkler systems. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required on the front side of the tag:

1. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters, in bold type);
2. installation tag (Preprinted);
3. installation date (Date to be hand written);
4. business's name (Preprinted);
5. business's certificate number (Preprinted);
6. technician's name (Name to be preprinted or hand written);
7. technician's license number (Number to be preprinted or hand written);
8. technician's signature (Signature cannot be preprinted);
9. NFPA Code Edition System was installed under (Hand written);
10. plan review or exemption number (To be hand written);
11. serial or model number of panel and/or cylinder, if applicable (To be hand written).

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag; initials are not permitted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If an installation tag is replaced, hand write *Replacement* after the installation date. If the installation date is not known the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3043. Service, Yellow, and Red Tags

A. All portable fire extinguishers, fixed fire extinguisher equipment and/or systems, fire alarm and detection equipment and/or systems and fire protection sprinkler systems shall be tagged in the following manner.

1. Service Tags

a. A service tag shall be completed and attached to a portable fire extinguisher, a fixed fire extinguisher system, a fire detection and alarm system, a fire protection sprinkler system, a standpipe and a hose station after it has been installed, inspected, maintained, certified or serviced indicating all work that has been done.

b. Service tags shall be green in color for fixed fire extinguisher systems, fire detection and alarm systems,

tandpipe/hose stations and fire protection sprinkler systems. Service tags may be of any color but yellow or red for portable fire extinguishers.

c. The service tag shall be attached at the following locations.

i. For portable fire extinguishers the tag shall be attached at the valve.

ii. For fixed fire extinguisher systems the tag shall be attached at the tank and at the panel.

iii. For kitchen hood suppression systems the tag shall be attached at the tank and at the manual pull station.

iv. For fire alarm and detection systems the tag shall be attached at the panel.

v. For fire protection sprinkler systems the tag shall be attached at the riser and/or fire pump.

vi. For standpipes/hose stations the tag shall be attached at the valve control and/or fire pump.

d. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

e. A service tag shall be attached on all systems found to be in proper working condition and which meet all the requirements of the applicable NFPA codes and standards enforced at the time of the original installation, and the manufacturer specifications. This tag shall be used for new installations and shall be in addition to the installation tag provided for in §3041. This tag shall also be used for all service calls where the system is found to meet the above conditions.

f. Service tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which service was performed (must be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. type of service performed. Only service and inspection shall be noted on tag for type of work performed (must be punched through service tag); specifics as to service performed shall be noted on rear of tag, (i.e. recharged cylinder, changed smoke detector, repaired pull station, etc);

viii. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel and fire detection and alarm system control panel;

ix. owner of system and address of owner (to be noted on rear of tag).

2. Partial Impairment Tags (yellow tags)

a. All businesses engaged in the activity of installing, repairing, inspecting or certifying of fixed fire extinguisher systems, fire detection and alarm systems and/or fire protection sprinkler systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on these systems. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag (red tag).

b. A partial impairment tag may be placed on all systems in which there is a deficiency with the system but where the system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the system or equipment.

c. A partial impairment tag shall not remain on a system for more than 60 days. If the problem is not corrected after 60 days the certified business shall be required to notify, in writing, the Office of the State Fire Marshal Licensing Section.

d. Partial impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the impairment was found (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.).

ix. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel, fire detection and alarm system control panel or water based fire sprinkler system check valve;

x. owner of system and address of owner (to be noted on rear of tag).

3. Impairment Tags (red tags)

a. Upon the effective date of these rules, a new impairment tag, which shall be red in color, shall be used.

b. An impairment tag shall be placed on all fixed fire extinguisher or fire detection and alarm systems where the system is impaired to the point that life safety is at risk or to a extinguishing system which will prevent the automatic or manual discharge system from functioning as intended.

c. Portable fire extinguishers, fire protection sprinkler systems, standpipe systems or hose stations shall be red tagged when the extinguisher is inoperable for any reason.

d. Impairment tags shall also be placed on any system or portable where life safety is in imminent danger.

e. Written notice shall be made to the owner and to the Office of the State Fire Marshal by the certified business as soon as is practically possible but shall not exceed two working days after the impairment is discovered. Written notification can be by mail or facsimile. The Office of State Fire Marshal shall provide a form for notification.

f. Impairment tags must contain all of the information listed below:

i. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the inspection was performed (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of portable fire extinguisher, fixed fire extinguisher system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler systems check valve;

x. owner of system and address of owner (to be noted on rear of tag).

4. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal:

a. name, address, and telephone number of the owner of the system;

b. name, address, telephone number, and certificate number of the business noting the impairment;

c. name and license number of the technician who did the inspection;

d. type of system (manufacturer and model number should also be included);

e. code and year edition used for inspection.

f. reason for the impairment.

Note: A copy of the inspection or service report shall be included;

g. date system or equipment was red or yellow tagged.

5. Non-required and/or Non-conforming Systems. Where a fire protection or fire protection sprinkler system is non-required, or permitted to be installed in a non-conforming state by this Office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in §3043.

a. Each business shall stamp or write on the installation tag and/or service tag one of the following statements, as applicable:

i. *Non-required System*, or

ii. *Non-conforming System*, or

iii. *Non-required/non-conforming System*.

b. Such print or stamp shall be in all capital lettering and be written or stamped so as to not obscure other information provided on the tag.

c. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

6. Miscellaneous Provisions

a. On all fixed fire extinguisher, fire alarm and detection systems and fire protection sprinkler systems, a plastic pocket pouch/sleeve shall also be attached to the panel, riser or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen suppression systems, the pocket pouch/sleeve shall be attached at or near the manual pull station. Upon a new annual inspection (or six month inspection for kitchen suppression systems), all previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers, standpipes or hose stations.

b. All tags must be card stock, plastic or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted.

c. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

d. Businesses shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the business's file.

e. All tags remain the property of the certified business and may be removed only by licensed employees of the certified business or employees of the State Fire Marshal's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3045. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against businesses, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;

3. impersonating a deputy fire marshal or any other official;

4. intimidating or coercing a customer;
5. planning, certifying, installing, inspecting, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;
6. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;
7. falsifying tags, labels, inspection reports, invoices and/or other documents;
8. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;
9. working an employee or as an employee without the appropriate class of license or permit or working without a proper license or permit;
10. working without the appropriate classification of firm certificate or working without a permit or certificate;
11. working with an expired license, permit or certificate;
12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;
13. contracting to a business, person or employee which is not properly certified, permitted or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 40:1625 et seq. and 1651 et seq. or these rules;
14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;
15. installing a fixed fire protection system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving a stamped set of plans or go to work letter from the Plan Review Section of the Office of the State Fire Marshal;
16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's UL listed installation and service manuals to properly plan, certify, inspect, install, maintain or service the systems or equipment for which a business is certified;
17. failing to adhere to all applicable laws and rules governing fire protection sprinkler systems or fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;
18. engaging in false, misleading or deceptive acts or practices.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;
2. portables or fixed system cylinders without labels of an approved testing laboratory or name plates, except that a portable fire extinguisher or fixed system cylinders whose original label or name plate has been replaced with a manufacturer approved replacement label or name plate, and maintenance records as provided below, documenting the replacement shall not be prohibited;
3. maintenance records shall include the following:
 - a. manufacturer;

- b. type and size of the portable fire extinguisher or fixed system cylinders;
- c. serial number of extinguisher or fixed system cylinders;
- d. dates and types of service performed.
4. any portable or cylinder prohibited by the adopted NFPA codes and standards listed in LAC 55:V.103;
5. systems without listing from an approved testing laboratory;
6. systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1659.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3047. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a business physical locations, vehicles or job sites to verify required certificates, employee lists, employee licenses and permits, insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that fire protection sprinkler system, portable fire extinguisher, fixed fire extinguisher and fire detection and alarm businesses and their employees are engaging in activity in accordance with the requirements of R.S. 40:1625 et seq., 40:1651 et seq. and LAC 55:V.Chapter 30.

B. The State Fire Marshal shall investigate all complaints of alleged violations of L.R.S. 40:1574, 40:1625 et seq., 40:1651 et seq. and LAC 55:V.Chapter 30. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those businesses and /or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1659.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3049. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license or permit and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, it is found that a person, certified business, licensee or permit holder, or an applicant for registration, license or permit, failed to comply with the provisions of these rules, R.S. 40:1625 et seq., R.S. 40:1646 et seq. and/or R.S. 40:1651 et seq.

1. Offenses. The following categories shall denote classification of offenses for persons, businesses and employees for determining the penalty to be imposed:

- a. minor:
 - i. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

- ii. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;
- iii. working with an expired (1-60 days) license, permit or certificate of registration;
- iv. failing to properly display a firm certificate or an individual license or permit;

b. serious:

- i. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;
- ii. planning, certifying, installing, inspecting, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;
- iii. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;
- iv. working an employee or as an employee without the appropriate class of license or permit;
- v. working without the appropriate classification of firm certificate;

vi. working with an expired (61-180 days) license, permit or certificate;

vii. installing a fixed fire protection system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving approval from the Plan Review Section of the Office of the State Fire Marshal;

viii. contracting to a business, person or employee which is not properly certified or licensed through the Office of the State Fire Marshal to perform any certification, installation, inspection, maintenance or service on fire protection sprinkler systems or fire protection systems and/or equipment;

ix. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's UL listed installation and service manuals to properly plan, inspect, install, maintain or service the systems or equipment for which a business 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 a deputy fire marshal or any other official;
- iii. intimidating or coercing a customer;
- iv. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;
- v. falsifying tags, labels, inspection reports, invoices and/or other documents;
- vi. working without any license or permit;
- vii. working without any certificate of registration or permit;
- viii. committing three or more Serious offenses within a three year period;

ix. engaging in false, misleading or deceptive acts or practices.

2. Penalties. The following fine schedule shall be used to assess fines to persons, businesses, and/or employees who violate the laws and rules governing the fire protection sprinkler, portable fire extinguishers, fixed fire suppression and fire alarm and detection industries. Penalties will be imposed to persons, businesses and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Businesses and/or Persons

Type	Fine
Minor	\$50.00 to \$250.00 and/ or official warnings may be imposed
Serious	\$251.00 to \$500.00 and/or suspensions of up to 90 days may be imposed
Major	\$501.00 to \$1,000.00 and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed

b. Employees and/or Persons

Type	Fine
Minor	\$10.00 to \$50.00 and/or official warnings may be imposed.
Serious	\$50.00 to \$250 and/or suspensions up to 90 days may be imposed.
Major	\$251.00 to \$1000.00 and/or suspensions from 91 to 365 days may be imposed and/ or revocation of license may be imposed.

i. minor: \$50 fine to \$250 fine and/or official warnings may be imposed;

ii. serious: \$251 fine to \$500 fine and/or suspensions of up to 90 days may be imposed;

iii. major: \$501 fine to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons:

i. minor: \$10 fine to \$50 fine and/or official warnings may be imposed;

ii. serious: \$50 fine to \$250 fine and/or suspensions of up to 90 days may be imposed;

iii. major: \$251 to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. Revocations may be up to a year, after which reapplication must be made. The Office of the State Fire Marshal may refuse the issuance of a new certificate of registration, a permit or a license if the applicant can not show good cause for reissuance.

d. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

e. Those offenses not enumerated in this list shall

ceive 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. 40:1660.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3051. Severability

A. If any provision of these rules or the application thereof to any business, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3053. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted 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 standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

1. ASME/ANSI A17.1 - 1993, Safety Code for Elevators and Escalators;
2. ASME/ANSI A17.3 - 1993, Safety Code for Existing Elevators and Escalators;
3. ASME/ANSI A117.1 - 1980, Specifications for Handicapped Accessibility;
4. ADAAG - 1994, American Disability Accessibility Act Guidelines;
5. United States Department of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3055. National Recognized Testing Laboratory

A. The criteria for recognition by the Office of State Fire Marshal as a Nationally Recognized Testing Laboratory shall be as follows.

1. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards:

- a. Fire Test Standards: ANSI/UL 154, CAN4-S503-M83;
- b. Performance Standards:
 - i. CO₂ Types: ANSI/UL 154, CAN4-S503-M83;
 - ii. Dry Chemical Types: ANSI/UL 299, ULC-S504;
 - iii. Halon Types: ANSI/UL 1093, ULC-S504;
 - iv. 2-1/2 Gallon Stored Pressure Water Types: ANSI/UL 626;

v. Factory Follow-up on Third Party Certified Portable Fire Extinguishers: ANSI/UL 1803;

vi. Foam Types: ANSI/UL 8.

2. 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.

a. 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 §3055.B.2:

b.i. the address and telephone number of the main facility and all branch offices;

ii. a current organizational Chart showing the relationship between administration, operation, and quality control;

iii. resumes of the education and experience of key personnel;

iv. a floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;

v. 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;

vi. procedures for selecting, receiving, storage, handling, and shipping of test specimens;

vii. test standards and procedures most frequently used;

viii. method and frequency of test equipment calibration;

ix. procedure for safekeeping of records and files;

x. copies of all data sheets and test report forms;

xi. facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;

xii. procedure for periodic updating of the report;

xiii. 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.

xiv. 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;

xv. a list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

xvi. 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;

xvii. 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;

xviii. how long the applicant testing laboratory has tested portable extinguishers;

xix. a notarized statement of independence which shall state that, with reference to the laboratory's testing of portable extinguishers:

(a). there are no managerial affiliations with any producer, supplier, or vendor;

(b). changes in any major test equipment;

(c). establishment of a new branch office or facility at which portable fire extinguishers are to be tested;

(d). changes in principal officers, key supervisory personnel, or key testing personnel in the company.

3. 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. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3057. Equipment and Facilities

A. Each certified business location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly plan, inspect, install, maintain or service the systems or equipment for which it is certified. Fire protection fire sprinkler contractors shall have such equipment, tools NFPA codes, standards and manuals available at each of its operating locations. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals.

B. The State Fire Marshal or his representative may inspect a business's physical locations or vehicle(s) to ensure the proper equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals are possessed by the business.

C. The State Fire Marshal or his representative may require that a business or its employee(s) demonstrate a proficiency to use the necessary equipment to properly plan, inspect, install, maintain or service fire protection sprinkler systems/equipment, portable fire extinguishers, fixed fire extinguishing systems/equipment and fire alarm and detection systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

D. For those businesses or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain

additional training within a thirty day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

E. The Office may specifically enumerate required equipment at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3059. Plan Review

A. Plans for designing or installing fixed fire suppression systems, fire protection sprinkler systems and/or fire detection and alarm systems must be done in accordance with L.R.S. 40:1574 Parts A and B. This procedure is not required for plans that will go in sites, such as offshore drilling platforms that are outside the three mile limit of the state's jurisdiction. For the purpose of computing the Fire Marshal plan review fees, devices shall be defined as follows.

1. For fixed fire suppression systems (Halon, CO2, etc.): the distribution nozzles and the automatic detectors shall be considered as devices.

2. For fire protection sprinkler systems: each sprinkler head per floor shall be considered.

3. For fire detection and alarm systems: the number of floors per building shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1658.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), amended LR 25:

§3061. Advisory Committee

A. The State Fire Marshal may create an advisory committee to assist him or his representative to create new rules or modify existing rules as necessary to reflect changes or new trends in the industry. Associations requested to participate on the committee shall nominate the members to attend. This committee is to be a volunteer committee. No stipends or mileage will be paid to committee members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3063. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in §3053.

B. The certifying, inspecting, servicing, maintenance and planning of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3065. Compressed Gas

A. Subject to the requirements contained in §3065.B, persons who engage solely in the activity of filling compressed gas cylinders with gases such as CO₂, pursuant to a contract with a firm which is certified by the Office of State Fire Marshal to plan, service, certify and/or install fire protection equipment or systems shall be exempt from the licensing requirements contained in R.S. 40:1651 et seq.

B. A person meets the qualifications to be exempt from R.S. 40:1651 et seq. if he fills compressed gas cylinders, has a United States (U.S.) Department of Transportation (DOT) certificate to fill these compressed gas cylinders (this requirement in italics is to be deleted because DOT has no such certificate) and does not install, service, plan and/or certify any fire protection equipment and/or systems other than to fill the fire extinguishing cylinders with compressed gas pursuant to a contract with a firm certified by the Office of the State Fire Marshal to plan, certify, service and/or install fire protection equipment and/or systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

§3067 Miscellaneous Provisions

A. Marking of vehicles: Ninety (90) days after the effective date of these rules, all vehicles owned or operated by fire protection sprinkler contractors as defined by R.S. 40:1625(4)(a) and firms as defined by R.S. 40:1652(1) or their employees, used for regulated activities for which the business is certificated, or permitted, shall permanently inscribe, paint, stencil or affix by magnetic means the business name and business certificate or permit number on such vehicles. Such markings shall be a minimum of two and one-half (2 ½) inches in height and not less than one-fourth (1/4) inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. For fire protection sprinkler contractors with multiple qualifying persons, only one permit number is required.

B. Restrictions

1. Certificate holders, licensees and permittees are not agents or representatives of the State of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate, license or permit does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to plan, certify, service, inspect, install or maintain fire protection equipment and/or systems or

fire protection sprinkler systems and/or equipment without the owner's permission.

3. Certificate holders, licensees and permittees shall not permit the use of their certificate, licenses or permit by other businesses, persons or employees.

4. A certificate holder, licensee or permittee shall not perform any activity relating to portable fire extinguishers, fixed fire extinguishing equipment/system, fire detection and alarm equipment/systems or fire protection sprinkler systems unless employed by and within the course and scope of that employment with a business regulated by the provisions of R.S. 40:1625 et seq. or R.S. 40:1651 et seq..

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

a. first being certified, licensed or permitted to perform such acts; and

b. is employed by a business certified to perform those acts; and

c. is performing those acts for the certified business by whom he is employed.

6. An apprentice, as defined in LAC 55:V.3013, shall not perform any activity regulated by R.S. 40:1651 et seq., unless employed by a certified firm, supervised by a licensee authorized to perform such act or acts and both the apprentice and licensee are employed by the same certified firm.

C. Multiple Names. A business which uses multiple names must apply for a separate certificate of registration if each named business has a separate tax number.

D. Required Inspections

1. The following shall be the owners responsibility.

a. Portable fire extinguishers shall be inspected and certified annually by a certified firm.

b. Fixed fire extinguishing systems, fire alarm and detection systems shall be inspected and certified at a minimum annually by a certified firm.

c. Kitchen fire suppression systems shall be inspected and certified at a minimum every six months by a certified firm.

d. All non-required and non-conforming systems/equipment shall be inspected and certified at a minimum annually by a certified firm.

e. Fire protection sprinkler systems/equipment shall be inspected and certified at a minimum annually by a certified fire protection sprinkler contractor.

E. Service Invoices and Inspection Reports. All service invoices or inspection reports shall reflect the service performed, date of service, the technician who did the service, the manufacturer of the equipment/system and if applicable, the serial number of the equipment/system if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 25:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business November 20, 1998.

Lieutenant Colonel Ronald B. Jones
Acting Under Secretary

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

RULE TITLE: Fire Protection and Sprinkler Licensing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs would be limited to the cost of printing the new rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Fee collection would be reduced by approximately \$4000/year due to not requiring a firm/employee to hold a Class B and Class C certificate/license.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Class C firms/employees would save \$4000/year in less fees paid out. Minimum expense would be experienced for marking vehicles and printing of tags.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Firms will be able to compete equally with others in their industry due to clarity in rules and ambiguities removed to allow agency to enforce rules equally.

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary
9810#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Food Stamps—Alien Eligibility (LAC 67:III.1994)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.1994 pertaining to the Food Stamp Program.

Pursuant to provisions of Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, a change in food stamp policy regarding the eligibility of certain non-citizens is required. The law extended the eligibility period for certain groups of aliens from five to seven years and made additional groups of aliens eligible for Food Stamps. An emergency rule will also be necessary since amendments to the *United States Code* mandated by the law are effective November 1, 1998.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Only the following non-citizens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 4. ...
5. Amerasian immigrants admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related

programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended.

B. 1. - 3. ...

4. individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age.

C. 1. - 4. ...

D. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in §101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unmarried surviving spouse of such an individual who is deceased.

E. Individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P.L. 104-208, P. L. 105-33 and P. L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:354 (February 1998), LR 25:

Interested persons may submit written comments by November 24, 1998 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana 70804-4065.

Madlyn B. Bagneris
Secretary

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

RULE TITLE: Food Stamps—Alien Eligibility

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to state or local governmental units associated with this rule. Food stamp benefits are 100% federally funded. An emergency rule to effect these changes beginning November 1, 1998 will prevent the assessment of any federal penalties to the State.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will affect a small number of applicants who may not have been eligible for food stamp benefits under current

olicy governing alien eligibility and extends the period of eligibility from 5 years to 7 years. The Agency is unable to give an estimate as there is no way to determine the number of persons that would be involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9810#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Seismic Exploration
(LAC 76.I.301 and 303)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend LAC 76:I.301 regulating seismic exploration and repeal LAC 76:I.303 on permits. Authority for adoption of this Rule is included in R.S. 30:214 and R.S. 36:609. This notice is given pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter A. Seismic Exploration

§301. Regulations

A. Definitions

Cultivation—any human activity the purpose of which is to enhance the production of oysters.

Oyster Area—those areas of coastal Louisiana which are capable of supporting natural or cultivated oyster populations.

Oyster Bed—an oyster reef or a waterbottom on which oysters are actively being cultivated.

Oyster Reef—a discrete, clearly distinguishable structure which:

1. has been formed primarily by living oysters and other organisms;
2. is not necessarily currently supporting live oysters;
3. at least a portion of which must be above the mud line, (i.e. not covered by mud or silt); and
4. may support live oysters as a result of normal hydrological fluctuations.

B. In order to protect, conserve, and replenish the wildlife of the state of Louisiana, including all aquatic life, and pursuant to the authority conferred by Article IX, Section 7 of the Louisiana Constitution of 1974, R.S. 30:214 et seq. and R.S. 36:609; the following rules shall from and after promulgation date, govern any exploration work involving the discharge of explosives and other energy sources in the state of Louisiana for geophysical exploration.

1. The Wildlife and Fisheries Commission, pursuant to its constitutional and statutory authority, hereby designates how geophysical exploration work shall be conducted insofar as it relates to the fish, seafood, aquatic life, oysters, wildlife and waterbottoms of the state. No geophysical exploration work shall commence without the approval of the Secretary of the Department or his designee. The Department of Wildlife and Fisheries, Marine Fisheries Division, Seismic Section is hereby authorized and directed to enforce and administer these regulations with full power and authority to take all appropriate actions to ensure proper administration and compliance.

2. Application(s) for permission to operate shall be made by letter giving the names of the parishes where the geophysical exploration is to be conducted. Written permission to operate shall be valid for a period of one year from date of approval, unless otherwise specified. In order to obtain and maintain permission to operate, an applicant shall furnish the Department a surety bond in the amount of \$75,000 from a bonding company licensed to do business in the state of Louisiana and to whom A.M. Best and Company has given an "B+/7" or better rating. Bond forms may be obtained from the Seismic Section. The bond shall be filed by the applicant prior to issuance of any permission to operate. Said bond shall guarantee payment of all shot hole fees and mileage fees, inspector fees, all compensation for damage to public lands, and waterbottoms (including, without limitation, damages for failure to remove equipment and trash), oysters, fish and other aquatic life, and/or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said applicant may be legally liable, and which may be suffered by the state of Louisiana. The bond shall also guarantee any and all fees in whole and in part for services rendered by the Department and its offices in accordance with regulations of the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission and all applicable penalties, and any other liabilities to the state of Louisiana incurred by the applicant during the geophysical operations. Applicants must also supply the Seismic Section with proof of general liability insurance in the amount of \$1,000,000. The policy must be issued by an insurer approved by the Department, and specifically cover all damage to land, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way, and other structures for which Permittee may be legally liable. In addition, Permittees applying for a renewal of the letter of permission to operate must have demonstrated a record of sound business practices by making timely payments of seismic fees to the Department, and by being in complete compliance with the Department's regulations including those regulations requiring notifications and timely submission of seismic exploration data daily reports.

3.a. The Department may, after ten working days written notice to Permittee, suspend or cancel the seismic letter of permission to operate granted pursuant hereto for failure by the Permittee, to make timely payment to the Department for obligations owed to the state of Louisiana for the following:

- i. any adjusted shot hole fees and mileage fees;
- ii. any compensation for damage to public lands, waterbottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said Permittee may be legally liable;
- iii. any fees for services rendered by LDWF personnel in overseeing geophysical exploration; and
- iv. any applicable penalties.

b. The Permittee shall be entitled to a hearing upon written request, made within the 10 working day notice period, to the Secretary or his designee, to review the circumstances prompting the Department to suspend or cancel his letter of permission to operate. This hearing shall be held as soon as practicable.

4. Permittees shall submit a 1:24,000 scale map showing, at a minimum, the outline of the project for comparison with Department databases of threatened, endangered, or sensitive wildlife and fisheries resources and a similar map on an 8.5" x 11" page. Permittees shall notify the Seismic Section before beginning any geophysical exploration on a "Notification of Beginning of Seismic Operations" furnished by the Seismic Section. The Permittee shall provide the Department with the names and telephone numbers of appropriate designated contact persons. The "Notification of Beginning of Seismic Operations" shall be accompanied by a map on an 8.5" x 11" page showing the outline of the project or line. The Permittee also shall furnish the Seismic Section with a certified copy of the information filed with the appropriate parish clerk of court in accordance with R.S. 30:217. The Permittee shall submit notification to the Seismic Section of interruption or cessation of work. If a change in the prospect or line is necessary, the Permittee will provide a new plat indicating the change. If a change on the prospect or line affects different properties, or leasehold interests, the Permittee will provide a new plat indicating the new prospect or line, and no work will begin until this change has been furnished to the Seismic Section and the Seismic Section has reviewed it with regard to threatened, endangered, or sensitive wildlife and fisheries resources. The granting of permission to operate does not give the Permittee the right to trespass on, or conduct activities on private properties, nor does it relieve the Permittee of the responsibility for damages to private property.

5. A Permittee shall organize a pre-project meeting with the appropriate government agencies, property owners, lessees, residents, and other interested parties in the area of the proposed project. Notice of the meeting shall be advertised in the newspapers or journals designated for legal notices in the geographic areas in which geophysical survey operations are to be conducted. Additional notices should be posted in or on appropriate public places in the area of operations. All such notices shall be issued at a reasonable time before the scheduled meeting and before commencement of geophysical operations. Maps, as provided to the Seismic Section in connection with the Notification of Beginning of Seismic Operations and information designating the Permittee's contact persons during the geophysical operations, shall be made available to the public for review at this meeting.

C. Each geophysical exploration crew working in the state

f Louisiana shall always be under the supervision of the Seismic Section. A Seismic Inspector may be present during the shooting operations of the Permittee to which he or she is assigned.

1. The Seismic Section representative shall have access to all records, including without limitation, shot point location maps, and shooters' logs and tracings, but only to the extent necessary to determine compliance with these regulations. Any and all proprietary or confidential information viewed or obtained by any Seismic Section representative or Seismic Inspector shall be maintained in strict confidence as mandated for disclosures of seismic data under R.S. 30:215. No Permittee shall be required to submit to the Department any document or thing containing such confidential, proprietary information, if such document would, thereby, become a public record.

2. The party chief or party manager shall instruct the members of his party as to the requirements of these rules and regulations, and to the duty and authority of the Seismic Section and the Seismic Inspector.

3. The party chief or party manager shall furnish the Seismic Section's representative with whatever reasonable and appropriate transportation is needed to allow him to visit the working areas and shall transport the Seismic Section's representative to whatever locations he or she requests. The Department acknowledges that, when the Permittee is providing transportation for the Seismic Inspector or other representative of the Department under these regulations or other applicable law, that the Permittee is fulfilling a state mandated function and shall not be responsible, in any way, for any decisions, instructions, actions, or omissions of such Seismic Inspector or other Department representative.

4. The Seismic Inspector has the right to suspend any particular operation (e.g., surveying, drilling, shooting, or picking up equipment) or any portion of an operation, if it violates the Seismic Section's rules and regulations.

a. Written notice of violations shall be provided to the Permittee's designated contact person as soon as practicable. Corrective action taken by the Permittee and approved by the Seismic Section should dissolve the order for suspension issued by the Seismic Inspector.

b. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of any suspension of geophysical survey activities. This hearing shall be convened as soon as practicable, but in any event within ten working days after the written request for a hearing. The Department shall provide the Permittee with due notice and the opportunity to participate.

5. The Department recognizes that conflicts may arise from time to time between parties regarding access to and use of public waters, waterbottoms, public lands and natural resources. In the event that such conflicts cannot be otherwise resolved, the Department may, at the discretion of the Secretary or his designee, restrict, regulate, or suspend such potentially or actually conflicting activities as may be necessary to provide reasonable and safe access to said public resources. The Department shall provide the Permittee's designated contact person at least five working days written notice prior to any suspension, restriction, or regulation of

eophysical survey operations due to user conflicts. The Permittee may request a hearing from the Secretary or his designee to review the circumstances of the Department's restriction, regulation or suspension of geophysical activities. This hearing shall be convened as soon as practicable, but at any event within ten working days after written request for a hearing. The Department shall provide all interested parties with due notice and opportunity to participate.

6. No Seismic Inspector shall have the right to release any Permittee from the obligations imposed by these rules and regulations. Variances from these regulations may be granted by the Department only after written application by the Permittee setting forth reasons therefore. The release, signed by the Secretary or his designee, will designate the particular area and rule affected, and the procedures to be followed in lieu of any established rule. The Secretary or his designee may provide this information to appropriate interested parties upon request.

D. The Permittee must make a separate report for each day, whether or not shooting is in progress. Daily reports must furnish complete information as indicated by the report form, and must be signed by the party chief or party manager.

E. No geophysical exploration work shall be conducted on any wildlife refuge, waterfowl refuge, scenic river or stream, game preserve, fish preserve or hatchery, or oyster seed ground reservation without written permission from the Department through the division in charge of such refuge, preserve, river, stream, hatchery or reservation. While operating on any wildlife refuge, waterfowl refuge, scenic river, stream, game preserve, fish preserve or hatchery or oyster seed ground or reservation, the Permittee must abide by all rules and regulations of said area, in addition to these seismic regulations to the extent they apply.

F. Boats, marsh buggies, airboats, or other types of marsh vehicles, when used, must be used so as to cause the minimum disturbance or damage to the lands, waterbottoms, and wildlife and fisheries resources thereon. When working on wildlife management areas, wildlife refuges, scenic rivers, streams, fish preserves or hatcheries, or public oyster seed grounds or reservations, the Permittee will coordinate with the supervisor in charge of the area as to rules of the area. Rules, regulations and fees may vary from one such area to another.

G. No marsh buggies shall have contact with any oyster reef or bed, including state-owned natural reefs, nor shall any explosives or other energy sources be discharged within 250 feet of any oyster reef or bed, including any state-owned natural reefs, without permission from the lessee of the reef or bed, and the Department. The Seismic Section will review all projects in designated public oyster seed grounds and reservations.

H. Geophysical Permittees are required to furnish an oyster lease plat to each affected oyster lessee showing the proposed number of shot points on line and their proposed location. Geophysical Permittees are required to furnish notice to oyster lease applicants of the proposed crossing of waterbottoms for which said applicant has applied for an oyster lease, provided said application(s) has been plotted on the Departments map(s).

I. All pipe used in geophysical operations must be removed to at least six feet below the surface of the ground, or six feet below the bottom in water areas, before finally leaving the shotpoint. No pipes shall be left unattended on land or in water.

J. All parties using pipe in water areas must have clearly welded or stamped at each end of each joint the name or abbreviation of the name of the Permittee using the pipe. All equipment including cables, boxes, geophones, staff poles, anchors, buoys, etc., must be permanently tagged with the name of the Permittee. All 2 x 2's used for survey lines must be clearly stamped with the name of the Permittee using the stakes at approximately three-foot intervals. These stakes must be removed immediately upon completion of the project. All cane poles must be removed immediately upon completion of the project. Anchors shall be marked, stamped, or tagged to identify the Permittee who deployed them, and shall be secured to an appropriately marked buoy, vessel, or float.

K. Permittees shall comply with the U.S. Coast Guard and/or the U.S. Army Corps of Engineers' rules and regulations for marking and lighting material and/or equipment in navigable waters. In addition, all survey buoys used in geophysical operations should be colored fluorescent green to mark receivers, and fluorescent red to mark the source line or shot line as well as show the name of the Permittee. All such floats in areas of seismic operations shall use floating line.

L. No explosives shall be discharged knowingly within 1,000 feet of a boat without notice being given to such boat so that it may move from the area.

M. Persistent gas and water discharges caused by drilling or shooting operations of seismic crews will be stopped immediately by the Permittee.

N. Explosive charges or multiple charges in the same shot hole in excess of 50 pounds shall not be used except pursuant to express written authorization from the Secretary or his designee. Requests for the use of such charges and other variances from the charge sizes, hole depths, and/or setback requirements must be made in writing, giving the reasons why such charges are needed, the particulars of charge sizes, hole depths, patterns of deployment, and setback from potentially sensitive environments. Such requests should be addressed to the Seismic Section. Variances shall not be unreasonably withheld or delayed. All documents submitted to the Seismic Section in connection with requests for variances shall be public records; therefore, any confidential proprietary information required for review of a variance request may be submitted orally or by demonstrative presentation referenced in the written application, but the underlying confidential information shall not be disclosed in the written request filed with the Department. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to requested variances, as set forth in §301.C.4.b. above. The Secretary or his designee may provide this information to appropriate interested parties upon request.

O.1. Minimum required depth of charges shall be as follows for shots detonated in holes:

Weight of Charge	Minimum Required Depth
1 pound or less	10 feet
Charges of 1 pound or less may only be used in upland areas. In addition, the hole must be tamped before shooting and the charge must be shot on the same day it is placed.	
Between 1 pound and 2 pounds	25 feet
2 pounds up to 5 pounds	40 feet
5 pounds up to 20 pounds	60 feet
20 pounds up to 30 pounds	70 feet
30 pounds up to 40 pounds	100 feet
40 pounds up to 50 pounds	120 feet
No part of the charge shall be above minimum required depth.	

2. The use of suspended charges as energy sources is prohibited unless a variance is granted by the Secretary or his designee. If permitted, the Secretary or his designee shall then set forth requirements to minimize the effect on wildlife and fisheries resources.

P. Detonation of seismic explosive charges will be allowed only during daylight hours. Variances to this rule may be requested as set forth in §301.N. Permittees shall notify the Seismic Section of 24 hour airgun operations prior to beginning such operations. The Department may, after review of the details of such night operations and areas affected thereby, impose additional restrictions, regulations or requirements upon such operations as may be reasonable and necessary for the protection of public waters, waterbottoms, lands, and wildlife. No shooting will be allowed in heavy fog. The Permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to night operations and weather conditions, as provided for in §301.C.4.b. above.

Q. In accordance with good industry practice, Permittee shall, after drilling and loading shot holes, backfill holes with cuttings or another material authorized by the Department, and place the shot hole plug near the surface to avoid wash-in.

R. All equipment including boxes, cables, staff poles, poles, anchors, etc., must be cleared from project areas before the Permittee leaves the area. The Permittee shall confirm in writing to the Seismic Section that all its equipment, materials, and refuse have been cleared from the project area. Said letter of confirmation shall be a public record. Variances from this rule may be granted by the Department if accompanied by a written request from an affected landowner or agency. The Secretary or his designee may provide this information to appropriate interested parties upon request.

S. A fee of \$135 per day will be charged to geophysical Permittees. This fee will be reviewed each January. All payments will be made by the Permittees directly to the Department on or before the fifteenth of each month. No payments are to be made to the Seismic Inspectors. Seismic Inspectors shall make and the Seismic Section shall maintain written records of the Inspectors' work in connection with

each geophysical project, identifying the date, time, location, nature of the inspector's work, and the Permittee involved.

T. Permittees making application to work on any designated oyster seed ground or reservation designated by the state of Louisiana as specified in R.S. 56:434 and 435; and LAC Title 76 will be required to pay the following fees in addition to the supervisory fees: \$100 per shot hole, or \$1,000 per linear mile, whichever is greater, for reflective or refractive cable.

Airguns Only

Water Depths	Fees (per linear mile)
Less than or equal to five feet	\$1,000
Greater than five feet and less than or equal to 10 feet deep	\$400
Greater than 10 feet	\$200

3D Airgun Surveys

Water Depths	Fees (per square mile)
Less than or equal to five feet	\$12,500
Greater than five feet and less than or equal to 10 feet deep	\$5,000
Greater than 10 feet	\$2,500

All of these fees are to be paid in advance. All fees will be reviewed each January. It is the intention of the Wildlife and Fisheries Commission and the Department to use any fees collected pursuant to this rule to plant shells for oyster cultch, to rehabilitate areas damaged by operations and as mitigation for any other damages to the coastal area.

U. All geophysical Permittees conducting operations shall exercise reasonable precaution and act in accordance with approved and accepted methods to prevent destruction of, or injury to the fish, oysters, shrimp and other aquatic life, wildlife or other living natural resources of the state of Louisiana, or their habitats.

V. Any violation of these or other rules promulgated by the Commission or the Department for the regulation of geophysical operations, or the refusal of any Permittee or its employees to comply fully with all orders and requirements which may be made by authorized personnel of the Department at the time the exploration is conducted, or any attempt to unduly influence any Seismic Inspector to abstain from the enforcement of these regulations shall constitute cause for suspension or cancellation of the "permission to operate", cessation of all exploration work, and disqualification of the party chief, party manager, field manager, and/or the Permittee involved from future operations in this state. The Permittee may request a hearing from the Secretary or his designee to review the particular circumstances prompting the Department to suspend or cancel his letter of permission to operate per the provisions of §301.C.4.b.

W. These rules and regulations supersede all other rules and regulations issued prior to this date, and are subject to change by the Department and the Wildlife and Fisheries Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1978), amended LR 10:410 (May 1984), LR 13:115 (February 1987), LR 18:508 (May 1992), LR 25:

§303. Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:214 and R.S. 36:609.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1987), amended LR 10:410 (May 1984), repealed LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and the final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Heather Warner Finley, Seismic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to 4 December 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Seismic Exploration**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no state or local governmental implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to any state or local governmental units as a result of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rule requires additional public meetings, tagging of equipment, and assurance of site clearance from geophysical operators in the state, which may result in additional cost to some geophysical companies. These costs, however, may be offset by fewer losses in down time and equipment because of commercial and recreational fishers and other boaters getting tangled up in geophysical arrays and/or picking up equipment in fishing gears. Commercial and recreational fishers and other boaters may experience a decrease in costs associated with lost time and damaged fishing gear.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on employment in either the public or private sector as a result of implementation of this proposed rule.

James L. Patton
Undersecretary
9810#018

H. Gordon Monk
Staff Director
Legislative Fiscal Office