

Rules

RULE

Department of Economic Development Board of Architectural Examiners

Association with Registered Architect
(LAC 46:I.1119)

Under the authority of La. R.S. 37:144(C) and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners adopted LAC 46:I.1119 pertaining to the board's interpretation of La. R.S. 37:155(A)(3). R.S. 37:155(A)(3) exempts from the Architects Licensing Law, La. R.S. 37:141 et seq., registered architects of other states when associated with any registered architect of this state who will seal or stamp and bear professional responsibility for all specifications and other construction documents pertaining to work in this state. The rule interprets the meaning of "associated" in this statute.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1119. Interpretation of La. R.S. 37:155(A)(3)

Registered architects of other states will be deemed to be associated with a registered architect of this state on a specific project within the meaning of R.S. 37:155(A)(3) only when:

1. a written agreement is signed by both the out-of-state and the in-state architects describing the association prior to executing the work;
2. the in-state architect reviews all documents prepared by the out-of-state architect and makes necessary revisions to bring the design documents into compliance with applicable codes, regulations, and requirements;
3. the in-state architect independently performs or contracts with an engineer or engineers licensed in Louisiana to perform necessary calculations, and maintains such calculations on file;
4. after reviewing, analyzing and making revisions and/or additions, the in-state architect issues the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and
5. the in-state architect maintains control over the use of the design documents just as if they were his/her original design.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:1211 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#006

RULE

Department of Economic Development Board of Architectural Examiners

Carry Over of Continuing Education Hours (CEH)
(LAC 46:I.1117)

Under the authority of La. R.S. 37:144 and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I.1117 pertaining to the carry over of continuing education hours (CEH). The existing rule prohibits the carry over of CEH from prior years. The Board amended this rule to permit the carry over of a maximum of 12 qualifying CEH to the subsequent renewal period.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1117. Continuing Education

* * *

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEH and shall be computed as follows:

a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;

b. successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;

c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEH for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution;

d. authoring a published paper, article or book shall be equivalent of 8 CEH;

e. successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and non-resident architects.

3. If the architect exceeds the continuing education requirements in any renewal period (January 1 through December 31), the architect may carry over a maximum of 12 qualifying CEH to the subsequent renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:753 (June 1991), amended LR 18:250 (March 1992), LR 24:910 (May 1998), LR 25:1211 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#005

RULE

Department of Economic Development Board of Architectural Examiners

Rules of Conduct; Violations (LAC 46:I.1701)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I.1701 pertaining to the rules of conduct for architects. The Board replaced its existing rules of conduct with the rules and commentaries published by the National Council of Architectural Registration Boards Professional Conduct Committee.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 17. Rules of Conduct; Violations

§1701. Rules of Conduct

(NOTE: Commentaries provided by the NCARB Professional Conduct Committee, except the numbering has been changed to conform to the format required by the *Louisiana Register*.)

A. Competence

1. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

Commentary—Although many of the existing state board rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. Section 1701.A.1 sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but need not always be right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his or her work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

2. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect

shall not knowingly design a project in violation of such laws and regulations.

Commentary—It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws in addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of such other professionals.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

Commentary—While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. No person shall be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

Commentary—Here the state registration board is given the opportunity to revoke or suspend a license when the board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for that person to perform professional services with necessary care.

B. Conflict of Interest

1. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

Commentary—This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

Commentary—Like §1701.B.1, this rule is directed at conflicts of interest. It requires disclosure by the architect of any interest which would affect the architect's performance.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

Commentary—This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

Commentary—This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that that is not an inevitable role and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

C. Full Disclosure

1. An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement or when he or she has an economic interest in the issue.

Commentary—Architects frequently and appropriately make statements on questions affecting the environment in the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtless have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probity which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act on behalf of a client.

2. An architect shall accurately represent to a prospective or existing client or employer his or her qualifications, capabilities, experience, and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

Commentary—Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their work done. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she did. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact.

3. The architect shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. The architect shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates

joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

4.a. If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall,

i. report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations,

ii. refuse to consent to the decision, and

iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1701.C.4.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

Commentary—This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect the public safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Section 1701.C.4.a.iii gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to §1701.C.4.c. Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

5. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

Commentary—The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

6. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

7. An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

Commentary—This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

D. Compliance with Laws

1. An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

Commentary—This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule §1701.E.4 will cover reprehensible conduct on the part of the architect not embraced by rule §1701.D.1. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involved "moral turpitude."

The Committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the committee specifies crimes in the course of the architect's professional practice, and, under §1701.E.4, gives to the member board discretion to deal with other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The Committee specifically decided against the inclusion of violations of the laws of other nations. Not only is it extremely difficult for a member board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

2. An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

Commentary—Section 1701.D.2 tracks a typical bribe statute. It is covered by the general language of §1701.D.1, but it was the Committee's view that §1701.D.2 should be explicitly set out in the rules of conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

Commentary—Here, again, for the reasons set out under §1701.D.1, the Committee chose to limit this rule to United States jurisdictions.

E. Professional Conduct

1. Any office offering architectural services shall have an architect resident and regularly employed in that office.

2.a. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible supervision of the architect; except that:

i. he or she may sign or seal those portions of the professional work that were prepared by or under the responsible supervision of persons who are registered under the architecture registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and

ii. he or she may sign or seal portions of the professional work that are not required by the architects' registration law to be prepared by or under the responsible supervision of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

b. *Responsible supervision* shall be that amount of supervision over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervision because the reviewer has neither supervision over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible supervision by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project adequate and complete records demonstrating the nature and extent of the architect's supervision over and detailed knowledge of such technical submissions throughout their preparation.

Commentary—This provision reflects current practice by which the architect's final construction documents may comprise the work of other architects as well as that of the architect who signs and seals professional submissions. The architect is permitted to apply his or her seal to work over which the architect has both control and detailed professional knowledge, and also to work prepared under the direct supervision of another architect whom he or she employs when the architect has both coordinated and reviewed the work.

3. An architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

Commentary—This provision refers to "private bribes" (which are ordinarily not criminal in nature) and the unseemly conduct of using gifts to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Commentary—Violations of this rule may involve criminal conduct not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his daytime professional practice) is not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends §1701.E.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of §1701.E.4. The committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in §1701.E.4; it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the Committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended and repromulgated LR 10:739 (October 1984), amended LR 25:1212 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#008

RULE

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

Guidelines for Professional Practice (LAC 46:XXI.1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted the Professional Code of Ethics Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 13. Code of Ethics

§1301. Guidelines for Professional Practice

A. The mandatory Code of Ethics defines the ethical relationship the public, the bench, and the bar have a right to expect from a Certificate Holder. It sets out the required conduct of the Louisiana Certified Court Reporter when dealing with the user of reporting services, and acquaints the user, as well as the Certificate Holder, with guidelines established for professional behavior. The Guidelines for Professional Practice are goals for which every Certificate Holder should strive. Certificate Holders are urged to comply with the Guidelines, which do not exhaust the moral and ethical considerations with which the Certificate Holder

should conform, but provide the framework for the practice of reporting. Not every situation a Certificate Holder may encounter can be foreseen, but fundamental ethical principles are always present. By complying with the Code of Ethics and Guidelines for Professional Practice, Certificate Holders maintain their profession at the highest level.

B. A current certificate holder shall:

1. be fair and impartial toward each participant in all aspects of reported proceedings, treat all parties equally, and always offer comparable services and prices to all parties in a proceeding;

2. be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Certificate Holder shall timely disclose said conflict or potential conflict to all parties in the proceeding or take the action(s) necessary for extraction from said conflict or potential conflict;

3. guard against not only the fact but the appearance of impropriety;

4. preserve the confidentiality and ensure the security of information, written, entrusted to the Certificate Holder by any of the parties in a proceeding;

5. be truthful and accurate when making public statements or when advertising the Certificate Holder's qualifications or the services provided;

6. refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations;

7. determine fees independently, except when established by statute or court order, entering into no unlawful agreements with others, whether for services or charges;

8. deliver requested transcripts of testimony timely to all parties on the same day. Delivery shall be by hand, if reasonable, or by proper posting if hand delivery is not reasonable;

9. refrain from giving, directly or indirectly, any gift, incentive, reward, or anything of value to attorneys, clients, witnesses, insurance company personnel or any other persons or entities associated with (the) litigation, or to the representatives or agents of any of the foregoing, except for:

a. items that do not exceed \$100.00 in the aggregate per recipient each year; or

b. pro bono services as defined by the National Court Reporters Association Guidelines for Professional Practice or by applicable state and/or local laws, rule, and regulations;

10. abide by the applicable nation/state/local laws and court rules and the rules promulgated by the Louisiana Board of Examiners of Certified Shorthand Reporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 37:2557(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 25:1215 (July 1999).

Milton Donegan, Jr.
Chairman
Office Administration Committee

9907#002

RULE

**Department of Economic Development
Office of Financial Institutions**

Capital Companies Tax Credit Program
(LAC 10:XV.303 and 305)

The following amendments to LAC 10:XV.303 and 305 have been proposed to clarify the ability of investors to obtain income tax credits for making investments in a Louisiana Certified Capital Company. These amendments are required to assure that the Louisiana Commissioner of Administration will be able to anticipate annual budget requirements for those investors who claim income tax credits.

Title 10

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

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§303. Definitions Provided by Rule

* * *

Certified Louisiana Capital Company Group—Any two or more CAPCOs which share common management or is under common control, whether such management or control is accomplished directly or indirectly.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999).

§305. Income and Premium Tax Credits

A. - B. ...

C.1. The total income tax credits granted pursuant to R.S. 51:1924.A in any calendar year shall not result in an additional reduction of total income tax revenues of greater than four-million (\$4,000,000) dollars per year.

2. During any calendar year in which this subsection will limit the amount of certified capital for which income tax credits are allowed, certified capital for which income tax credits are allowed will be allocated among Louisiana certified capital companies. Requests for allocation shall be prepared for filing not later than December first on a form prescribed by the department, which form shall include an affidavit by the investor pursuant to which such investor shall become legally bound and irrevocably committed to make an investment of certified capital in a certified Louisiana capital company subject only to receipt of allocation pursuant to this subsection. Any requests for allocation filed with the department before December first of any calendar year shall be deemed to have been filed on

December first of such year. Requests for allocation shall be allocated as followed.

a. When aggregate requests for allocation by certified Louisiana capital company groups do not exceed eleven million, four hundred twenty-eight thousand, five hundred seventy-one dollars and forty-three cents (\$11,428,571.43), all requests for allocation shall be approved by the department.

b. When aggregate requests for allocation exceed eleven million, four hundred twenty-eight thousand, five hundred seventy-one dollars and forty-three cents (\$11,428,571.43), each certified Louisiana capital company group shall be entitled to receive an allocation to be calculated by dividing eleven million, four hundred twenty-eight thousand, five-hundred seventy-one dollars and forty three cents (\$11,428,571.43) by the number of certified Louisiana capital company groups requesting an allocation. In the event that this allocation results in one or more certified Louisiana capital company groups receiving an allocation in excess of the amount which was requested, the excess shall be reallocated to the remaining certified Louisiana capital company groups on an equal basis until the entirety of the allocation has been fully distributed.

3. No certified Louisiana capital company certified after December first of any year shall be entitled to receive an allocation pursuant to Paragraph (b) of this Subsection for the same calendar year in which it was certified.

4. Annually within ten days of December first, the department shall review all requests for allocation of income tax credits and notify the certified Louisiana capital companies of the amount of certified capital for which income tax credits are allowed to the investors in such company. During this ten day period, each CAPCO or CAPCO group may allow for the substitution of one investor for another investor when the initial investor is unable or unwilling to complete the proposed investment.

5. In the event a certified Louisiana capital company or group does not receive an investment of certified capital equaling the amount of the allocation made pursuant to paragraph (b) of this Subsection within ten days of its receipt of notice of such allocation it shall notify OFI within 3 days. The unused portion will be redistributed on an equal basis among any remaining CAPCOs or CAPCO groups that have not received an allocation equal to their initial request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:1216 (July 1999).

Doris B. Gunn
Acting Commissioner

9907#025

RULE

Board of Elementary and Secondary Education

Bulletin 1179—Driver Education, Traffic Safety, and Administration Guide (LAC 28:XXXI.Chapters 1-15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. the State Board of Elementary and Secondary Education approved for advertisement revised Bulletin 1179. Bulletin 1179 is designed to provide administrative guidelines and curriculum content to school administrators and Driver Education Teachers in Louisiana. The Bulletin was revised to modernize and update its contents.

Title 28 EDUCATION

Part XXXI. Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools Chapter 1. Rationale

§101. Introduction

A. This publication was prepared as a guide to teaching students the attitude and skills necessary for safe driving performance and as a reference for administrators and instructors working with the Driver Education Program. Emphasis is placed upon pupil participation and a positive approach to the many phases of driver education.

B. The secondary schools are the best equipped, both from a professional and a psychological standpoint, to prepare young drivers for the driving task and its inherent hazards. The best time to train drivers is before their driving habits and attitudes have crystallized.

C. Learning tasks that individuals perform relative to driving and traffic safety serve as focal points around which to structure the curriculum. In this project, objectives and content items were derived from and centered around what people do, on and off the highway, in relating to the traffic system. Behavioral objectives were included where they contribute to a decision on performance involved in one of the tasks.

D. Instructional objectives are stated in terms of expected student outcomes and imply both method and content. They exhibit constructive changes to be produced in the behavior of students. This approach tends to motivate and direct the learning process. Objectives related to operator tasks present real world behavior (passing, turns, entering freeways, etc.). In some cases, the behavior that can be taught and evaluated during the course only enables students to perform effectively in real world situations. In every case, however, objectives stress student-environment interaction as opposed to student-instructor interaction.

E. Before Driver and Safety Education can hope to modify the behavior of students, instructors must become more than dispensers of information and trainers of skills. Concepts that students discover are more meaningful and remembered longer than those handed down to them or imposed upon them. In short, information and skills must be taught in such a climate that students see and accept the responsibilities associated with the learnings.

F. The human functions - Search, Identify, Predict, Decide, and Execute - involved in performing safe traffic related tasks, serve as references throughout this guide. Each

unit of study is designed to improve learner capability in one or more of these functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

Chapter 3. Format of Curriculum

§301. Goal of Driver Education

A. The goal of driver education is the training of traffic citizens who will be safe, efficient and skilled users of the highway transportation system. To achieve this goal we must provide the best instructional system utilizing existing resources and modern technology. The program of instruction provided in this guide is one that is relevant, measurable, and structured for effective learning.

B. When driver education is properly taught it promotes a reduction of accidents and fatalities on the highway. It also provides an excellent medium for the development of self-control and accurate thinking; and social responsibilities are more easily taught in connection with an activity that the student feels to be vitally significant. As such, educated drivers can become the best drivers on our highways.

C. The program of instruction outlined here for driver education reflects recent trends and developments in curriculum construction and traffic safety research. The basic approach follows the task analysis procedures that have been developed and utilized for describing and analyzing the individual's role in man-machine systems. By describing the human functions in relationship to their role in performing the driving task, emphasis is placed upon the behavioral processes. The content of the course, then, focuses on the processes, decisions, commitments and actions of drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

§303. Overview of Instructional Units

A. The suggested program of instruction is divided into ten classroom units and six laboratory units. These units should be considered as guides or blueprints from which to build a quality driver education program that meets the needs of each local system. The units provide adequate materials for the minimum program, and they can easily be expanded for the development of an optimum program.

B. Classroom unit one serves as an overview of the complete course by providing for a description of the highway transportation system and driving task requirements. Such an orientation not only provides a baseline or road map for future reference, but it can continue throughout the course. The student will get acquainted with the purpose of the highway transportation system at large. He/she will also get some brief information on how the system malfunctions so he/she can better appreciate and, later, anticipate those disturbances and failures that are a part of the operational environment whenever he/she is a user of the system. In essence, the first unit tries to answer these questions:

1. Why am I here?
2. What can I hope to accomplish?
3. What will I be doing?

C. Classroom units two through six and all the laboratory units deal with the competencies or human performances required for becoming a proficient driver. It is in these units that the principles for sensory perception, judgmental abilities, and decision making are demonstrated and applied in realistic settings. Although these human functions or abilities are integrated into observable classes of behavior, there seems to be no doubt that errors or poor performance can occur at any point. Therefore, it is important to set up separate training programs and evaluative criteria for each definitive ability. For each of these abilities which must be practiced if proficiency is to be acquired, there is a body of knowledge that must be integrated for proper training to take place.

D. Other classroom units are concerned with driver condition and responsibilities. Drivers must be responsible if the highway transportation system is to be operated effectively. Responsible drivers must have a properly registered and mechanically safe vehicle. They must recognize the degree to which such factors as emotions, fatigue, drugs, and alcohol can affect their driving proficiencies. Once students have learned the role certain human functions have in driving, and the proficiency levels that must be obtained, then they are psychologically ready to study those factors which can impair their driving proficiency.

E. Dominant themes or strands of knowledge are established, expanded, reinforced, and applied throughout the units. The mental and social aspects of driving are introduced in the first unit and then become the rationale for introducing each subsequent unit. Other such themes are traffic regulations, vehicle performance requirements (space, time, and traction), and the common traffic situations. Provision is also made for that common thread of education which should run through all secondary school curricula—the *development of the ability to think*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

§305. Structure and Format of Units

A. The units are divided into two or more segments with the three major components needed to develop daily lesson plans provided for each of the segments. First, instructional objectives are stated in behavioral terms as derived from a task analysis approach. Then, a brief outline of subject matter content is included. Finally, a few suggested learning activities are described. As such, each segment is a self-contained teaching-learning package.

B. Each unit also contains a Definition of Terms, and a brief discussion of the General Approaches to the Unit.

C. The general format used for each unit is as follows:

Chapter Title

Unit Title

A.

(Title of Segments)

B.

Rationale Statements

Unit Objective

A. (Segment Title)

Instructional Objectives

1.

2.

Content Outline

1.

a.

b.

2.

3.

Activities

1.

2.

B.

Definitions of Terms

General Approaches to Unit

Answer Key to Tests

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999).

§307. Development of Lesson Plans

A. For the suggested units of instruction to be of value, an instructor should use them as a guide to develop meaningful daily lesson plans. Each segment of a unit lends itself to the development of one or more lessons. These lessons can then be combined in a way that is relevant to the local school situation. This flexibility should make it easy for each school to determine its own sequence and time allotments. They are also quite applicable to the laboratory methods of instruction, be it single-car, simulation, or multiple-car range.

B. The starting point is the selection of an objective. The objectives provided were written so as to clarify the intent of instruction. They not only furnish guidance and motivation to both student and instructor, but they also become guides for selecting content and standards for evaluation. In some cases these objectives may need to be broken down into more specific subordinate objectives. If necessary, these and other enabling objectives can be formulated so that the instruction can begin with the entering capabilities of the students.

C. Once the lesson objectives are identified and defined, the content and definition of terms will need to be selected. In most cases the content provided will need to be expanded and reorganized. It is important to clearly identify all fundamental concepts and generalizations and skills that are basic to the required activities. An instructor should guard against including unnecessary content. The worst thing about a course loaded with unnecessary content is that such content gets in the way of the objective. When students have a difficult time telling what is relevant and irrelevant, they may try to learn everything and suffer from such overload.

D. A concept, such as *right-of-way* or *hazard*, is a relatively complete and meaningful idea in the mind of a person. Concepts are not facts. Facts may be used in teaching concepts, but it is possible to teach many facts without teaching a single concept. Simply teaching discrete facts and skills with little regard for their context in a broader structure makes it difficult for students to comprehend, remember, and apply the learnings.

E. A clear statement of a concept or principle to be acquired by students will save much lost motion in lesson planning and indicate a productive learning experience to be set up. In the *Process of Education*, by Bruner, four claims are made for teaching fundamental concepts, and principles.

These claims are:

1. Understanding fundamentals makes a subject more comprehensive. To understand something as a specific instance of a more general case is to have learned not only a specific thing, but also a model for understanding other things like it that one may encounter. Students learn best if they study meaningful material.

2. Unless detail is placed into a structured pattern, it is rapidly forgotten. Organizing facts in terms of principles and ideas from which they may be inferred is the only known way of reducing the quick rate of loss of human memory.

3. More adequate *transfer of training* can take place. The more a student learns fundamental principles and concepts and has opportunities to apply them, the greater will be the transfer of learning.

4. One is able to narrow the gap between *advanced* knowledge and *elementary* knowledge.

F. Perhaps the most important task of a teacher is the specification of student learning activities followed by guiding students through such experiences. Learning activities are explicit descriptions of what the student does to reach objectives. Essentially students learn through what they do rather than what is done to them. The more active the participation of the learner, the more effective the learning. Therefore, activities must be designed to involve the student in those performances required by the objective.

G. A number and variety of activities have been described for each segment of a unit. Because individuals are different, a variety of activities leading to the same objective should be included for each lesson. At least three or more diversified activities should be included for each objective. Of course, it is not intended that all activities be used in any one class. Grading or scoring of most activities should not be required by a teacher. However, some sort of feedback should be provided by other students, teachers, or a self-checking device.

H. The case history method for developing activities offers one of the best approaches to traffic safety problems. In dealing with other persons in real life situations, the student becomes involved. Students identify easily in such situations. Their intellectual curiosity impels them to stay with the problem until a solution is worked out.

I. Finally, unit tests will need to be developed to measure the effectiveness of the instruction and the extent to which students are achieving the objectives. Multiple choice tests have been provided for some of the unit segments.

J. Here are some principles that were used in the development of the unit materials and that are recommended as guides for the development of daily lesson plans.

1. Teachers get the best results when:
 - a. the objective of instruction is learning by the student;
 - b. experience is recognized as the key factor in learning;
 - c. arranging of learning environments and providing guidance for learning are the major teacher tasks.
2. Students learn best if they:
 - a. are actively involved;
 - b. receive guidance and positive reinforcement;
 - c. have a wide variety of experiences in rich and varied environments;

d. have experiences which are organized around purposes they will accept;

e. have opportunities to learn from each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999).

Chapter 5. Administrative Policies

§501. Introduction

A. It is important that administrators and instructors are aware of the various State laws, State Board of Elementary and Secondary Education Policies, and Department of Education Policies governing driver education.

B. Strict adherence to these laws and policies by all persons connected with driver education will assure efficient operation of the program and will aid in the establishment and/or continuation of a quality program of driver education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999).

§503. Driver Education and Training Program for Children. R.S. 17:270

A. The State Board of Education and the State Department of Education shall establish and operate a driver education and training program in each parish of this state for children of secondary school age. The program shall consist of a course of not less than six hours of actual driving experience and thirty hours of classroom instruction. The aims and purposes of the driver education and training program shall be to educate drivers to be competent, to develop a knowledge of those provisions of the law of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

B. The State Board of Education shall prescribe such rules and regulations as are necessary and proper to provide for the conduct and operation of the driver education and training program. The State Board of Education shall approve operating procedures defining the conduct and scope of the use of driving simulators to be used in the program. In addition to and supplementary to all other powers authorized by law, the State Superintendent of Public Education is authorized to purchase for cash or by lease-purchase agreement all the necessary equipment, visual and training aids and devices, and all related materials required to conduct and operate the program.

C. The State Superintendent of Education shall account for all funds provided for and expended under authority of this action in a detailed statement submitted to the next regular session of the legislature, and annually thereafter.

D. The driver training program conducted by the State Department of Public Safety under the authority of R.S. 40:1461-40:1465 is hereby abolished and all driving simulators, necessary equipment, visual and training aids and devices and related materials used in such program shall be transferred to the State Board of Education and the State Department of Education. All funds appropriated to the State

Department of Public Safety for the conduct of the driver training program shall be transferred to the State Department of Education.

E. The State Board of Elementary and Secondary Education may establish a standard cost per student enrolled in driver education and training programs, based upon the annual cost of the driver education and training program and allocation of such cost on a pro rata basis among the students in the program. The board may require local education agencies to reimburse the Department of Education for the cost of such program based upon the number of students in the program in the local education agency and the standard cost per student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999).

§505. Driver Education and Training; Fees

R.S.17:271.1

A. Notwithstanding any provision of law to the contrary, each city and parish school board, when sufficient funds are not provided by state or federal funding sources for drivers education and training programs, may authorize the conduct of such programs for secondary school students or adults at any school site within their jurisdiction on such a fee-paying basis as is necessary to cover the expenses associated with the conduct of such training, including the salary and benefits of an instructor. However, any funds generated through payment of such fees shall be used solely to support the cost of a driver's education program and may not be diverted to other purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§507. Driver Education; Required. R.S.32:402.1

A. No application for a license for the operation of a motor vehicle shall be received from any person seventeen years or older making application for the first time unless there is also submitted with the application, on a form approved by the secretary of the Department of Public Safety and Corrections, written evidence of the successful completion by the applicant of:

1. A "driver education course", which shall include training of railroad and highway grade crossing safety, approved by the Department of Public Safety and Corrections or the Department of Education.

2. A "prelicensing training course" if a behind-the-wheel course is not completed. The prelicensing training course shall consist of a minimum of six hours of instruction in the National Safety Council's defensive driving course, Louisiana's traffic safety laws, and substance abuse education, or shall be an equivalent course approved and certified by the Department of Public Safety and Correction. The secretary of the Department of Public Safety and Corrections shall adopt rules relating to the prelicensing training course. Oversight review of these rules shall be conducted by the House and Senate Committees on Transportation, Highways and Public Works. The rules shall provide for:

- a. licensing of training agencies;
- b. course content and presentation;

- c. instructor qualifications and certification;
- d. classroom size and facilities;
- e. certificates of completion;
- f. required records and reporting;
- g. fees, which shall not exceed twenty-five dollars per student;
- h. penalties.

B. The provisions of this Section shall not apply to any person applying for a renewal license under the provisions of this Chapter or to any person living twenty-five miles or more distant from a location providing a "prelicensing training course."

C. Beginning one year after the appropriation of funds by the legislature to the State Department of Education for the implementation of a driver education and training program for all children of secondary school age in each parish of this state, and upon the certification by the state superintendent of public education to the secretary of public safety that such program is operating in each parish of this state, no application for the operation of a motor vehicle shall be received from a minor sixteen years of age or older unless there is also submitted with the application, on a form approved by the secretary of public safety, written evidence of the successful completion by the applicant of a driver education course approved by the Board of Elementary and Secondary Education or the Department of Public Safety and Corrections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§509. Learner's License; School Instruction Permit; Special Restrictions on Motorcycles. R.S.32:422

A. Any person who is at least seventeen years of age may apply to the department for a learner's license to drive motor vehicles or power cycles, provided such person has completed a driving course in accordance with R.S. 32:402.1. The department may, in its discretion, after the applicant has successfully passed all the parts of the examination, other than the driving test, issue to the applicant a learner's license at the regular fee of a Class E driver's license which shall entitle the applicant while having such license in his immediate possession to drive a motor vehicle upon public highways when accompanied by one licensed driver at least twenty-one years of age, or when accompanied by a parent or parents, and it shall be unlawful for any other person to accompany the beginner and licensed driver, except in the event the applicant is operating a motorcycle. Any person under the age of seventeen who has a valid learner's license and is operating a motorcycle is restricted to a distance of three miles from the applicant's residence, unless a parent, tutor, or other person having custody is temporarily staying or residing at another location, where the applicant would be restricted to within three miles of that location. Any person seventeen years of age or older being issued a learner's license may apply for a regular class "E" license thirty days after the issuance of a learner's license, or at any time after the issuance of the learner's license provided the applicant provides proof that the applicant has completed an approved thirty-six hour driver education course, and there shall not be any additional fee for the regular license.

B. Any person who is at least fifteen years of age may apply to the department for a school instruction permit if he is enrolled in a driver education course conducted by a person who meets certification requirements as established by the Board of Elementary and Secondary Education or the Department of Public Safety and Corrections for teachers of driver education and traffic safety. The department may, in its discretion, after the applicant has successfully passed all parts of the examination, other than the driving test, issue to the applicant a school instruction permit for which no fee shall be charged. Such school instruction permit shall be valid only during the period of such instruction, and when the person to whom the permit is issued is accompanied by the high school instructor of driver education and traffic safety. Such permit shall be in the possession of the instructor during the period of its validity and shall be presented at any time for examination, when so requested by any law enforcement officer. Upon completion of such course of instruction, it shall be the responsibility of the instructor, as directed by the department, to return for cancellation any and all permits which have been issued and are held by him. Effective January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§511. SBESE Regulations Governing Driver Education

A. The Louisiana State Board of Elementary and Secondary Education (SBESE) has adopted the following policies and regulations concerning Driver Education.

1. SBESE establishes and prescribes the following minimum standards for use by the Louisiana State Department of Education in approving courses in Driver Education for secondary school children.

a. For any public or non-public regular day school, to receive approval of its course(s) in Driver Education and/or Training, the minimum standards listed below must be met.

b. All phases of the Driver Education and/or Training course(s) must be taught by a person who meets the current certification requirements as established by the SBESE for instructors of Driver Education and/or Training and who is currently certified by the Louisiana State Department of Education as an instructor of Driver Education and/or Training.

c. The Driver Education and/or Training Course(s) must be comprised of classroom and laboratory instructional phases meeting the following standards.

i. Classroom Instruction. This phase of instruction:

(a). must be offered for a minimum of thirty (30) clock hours (with no more than five (5) clock hours of instruction to be given during any twenty-four (24) hour period);

(b) must include areas of instruction currently prescribed by the Louisiana Department of Education; and

(c). must be taught in a Department approved school classroom suitable for the proper conduct of the class.

ii.(a) Laboratory Instruction. This phase must utilize one of the options listed below:

(i). Option 1. In offering Laboratory Instruction under this option, a maximum of twelve (12)

clock hours of instruction in a State-approved driving simulator may be substituted for the first three (3) hours of instruction in a dual-controlled automobile. The last three (3) clock hours of instruction must take place in a dual-controlled automobile where the student is the actual operator of the automobile. After dusk and before dawn operator instruction in a vehicle shall not be given by the instructor.

(ii). Option 2. In offering Laboratory Instruction under this option, a minimum of six (6) clock hours of instruction with the student as the operator of a dual-controlled automobile must be offered. After dusk and before dawn operator instruction in a vehicle shall not be given by the instructor.

(b). Either option must include areas of instruction currently prescribed by the Louisiana Department of Education.

(c). A student who has received the complete classroom instruction of Units II, IV, V and IX may begin the Laboratory phase of Driver Education. The suggested teaching time for each of these classroom units is three hours. No student shall be allowed to successfully complete and pass Driver Education without having received instruction in all of the classroom and laboratory units contained herein.

(d). At a minimum a student must be administered and pass written testing covering the above referenced units before being allowed to participate in the laboratory phase of the driver education course. See Chapter 7, §705-G.

(e). No individual shall be positioned between the instructor and the student vehicle operator during operation of the driver education vehicle. It is recommended that in addition to the student vehicle operator and whenever possible a minimum of at least one other student should be in the vehicle as an observer during vehicle operation instruction.

d. Public and non-public secondary regular day schools are to grant one-half () unit credit to students who satisfactorily complete the Classroom and Laboratory Phases of an approved course in Driver Education. *Proprietary schools and commercial driving schools have not been designated the approved status required for the granting of Carnegie units.*

e. At least annually and at more frequent intervals as deemed necessary by the Louisiana Department of Education, all public or non-public regular day schools, must apply on forms prescribed by the Louisiana Department of Education (either annual school report or summer school application), for approval of its course(s) in Driver Education and/or Training.

2. The above minimum standards would apply in connection with R.S. 32:402.1 relative to the initial issuance of a driver's license to those persons who have successfully completed an approved course of Driver Education and/or Training. In addition, these standards would apply to the possible reduction of automobile insurance premiums for those persons who successfully complete and approved Driver Education and/or Training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1221 (July 1999).

§513. Certification for Driver Education Teachers

A. Beginning with the 1997-1998 school year the following requirements and courses as approved by the SBESE apply to any teacher requesting certification in Driver and Traffic Safety Education. These requirements, as set forth in the Department's Bulletin No. 746, (Revised), Louisiana Standards for State Certification of School Personnel, are as follows:

1. a valid Louisiana teaching certificate;
2. a Louisiana driver's license;
3. a driving record clear of conviction of major accidents and/or repeated traffic violations;
4. specialized education:
 - a. General Safety Education - 3 hours;
 - i. basic safety information (home, school, traffic, community, and industrial safety) and general information on psychology of accident prevention;
 - b. Basic Information Course in Driver Education - 3 hours;
 - i. investigation of the problems facing drivers such as those of pedestrians, cycles, alcohol and drugs, traffic engineering problems, and study of the philosophy of Driver Education as it exists in our society;
 - c. Curriculum Innovations and Instructional Devices - 3 hours;
 - i. In-depth study of Driver Education and traffic safety curricular materials and familiarization with related instructional devices;
 - d. First-Aid - 1 hour;
 - i. Elementary and Secondary Education policy;
5. revocation upon being convicted of repeated traffic violations or any major crime or accident involved in or related to the operation of a motor vehicle.

Note: For additional information concerning the certification requirements listed above, contact the Division of Certification and Higher Education, State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§515. Plans for Utilizing Driver Simulators

A. In the practice driving phase, a maximum of twelve hours instruction in a state-approved simulator may be substituted for the first three hours instruction in an automobile in meeting the Driver Education practice driving requirement. Simulator practice driving time must be in a ratio of four to one; that is, four hours of simulator experience equals one hour of actual practice driving instruction in an automobile. Thus, the student is to spend twelve hours in a simulator and the last three hours in a dual-controlled automobile in meeting the practice driving requirements under this plan.

B. Academic Credit for Driver Education—At its meeting of July 31, 1965, the SBESE adopted the following policy regarding academic credit for satisfactory completion of both phases of Driver Education:

Upon satisfactory completion of both Phase A (Classroom) and Phase B (Laboratory) of an approved Driver Education program, the student is to be granted one-half () unit credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§517. Louisiana Department of Education Regulations

A. Age-Grade Placement of Driver Education. Driver Education should be offered to students prior to their reaching the minimum legal age to obtain a regular Class E Driver's License. This procedure has been provided for by R.S. 32:422.

Any person who is at least fifteen years of age may apply to the department for a school instruction permit if the student is enrolled in a Driver Education Course conducted by a person who meets certification requirements as established by the Louisiana SBESE for teachers of Driver Education and Traffic Safety."

B. Placing Driver Education at the ninth grade level has many advantages and values. From an administrative point of view it is easier, usually, to keep the various ninth grade sections together, which makes scheduling easier. Also, scheduling Driver Education at this age-grade level will present it before the pupil has had much, if any, driving experience. Thus, many of the undesirable behavioral patterns and bad driving habits that might be developed in the next year or two can be avoided. Placing Driver Education at the ninth grade level also reaches the potential dropout, who needs such a subject for career oriented vocations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§519. Scheduling Driver Education

A. In scheduling students for Driver Education, it must be kept in mind that all instruction must be completed within a twelve-month period from date of enrollment. The classroom phase of Driver Education must be taught for a minimum of 30 clock hours to meet the minimum standards.

B. Various vehicle manufacturers have programs designed to either lease or loan eligible Driver Education vehicles through their dealerships or program headquarters. For information concerning this matter contact the appropriate dealership of choice.

C. Any vehicle utilized in a Department of Education approved Driver Education Course, regardless of its source, shall at a minimum meet all of the following specifications:

1. working heater and defroster;
2. dual floor brake controls;
3. current state inspection tag affixed to the automobile windshield;
4. current insurance coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§521. Recommended Minimum Insurance Coverage for the Driver Education Automobile

A. In order for the automobile owner (i.e., dealer etc.), school board and instructor to be adequately protected in case of an accident, the following suggested minimum insurance protection is given:

Bodily Injury Liability	\$100,000 each person \$300,000 each accident
Property Damage Liability	\$100,000 each accident
Medical Payment	\$ 10,000 each person
Comprehensive	\$100 deductible
Collision or Upset	80% or \$250 deductible

B. In providing this insurance protection, it has been the policy for many years for the automobile owner to contract for the insurance protection with the agency of his/her choice. The automobile owner should also agree to endorse the policy or policies to cover the school board. The insurance company should furnish a certificate stipulating that the school board and the Driver Education teacher are covered, and that the teacher, while on duty, will be insured against any liability on account of negligence on the part of the student being given instruction in the automobile. Provisions should be made to cover any student in the automobile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§523. Restriction on Use of the Driver Education Automobile

A. Automobiles provided by dealers are to be used for Driver Education purposes only. *Any other use is prohibited.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§525. Proper Identification of the Driver Education Automobile

A. All Driver Education vehicles should be so identified by the use of Student Driver or Driver Education decals. It is requested that no other form of identification be used. A decal should be placed on each side of the automobile and one should be placed on the rear of the automobile. These decals are available from various vendors and should be made of materials and adhesive that make removal of them possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§527. Records

A. Application and School Instruction Permit. DE 1821 (R10/95)

1. This form is a four-page snap set. Its primary purpose is to provide temporary licensing for unlicensed student drivers only. With the development of the four-page snap set, other purposes include providing evidence of completing Driver Education for the student and a complete record for the local school board office, and the local school. These records must be kept locally for at least 10 years to comply with Federal and State laws.

2. A complete discussion of the processing of this form may be found beginning with §705. Each appropriate administrator and Driver Education instructor must become familiar with these regulations. No exceptions are to be made to the regulations concerning the issuance of the Permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§529. Sources of Teaching Aids and Other Supplies

A. The following Driver Education materials are available from the Department of Education, Office of School & Community Support Services:

1. Application and School Instruction Permits (DE1821);

2. Administrative and Curriculum Guide (Bulletin 1179).

B. There are many materials, publications and videos available for use in Driver Education classes. These may be obtained from most of the major textbook publishers, automobile manufacturers and other companies interested in Safety and Driver Education. In addition, copies of the *Louisiana Driver's Guide* are available from the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

Chapter 7. Regulations Governing the Issuance of the Application and School Instruction Permit

§701. Introduction

A. Every driver education instructor who offers on-street laboratory instruction as part of the driver education program shall become familiar with the contents of this portion of the curriculum guide and shall comply with the regulations set forth for this guidance.

B. It shall be the responsibility of every instructor to restrict laboratory (practice driving) instruction to those students for whom school instruction permits have been prepared in compliance with these regulations. This is with reference to Title 32, Section 422, of the Louisiana Revised Statutes specifically concerning school instruction permits, as follows.

1. Any person who is at least fifteen years of age may apply to the department for a school instruction permit if he is enrolled in a driver education course conducted by a person who meets certification requirements as established by the Louisiana State Board of Elementary and Secondary Education for teachers of driver education and traffic safety. The department may, in its discretion, after the applicant has successfully passed all parts of the examination, other than the driving test, issue to the applicant a school instruction permit for which no fee shall be charged. Such school instruction permit shall be valid only during the period of such instruction, and when the person to whom the permit is issued is accompanied by the high school instructor of driver education and traffic safety. Such permit shall be in the possession of the instructor during the period of its validity; and, shall be presented at any time for examination when so requested by any law enforcement officer. Upon completion of such course of instruction, it shall be the responsibility of the instructor, as directed by the department, to return for cancellation any and all permits which have been issued and are held by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§703. The Application and School Instruction Permit

A. Application and School Instruction Permit(s) DE1821 (R10/95) are made available to local school board offices and approved nonpublic schools through the Department's Office of School and Community Support Services. Permits shall not be used in association with Driver Education courses either not listed on Department of Education Annual School Reports or Approved Summer School Applications. Orders for permits should be submitted on school board or school stationary.

B. The permits which are printed with blue ink are serially numbered. Each school board office and individual Driver Education instructor shall be held accountable for their distribution. All unused or spoiled permits must be returned to the school principal or appropriate school board supervisor.

C. The permit which is to be issued only to unlicensed student drivers is a four sheet snap-set designed for the following uses or purposes.

1. The original copy which is printed on safety paper is to be given to the student upon satisfactory completion of the driver education course. The student is to present this sheet to the Driver's License Examiner upon application for a regular driver's license. *It is to be given to the student only upon his/her satisfactory completion of the driver education course. Never release a blank permit to a student.*

2. The student should also be given the second sheet along with the original in order that he/she can provide documentation of successful course completion to his/her insurance agent for possible insurance premium reduction.

3. The third sheet (pink copy) of the set is to be returned to the local school board office to be retained in their files for at least ten years in order to comply with State and Federal rulings on this subject.

4. The fourth sheet is to be retained for at least ten years in the files of the local school where the course classroom sessions were presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999).

§705. Procedures for Issuing Application and School Instruction Permits

A. Procedure for Completing Permit

1. Various portions of the application-permit shall be completed in the following order:

a. information concerning *student's description and address* and questions of personal information on front of application;

i. Student affixes signature and date classwork begins. (Refer to Section B.);

b. completion of section captioned *To Be Used Only If Applicant Is A Minor*. (Refer to Section C.);

c. completion of sections concerned with:

i. visual tests (Refer to Section D.);

ii. hearing (Refer to Section E.);

iii. physical condition (Refer to Section F.);

d. indicate completion date (Refer to Section G.).

B. Student's Description and Address

1. The student is responsible for providing correct information in legible form on front of application by using a ball-point pen. Applications should be completed under supervision and with assistance of the instructor.

NOTE: Advise student that application becomes permanent record, therefore accuracy and neatness are essential.

2. The student's birthday must be carefully checked, since it is unlawful to issue a school instruction permit to anyone who has not reached his/her 15th birthday.

3. For color of eyes, describe as blue, brown, gray, hazel, or green. Do not use vague descriptions, such as *dark* or *light*. Do not abbreviate *blue* or *black*. Brown may be abbreviated *br*.

4. Check the height in feet and inches, and write down, as 5'10" or 5 ft. 10 in. If applicant's statement does not seem reasonable, measure him.

5. All questions on the front of the applicant-permit must be answered truthfully and correctly by the student. The student should sign with *usual signature*, not necessarily his/her full name. This is for identification purposes. *It must be written with a ball-point pen.*

C. Minor Drivers

1. If the applicant is a minor it is mandatory that one parent sign the application in the presence of a notary public or a designated representative of the Drivers License Division, who in this case is the driver education instructor.

2. In case of a minor, if both parents are deceased, or have lost custody, the application must be signed by the applicant's legal guardian, if he/she has one. The instructor must require proof that the person is the legal guardian.

3. This section must be completed in its entirety before the instructor affixes his/her signature in the space directly below the section in question, *and before the results of any tests are recorded on the application.*

D. Visual Tests

1. Set-up of Chart

a. The room where this test is given should be at least 20 feet long, well lighted, and large enough to facilitate proper examination procedures.

b. Obtain a standard Snellen eye test chart. Place it in a position with light from the outside coming from behind, or from one side, of the applicant. Do not have any natural or artificial light shining directly into the applicant's eyes.

c. Place the chart on the wall so that the middle of the chart is three to four feet above the floor.

d. Measure 20 feet from the chart and mark the exact distance on the floor using a line or thumb tack. Place a chair for the applicant to sit in so his eyes will be exactly 20 feet from the chart. Also, mark the 15-foot, 10-foot, and 5-foot lines.

2. Color Test

a. Ask the student to name the colors of the bars or spots on the chart. If the student correctly recognizes green and red, record the results in the appropriate space, opposite the word *Color*, and proceed to the next step.

b. If the student definitely misses either, record the fact, then explain to the student how he/she can compensate for this color deficiency. Tell the student that he/she will

have to exert extra precautions by observing the position of lights in traffic signals, and to observe flow of traffic at traffic-signal lights in unfamiliar localities. Do not fail the student for color blindness alone.

3. Acuity

a. If the student wears glasses or contact lenses, ask him/her to read, with both eyes open, each letter in the 20/20 line. If he/she does not miss over 1 or 2, score him in the space provided as 20/20. If he/she cannot read the 20/20 line, go *up* to the next line (20/40) and so on until you have found the lowest line he/she can read correctly; record the score on this line. The student should not miss over one-fourth ($\frac{1}{4}$) of the letters on any line.

b. Repeat test with *right eye* except that you have the student read from *left to right*. Repeat with *left eye* from *right to left*.

c. Next, ask student to remove the glasses or contact lenses and allow sufficient time for visual adjustment due to lack of glasses or contact lenses. If glasses or contact lenses are worn, test must be given *without glasses* or *contact lenses* as was used *with glasses* or *contact lenses*. If student cannot see well enough without glasses or contact lenses to meet the state's requirements for unrestricted license, explain to him that he must wear glasses or contact lenses at all times and note under remarks, Restricted to glasses or contact lenses.

d. If the student cannot meet the minimum standards with glasses or contact lenses, the examination must be discontinued at this point. The student should be advised of your findings in such a manner that he/she will appreciate it and at the same time will be able to explain to his/her parents the need for further examination by an eye specialist. *Do not* recommend any specific oculist or optometrist; simply advise the student that he/she should see an eye specialist of his/her own choice. After the examination, treatment, or fitting of glasses or contact lenses, re-examine the student and proceed with test. Attach any statement from eye specialist to the student's application.

4. Acuity Standards

a. The following acuity standards have been established by the State Department of Public Safety, Drivers License Division and must be complied with, without exception.

i. *Without glasses*, applicant must identify 20/40 or better in each eye to pass. *With glasses*, applicant must identify 20/40 or better in each eye to pass. (*Restricted to glasses*) *Blind in one eye, without glasses*, applicant must identify 20/40 or better to pass. *Blind in one eye, with glasses*, applicant must identify 20/40 or better to pass. (*Restricted to glasses*).

ii. An applicant failing to pass is referred for professional visual care. After he/she has received attention, he/she may again apply for a school instruction permit.

iii. Students who are blind in one eye should be thoroughly instructed as to the nature of their handicap and given every assistance necessary for proper means of compensation.

iv. One-Eyed Applicants. This group may include cross-eyed individuals and those with one impaired eye which for any reason cannot be made to meet the minimum requirements. A statement from an eye specialist to this

effect would place the student in the category of *blind in one eye*, and he should receive the same consideration, including thorough education to his handicap.

v. If a student fails to meet the minimum requirements after professional care and after presenting a certificate from the eye specialist, full information concerning the individual case should be forwarded by the instructor to the Chief of Safety Education, State Department of Education. This information will be forwarded to the Drivers License Division in order that a ruling may be secured. The instructor will be advised of the decision.

E. Hearing

1. At some point in testing, give the student instructions in a clear, ordinary tone of voice. If he hears you and follows instructions, check his hearing as *good*. If he asks you to repeat, he may have some hearing difficulty. Check such cases carefully. Stress the use of the outside rearview mirror and hearing aids. (Since deaf students will usually be instructed by special instructors, detailed instructions will not be given in this section on hearing.)

F. Physical Condition

1. Generally speaking, the instructor will have had an opportunity to observe the manner in which a student moves and will recognize any physical abnormalities such as stiffness of joints and difficulty of locomotion. Unless the student has a missing limb, or displays any difficulty which may make operation of motor vehicle unsafe, check space, *None Noted*.

2. If student presents any noticeable abnormality, especially missing members, use of crutches, or braces, a ruling should be obtained from the Drivers License Division on each individual case.

G. Test Scores

1. No student shall successfully complete a driver education course without first having been administered and passed both written knowledge and laboratory tests. The course instructor or appropriate system supervisor may design these tests. The written knowledge test should be based on information contained in this publication and the Louisiana Driver's Guide. Copies of the guide should be made available to the students at the beginning of the course.

a. Knowledge Test. If multiple written knowledge tests are administered to a student an average score of 75 must be obtained by the student to qualify for laboratory instruction. If the instructor elects to administer only a final written knowledge test the student must score no less than 75 percent correct to qualify for laboratory instruction. No student may participate in the laboratory phase of driver education without first having been instructed and tested on units II, IV, V and IX.

b. Laboratory Test. A student must obtain an average score of 75 if multiple driving tests are administered or a score of no less than 75 percent correct if only a final driving test is administered.

2. A student's overall test score (grade) shall be determined by averaging the final scores of the written knowledge test and the laboratory test. This overall score shall be placed on the student's *Application and School Instruction Permit*; (DE1821) in the box labeled test score. *Do not put a letter grade in the permit test score box*. However, the student's overall score may be converted into a letter grade for transcript purposes.

H. Completion of Application-Permit

1. If a student satisfactorily completes the aforementioned test(s) and all necessary information has been supplied, the instructor shall, *on the day the student actually completes driving*, place the completion date in the *laboratory completion* space provided on the permit. The instructor shall indicate in the *session* space the calendar school year in which the student actually completes the driver education program. At this time the instructor shall also provide the appropriate information requested in the *Student successfully completed* space.

2. Local education agencies (LEA s) and approved nonpublic schools offering Driver Education shall assign all appointed Driver Education instructors a number for identification purposes. Usually such numbers are assigned by the appropriate LEA supervisor or if applicable, a nonpublic school principal. These numbers are to be kept on record at the LEA or nonpublic school for a period of at least 10 years. It is the responsibility of the instructor to obtain the identification number before he/she begins teaching Driver Education for a particular LEA or nonpublic school. This identification number shall be preceded by the six digit site code number of the school where the instructor taught the listed student the classroom sessions of the course indicated on the permit.

I. Students Possessing Drivers' Licenses

1. In a case where a student has already been issued a Louisiana Drivers' License by the State Department of Public Safety, Drivers' License Division, no instruction permit is necessary and shall not be issued. The instructor shall verify that such students have a valid license.

J. Custody of Instruction Permits

1. Instructors who are issued a supply of the *Application and School Instruction Permit(s)* are held responsible for their safe keeping. The instructor shall keep the student's *Application and School Instruction Permit* in his/her possession at all times when providing on-street laboratory instruction. He/she shall present for inspection the application permit for the student who is at the wheel when requested by any state or local law enforcement officer. Permits shall not be in the custody of students during the course; they are to be held by the instructor and for use only when accompanied by an instructor so authorized by the State Department of Education. Appropriate copies of the permit are given to those students successfully completing the course. See §703.

K. Period of Validity

1. Disposition of "Application and School Instruction Permit"—School Instruction Permits are valid as long as the student continues laboratory (practice driving) instruction, without prolonged interruption, under the instructor issuing permit.

2. Permit shall be considered as having expired under the following conditions:

- a. when the required minimum number of hours of laboratory (6 clock hours or the equivalent) instruction has been successfully completed by the student; or
- b. when laboratory instruction is discontinued due to the close of the school session except in such case where the student will continue instruction during the summer; or
- c. when the student has acquired a *Learning Permit* or a regular drivers license from the Louisiana Department

of Public Safety, Office of Motor Vehicles. The *Application and School Instruction Permit* shall be marked void by the instructor;

d. when the student is removed from the school's roll or is removed from the Driver Education program. The *Application and School Instruction Permit* will be marked void by the instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999).

Chapter 9. Classroom Unit I—Nature of Driving in the Highway Transportation System (HTS)

§901. Introduction

A. The HTS is an integral part of our American way of life. This vital and complex system is comprised of many elements and is increasing in size and importance constantly. The many interactions of its three major elements result in a large number of diverse traffic situations and problems. Driving in this system is one of the more hazardous daily activities for most persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§903. Unit Objective

A. Describe the general nature of the driving task in our complex highway transportation system, while recognizing the importance and seriousness of the highway safety problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§905. The HTS and the American Way of Life

A. Instructional Objectives

1. Students can describe the functions of the HTS in the American social and economic structure.

2. Students can identify at least five reasons why the American life-styles are so dependent upon safe use of the HTS.

3. Students can list at least four reasons why the safe and efficient operation of HTS is so important to the economy of the United States.

B. Content Outline

1. Nature and Purpose of HTS

- a. Make-up of system.
- b. Components and elements of HTS.
- c. Safe and efficient movement of goods and people.

2. Importance to Our Way of Life

- a. Personal and individual transportation.
- b. Freedom to come and go.
- c. Education and job opportunities.
- d. Social and recreational activities.

3. Contributions to Our Economy

- a. Manufacture and repair of motor vehicles.
- b. Building and maintenance of highways.
- c. Motor truck as main carrier of goods.
- d. Gasoline and tire industries.
- e. Travel and recreation business.

C. Suggested Activities

1. Select students to discuss the advantages and disadvantages of our present HTS with classmates and/or parents. Students may be assigned to write several reasons why they should learn to use such a system safely and efficiently.

2. Ask students to conduct a survey within the community to determine:

- a. which industries and businesses are dependent on the motor vehicle;
- b. how many parents make their living directly or indirectly with motor vehicles;
- c. how the older people of the community describe their way of life prior to the popularity of the motor car;
- d. which kind of activities families participate in that could not be done without family cars.

3. Ask students to list the reasons why the HTS is important to our present way of living, and the economy of our country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§907. Our Complex Highway Transportation System

A. Instructional Objectives

1. Students can list at least five examples for each of the major HTS elements.
2. Students can identify various types of highways depicted in pictured or diagramed HTS displays.
3. Students can state at least three factors contributing to the complexity of the HTS.
4. Students can explain why driving is one of the most hazardous daily activities.

B. Content Outline

1. Make-Up of a Complex System
 - a. Number and variety of elements.
 - b. Continuous interaction of elements.
 - c. Need for regulations and control.
2. Number and Variety of Traffic Units
 - a. Kinds of vehicles and their condition.
 - b. Characteristics of drivers.
 - c. Pedestrians and animals.
 - d. Traffic volumes and congestion.
3. Number and Variety of Highways
 - a. Design features.
 - b. Conditions and maintenance.
 - c. Environmental settings.
4. Number and Variety of Traffic Controls
 - a. Signs and signals.
 - b. Roadway markings.
 - c. Written laws.
5. Driving as a Hazardous Activity
 - a. Failures of vehicles, highways, and drivers.
 - b. Social and economic consequences or failures.
 - c. Causes of collisions.
 - d. Need for systematic learning experiences.

C. Suggested Activities

1. Recommend that students watch television action shows and identify examples of various HTS elements. List and discuss these findings.

2. Assign students to observe various types of traffic situations from the viewpoint of the pedestrian. From the

situations observed, three complex situations will be selected and the students will:

- a. diagram the situation;
- b. describe how the elements interact;
- c. explain why they considered the situation complex.

3. Ask students to complete the *Identification of HTS Elements*. Have them use four or more items from the list and describe how they may interact to create a complex traffic situation. Describe at least three situations in this manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999).

§909. The Requirements of Driving

A. Instructional Objectives

1. The students can describe the kind of activities a driver must perform before a trip, during a trip, and after a trip.

2. The students can identify the physical, mental, and social requirements for driving an automobile.

B. Content Outline

1. Physical Requirements of Driving
 - a. Adjustment of various devices.
 - b. Operation of vehicle controls.
 - c. Sensing vehicle movements and feedbacks.
2. Mental Requirements
 - a. Knowledge of various procedures, concepts, principles, and regulations.
 - b. Observation and identification of system events.
 - c. Evaluation of roadway conditions and other user actions.
 - d. Choosing the best pathway and speed.
 - e. Selecting what, when, and where to take control actions.
3. Social Requirements
 - a. Responsibility for being qualified and properly licensed to operate a motor vehicle.
 - b. Selection and maintenance of safe motor vehicle.
 - c. Financial responsibility for damage to others.
 - d. Willingness to observe traffic laws and regulations.
 - e. Cooperation and communication with other users.
 - f. Support for adequate laws and their enforcement.
 - g. Refusal to drive when temporarily unfit.

C. Suggested Activities

1. Assign students to ride with a licensed driver and do a job analysis. Have students list and classify into meaningful groups the actions taken by the driver before, during, and after the trip. From this list, the student will identify the kinds of knowledge and abilities the driver used for each group of activities. Allow students to work together and compare lists.

2. Select five or more pictures or slides of driving scenes for students to examine carefully. For each scene, list the traffic events, roadway conditions, vehicle control factors, and driving choices. Based on this information, ask for descriptions (written or oral) of what each student perceives to be involved in each of the driving scenes.

3. Ask students to select a sport and a job. Have them compare the knowledge and skills required with those required of a driver.

4. Ask students to give reasons for and against the statement, *competent driving is largely a matter of making wise decisions*. Have them explain in writing why or why not driving should be considered as primarily a mental and social task.

D. Definition of Terms

Bicycle every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 16 inches in diameter.

Controlled-Access Highway—every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public agency having authority over such highway, street or roadway.

Driver—every person who drives or is in actual physical control of a vehicle.

Highway or Street—consists of the entire width between boundary lines of every way that is maintained by our government agencies and open to vehicles for public use. The roadways, shoulders, and ditches or curbs are parts of the highways.

Highway Setting—the actual location or physical surroundings of the street or highway such as rural, urban, business district, and residential area.

Highway Transportation System (HTS)—a complex system consisting of numerous man-machine combinations with a variety of goals that use a rather uniform communication network and operate in a variety of regulated environments.

HTS Elements—a basic part or component of the HTS such as highway, motor vehicle, traffic control, or pedestrian.

HTS Event—an occurrence or happening that takes place in the HTS and has to do with the condition, status, or activity of one or more HTS elements.

Motor Vehicle—every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Roadway—that part of a highway which has been improved or paved for use by vehicles and does not include the shoulders.

System—an assembly of elements that carry out a desired function by the interdependent operation of the component parts.

Traffic—consists of pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highways for purposes of travel.

Traffic Controls—all signs, signals, roadway markings and other devices placed on or along the highway by a public official to regulate, warn, or guide traffic. Traffic laws and regulations are also included even though no special control devices are present.

Traffic Unit—any pedestrian, vehicle (with or without driver), bicycle with rider, and ridden or herded animals.

Vehicle—every device in, upon or by which any person or property is or may be transported or drawn upon a

highway except devices moved by human power or used exclusively upon stationary rails or tracks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999).

§911. General Approaches for Unit I

A. The purpose of this unit is to help provide answers to the questions:

1. Why driver education?

2. Is the problem of using the HTS safely and efficiently important to me, others, and to our society in general?

3. Is driving all so difficult, and why?

B. Certainly the actual operation of a modern car is not difficult. Driving is a mental and social task worthy of schooling only as it relates to the complexity and importance of the system in which it takes place. The difficulty of the driving task is primarily in direct proportion to the complexity of the environment.

C. The unit provides for an introduction and orientation to the course. Students can be assigned activities though much of the first two class periods may be devoted to administrative details and course requirements.

D. The concept of HTS complexity sets the stage for defining the driver tasks which in turn sets the relational for the program of instruction. Once a student gets an idea of the various parts of the HTS and their functions, he can appreciate the system and the need for the various competencies he will be asked to develop to rather high proficiency levels.

E. It is important that course requirements be understood thoroughly. Students must realize right away that they will be held responsible for independent study outside of class. A major challenge to the use of independent study materials is motivating the student to use them. Of course, the student's interest in driving will be applied to independent study only if the teacher requires it, attaches importance to it, and expresses enthusiasm for it. Should the teacher permit students to enter laboratory instruction without adequate preparation, or should the necessary information be provided in class time, the incentives for independent study will be lost.

F. Transparencies and other media may be used in the classroom for stimulating interactions among students and between students and teachers. The classroom should be used basically for students to recall and apply information they have acquired through independent study if it proves helpful.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1228 (July 1999).

Chapter 11. Classroom Unit II—Traffic Laws and Controls

§1101. Introduction

A. The HTS, a complex system used by millions of drivers, requires sophisticated controls and rules to facilitate safe, smooth vehicle operation and interaction. Such controls and rules have been developed and when used wisely, permit freedom and safety of movement that would not be possible otherwise. Drivers must recognize, understand, and properly

interpret these controls and laws in order to make accurate decisions in the complex traffic environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1103. Unit Objective

A. Demonstrate a knowledge of traffic controls and laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1105. Traffic Control Devices

A. Instructional Objectives

1. Students can identify and classify traffic signs by shape and color.

2. Students can list the various types of traffic signals that may be encountered and describe the function of each.

3. Students can identify and interpret the meaning of road markings and other permanent or temporary types of traffic controls found in diagramed, pictured, or actual traffic situations.

B. Content Outline

1. Regulatory Signs

a. Shape and color.

b. Message and meaning.

2. Warning Signs

a. Shape and color.

b. Message and meaning.

3. Guide Signs

a. Shape and color.

b. Message and meaning.

4. Construction and Maintenance Signs

5. Signal Lights

a. Meaning of colors and arrows.

b. Order in which lights flash on and off.

6. Pavement Markings

a. Types of lines, symbols, and colors.

b. Location and meanings.

C. Suggested Activities

1. Provide students with an activity sheet showing the shapes and symbols for the various signs. Require them to write on an answer sheet the colors and the message or meaning of each sign.

2. Prepare transparencies of signs that have similar meanings or shapes and colors. Have students tell the difference in terms of driver requirements.

3. Prepare or have students prepare diagrams of all the various types of pavement markings. On a separate sheet of paper, have students state the purpose or meaning of each marking. Prepare transparencies for test purposes.

4. Flash pictures of various signs, controls, and markings for students to identify. Shorten time span until students can recognize meanings within a fraction of a second.

5. Have students write briefly the purpose of regulatory, warning, guide, and construction signs, traffic signals and markings. Draw and label samples of each group and state colors of each.

6. Prepare self-tests and answer sheets for students to complete outside of class. Allow students to check each other's papers for scoring and review purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1107. Traffic Laws for Maneuvers

A. Instructional Objectives

1. Students state reasons for establishment of various traffic laws.

2. Students identify the laws which apply to the motorist and to the vehicle in various HTS situations.

B. Content Outline

1. Speed Laws

a. Absolute or fixed maximum laws.

b. Minimum and advisory speeds.

c. Basic speed law.

2. Right-of-Way Laws

a. Basic concepts related to law.

b. Intersections — controlled and uncontrolled.

c. Entering from drive ways and parked positions.

d. Turning situations.

e. School bus and emergency vehicles.

f. Pedestrian rights and duties.

3. Turning and Signaling

4. Lane Usage and Passing

5. Parking, Standing, and Starting

C. Suggested Activities

1. Assign students to read the text of the *Louisiana Driver's Guide* and any locally prepared handouts.

2. Discuss the advantages and disadvantages of absolute speed limits, prima facie speed limits, and the basic speed law. Have students define speeding, excessive speeding, common speed, reasonable and prudent speed, and advisory speed zones.

3. Assign students to compare the requirements of drivers approaching a stop sign, yield sign, and merging traffic sign. Discuss the right-of-way problems involved.

4. Assign students to diagram or describe six different HTS situations for which the right-of-way laws apply. Have them test each other as to which driver should yield and why.

5. Prepare diagrams of right-of-way situations and answer sheet for student self-test. For each situation, students are to write down letter of vehicle or pedestrian which should yield the right-of-way. Provide answer key so students can check and score each other. Require explanations of those examples missed.

6. Have students draw diagrams (or provide) and show how a driver should enter, drive on, and leave a street or highway that has three lanes in each direction and a street that has three lanes in only one direction.

7. Provide a list of all the maneuvers that can be made in the HTS. Have students list legal procedures to follow for each one.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1109. Driver Behavior Laws

A. Instructional Objectives

1. The students can define the key concepts that establish the specifications for responsible driver behavior.

2. The student will identify the traffic law violated and the penalties for violation of given driver behaviors and traffic conditions.

B. Content Outline

1. Driver License Laws and Penalties
 - a. General purposes.
 - b. Point systems and hearings.
 - c. National Driver Register Service.
2. Reckless Driving and Drag Racing
 - a. Concepts of *willful* and *wanton* behavior.
 - b. Conditions which apply.
3. Driving When Under the Influence of Alcohol and Drugs
 - a. Legal definition of *under the influence*.
 - b. Chemical testing and other evidence.
 - c. Implied consent laws.
4. Motor Vehicle Anti-Theft and Parties to a Crime
 - a. Conditions which apply.
 - b. Penalties.

C. Suggested Activities

1. Prepare a list of the driver behavior laws and have students identify the conditions under which these laws apply. Have requirements and penalties stated or written down.
2. Prepare true-false questions for students to study in small groups. Have each group record answers and check with other groups.
3. Have students conduct a survey of friends or family members to determine how many know the requirements and penalties of the driver license laws. Also determine how many of those surveyed have attended a hearing conducted by driver license officials.
4. Have students collect newspaper accounts of arrests involving driver behavior law violations. Discuss the problems involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1111. Motor Vehicle Equipment and Miscellaneous Laws

A. Instructional Objectives

1. The students can describe the equipment components of a safe motor vehicle. Identify legal and illegal equipment.
2. Have students identify the laws and how they apply to given HTS situations.

B. Content Outline

1. Legal and Illegal Equipment Regulations
 - a. Lamps and other lighting equipment.
 - b. Brakes, tires, and mufflers.
 - c. Horns and warning devices.
 - d. Mirrors and windshields.
 - e. Safety belts and safety glass.
 - f. Size, weight, and loading restrictions.
 - g. Equipment regulations for travel trailers, motorcycles, school buses, emergency vehicles, and bicycles.
2. Certificate of Title and Vehicle Registration
3. Restrictions on Backing and Coasting
4. Motor Vehicle Inspection
5. Obstructing View of Driver

C. Suggested Activities

1. Prepare a labeled diagram drawing of an automobile or select one in a textbook. Have students identify the equipment that is required by law.
2. Make up duplicates of certificate of title and vehicle registration forms. Have students complete the forms for their family or friends car.
3. Divide the class into small groups and conduct a motor vehicle inspection program for automobiles in the school parking lot.
4. Have students prepare and conduct a survey of the senior class to determine if those who drive wear seat belts regularly. Include a personal interview for a random sample of those surveyed.

D. Definition of Terms

Basic Speed Law—speed that is reasonable and prudent for existing conditions.

Common Speed—speed at which most vehicles are moving on given stretch of highways.

Delayed Signal Light—traffic light that remains red while opposite traffic is allowed to move for a short period of time.

Drag Racing—no person shall drive any vehicle upon the public roads in this state in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, speed competition, drag race, test of physical endurance, exhibition, or purpose of making a speed record.

Point System—the assignment of specific points to law violations for determining when to suspend or revoke driver licenses.

Prima Facie Speed Limits—a flexible speed limit which is fixed for ideal conditions. It allows driver, if arrested, to prove whether or not the speed traveled over the limit was reasonable.

Reasonable and Proper Control—it shall be unlawful for the driver of any vehicle to negligently fail to maintain reasonable and proper control of said vehicle while operating the vehicle on the public roads of this state.

Right-of-Way—the privilege of the immediate use of the highway.

Stale Green—a traffic light that has been on and can be expected to change.

Through Highway—every highway or portion thereof on which vehicular traffic is given preferential right of way.

Traffic Control Device—any sign, signal, or pavement marking used to control traffic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1230 (July 1999).

§1113. General Approaches for Unit II

A. The term *traffic control* as used in this guide applies to all the controls designed for controlling, safe-guarding or expediting traffic. Traffic controls should not be thought of only as being used to regulate traffic. When used properly, they assist in the formulation of strategy for movement. Therefore, it is extremely important that considerable instruction be devoted to their understanding and application.

B. Remember that traffic controls consist of both devices and written laws. Traffic control devices are all those signs, signals, markings, or other devices placed on or adjacent to a street or highway by officials having jurisdiction to regulate, warn, or guide traffic. These devices are essential where special regulations apply at specific places or at specific times only, or where hazards are not self-evident. The written regulations are all those laws and ordinances established by the State Legislature or local official bodies. This means there are no so-called *uncontrolled* intersections, just because no signs or signals are present, since there are right-of-way laws that apply at all times.

1. Unit II initiates the in-depth study of the traffic controls which they deserve. Actually the knowledge and application of traffic controls becomes one of the dominant content strands of the curriculum which is expanded upon and continued throughout the course. Some of the driver behavior laws are treated more extensively in Unit IX.

2. Although considerable recall and memorization are required in this unit, the types of student learning should be geared to discrimination and application performances. Students should be provided plenty of practice in making comparisons and identifying differences. They should also be given opportunities to recognize the various situations or conditions under which the laws apply.

3. Many drivers have never realized fully that there is a definite color and shape pattern to signs, signals and markings. Graphic symbols, shape and color play an even more important role in the new and improved road signs. We must make sure our students can identify controls, but that also they can do it efficiently. We should also develop rationales and explanations so as to build positive attitudes toward traffic controls. Students should be able to appreciate that controls are constantly being researched and improved; that traffic laws are developed to provide for a maximum degree of safety and still safeguard our traditional freedoms.

4. Materials may be designed so that the acquiring of information can be primarily by self-instruction. Then the classroom and laboratory can be best utilized for applying information and demonstrating proficiencies. Teachers are encouraged to use supplemental resource materials and organize them in such a way as to cut to a minimum the classroom time required. The Louisiana Driver's Guide should be made available to each student.

5. The right-of-way situations can be classified as those dealing with traffic control devices, highway design features, and types of traffic units. The general approach is to have students:

- a. identify a situation as it is or will develop;
- b. select the proper right-of-way rule that applies and put it into action; and
- c. be willing to alter their own actions if a dangerous situation develops.

6. A set of locally made slides or videos can be provided as an interesting activity for this unit. Pictures should be taken through the windshield of a car so they represent the driver's view. Try to select scenes that include most of the signs, signals, pavement markings, and right-of-way situations.

7. When placing the slides in the projector tray, leave a space between slides so the screen can be lighted while questions are being asked. Use a stop watch or count out

time, e.g. one-thousand-one for one second. For flashes of a fraction of a second, hold the slide advance button down so the picture flashes on and off without any hesitation; or uncover and cover quickly the projector lens with your hand. It may be desirable to flash the same slide two or three times.

8. Before showing the slides or videos, make a few introductory remarks as to the nature of the slide programs to be used during the course. Show at least two demonstration slides for pointing out what to look for and a brief review of the meanings. These slides are not flashed but are shown all during the discussion.

9. The following instructions should be read aloud to students before practice slides are flashed.

a. Slides of traffic situations will be flashed on the screen for a period of one second or more. Assume you are driving and that the picture on the screen is what you see through your windshield.

b. Before a slide is flashed, say, "Ready", then flash the picture. When the picture is flashed off, I will make statements that are true or false. Each statement will be repeated only once. Make your response in the proper space on your answer sheet.

c. To do well, you must concentrate and be alert. Therefore, you are to say nothing either aloud or to yourself about the picture. You'll have a chance to discuss it later. This practice should help one identify HTS elements quicker when driving. It should also test short recall ability which can be quite important in some traffic situations. Do not guess.

10. Following is an example of the statements to be prepared and read aloud.

Slide #		True/False Statement
A	This is not passing zone from both directions	True or False?
B	There was a solid white edge line	True or False?
C	Road ahead curves to right	True or False?
D	The 35 mph sign is regulatory	True or False?

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1230 (July 1999).

Chapter 13. Classroom Unit III—Traffic Law Observance and Enforcement

§1301. Introduction

A. As HTS users, we quite rightly should demand the security and convenience that go with safety and orderliness on our highways. But without good traffic laws and their enforcement, the safe and efficient movement of traffic on our highways would not be possible. In a democratic society, people must want to obey the laws they help make. Therefore, the observance and enforcement of traffic laws are dependent upon public understanding and support. Traffic laws are of little value if they are not understood and voluntarily followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1231 (July 1999).

§1303. Unit Objective

A. To determine a person's shared legal and moral responsibilities when using the HTS. Recognition and support of the need for a system of just traffic law enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1305. Nature of Traffic Laws and Enforcement

A. Instructional Objectives

1. Students can identify the type of crime or civil offense committed. They can state the reasons for having traffic laws and their enforcement for given traffic law violations.

B. Content Outline

1. Nature and Importance of Traffic Laws

a. Concepts of rights and privileges, freedom and responsibilities, reasonable and prudent driving, legal and moral responsibilities.

b. Orderly Flow of Traffic and Prevention of Collisions

- i. Provide rules for driving behavior.
- ii. Help drivers predict what others will do.
- iii. Set acceptable standards to follow.

c. Authority of State and Local Governments

i. Regulations enacted by legislature.
ii. Result of experience and research.
iii. Based on beliefs and standards of a majority of citizens.

iv. Guide to police and courts.

2. Types of Laws

a. Tort. A civil wrongs for which the injured party is entitled to compensation. After a collision, the injured party (*plaintiff*) sues the other person (referred to as *defendant*).

b. Crime. Offenses or wrongful acts against the state. A criminal case involves a suit between the state (the people) and an individual who has been charged with a violation of a law.

c. Felony. A grave or serious crime such as murder, manslaughter, burglary, arson, and forgery. Persons convicted of a felony lose their citizenship and may be sent to a state prison for one year or more. Auto theft is a felony.

d. Misdemeanor. A minor crime such as disturbing the peace, illegal weighing of goods, theft, and most traffic law violations. Most punishment is by fine. Jail sentences are less than one year and for some place other than a state prison.

3. Seriousness of Traffic Law Violations

- a. Reckless homicide.
- b. Reckless driving.
- c. Driving under the influence of alcohol or drugs.
- d. Driving without a license.
- e. Parties to a crime.

4. Problems of Obedience and Enforcement

- a. Purposes of Enforcement
 - i. Encourage accepted behavior.
 - ii. Create voluntary compliance.
 - iii. Deter from future violations.
 - iv. Punish those who violate laws.
 - v. Prevent collisions.
- b. Reasons for Obeying Laws
- c. Reasons for Violating Laws

C. Suggested Activities

1. Have students look up the terms tort, crime, felony, and misdemeanor. Write and explain the difference between these concepts. Give reasons for and against traffic laws being classed as crimes.

2. Survey of parents and friends as to their views toward traffic laws and the need for strict enforcement. Discuss how laws can be protective as well as restrictive and which is most important for traffic laws.

3. Discuss the pros and cons of the following statements.

a. Legal authorization to drive a vehicle is a privilege, not a right.

b. In most vehicle collisions, we can expect that a traffic law was violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1307. Traffic Law Enforcement by Police

A. Instructional Objectives

1. Students can identify and discuss the law violation actions a law enforcement officer should take for different traffic law violations.

B. Content Outline

1. Role of Police in Traffic Law Enforcement

a. Authority to Stop Cars

- i. Reason to believe law violated.
- ii. Check auto registration or operator's license.
- iii. Check for defective equipment.

b. Detection and Identification

- i. Observes Law Violation.
- ii. Has warrant when not observed.
- iii. Identifies self.

c. Apprehension and Arrest

- i. Explains violation.
- ii. Physical touching or control.
- iii. Submission of person.

d. Other Duties

- i. Direct traffic and give information.
- ii. Investigate collisions.
- iii. Aid in prosecution.
- iv. Collect and analyze records.

2. Citizen Rights if Arrested

a. Right to be taken before judge without undue delay.

b. Right to counsel, especially during questioning.

c. Right to be informed of charges.

d. Right to remain silent.

e. Right to be warned that anything said by person can be used against that person.

3. Law Enforcement Actions

a. Warnings. Verbal or written statements about driver's behavior for education purposes.

b. Citation (traffic ticket). A summons to appear in court. To assure appearance, the driver must post bail by:

- i. giving up driver's license;
- ii. cash at nearest police station;
- iii. bond issued by an approved agency;

c. Arrest. Involves taking the person to nearest police station where confinement takes place unless bail is granted.

4. Citizen Responses to Enforcement Action
 - a. Undesirable actions make situation worse.
 - b. Save defenses for court.
 - c. Request information as to choices that are available.
 5. Effectiveness of Law Enforcement Actions
 - a. Law enforcement officers represent and serve citizens.
 - b. Authority and power dependent upon public support and understanding.
 - c. Expectations of well-trained law enforcement officers.
 - d. Problem situations.
- C. Suggested Activities
1. Discuss the difference between warnings, citations, and arrests. Prepare a list of traffic law violations and have students indicate what actions they would recommend that a law enforcement officer may take.
 2. Prepare a list of reasons why law enforcement officers should strictly enforce traffic laws. Have students indicate whether they agree or disagree. Summarize and discuss.
 3. Invite a law enforcement officer to your class for a discussion of traffic law enforcement problems and experiences. Have the officer describe the various standard procedures followed when making arrests or taking other actions.
 4. Conduct *role play* exercises for
 - a. an arrest;
 - b. a warning; and
 - c. a citation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1309. Traffic Law Enforcement by Courts

- A. Instructional Objectives
1. Students can identify and discuss the actions of court officials in cases involving violations of traffic laws.
- B. Content Outline
1. Basic Rights of Citizens in Courts
 - a. To plead guilty.
 - b. To a jury trial.
 - c. To ask the judge to explain charge.
 - d. To act as one's own attorney (not advised).
 - e. To make a statement of circumstances after pleading guilty.
 - f. To force or compel witnesses to appear in court.
 - g. To a reasonable amount of time to prepare a defense.
 2. Role of Courts in Traffic Law Enforcement
 - a. Prosecution. Evidence gathered and presented by state's attorney.
 - b. Adjudication. Determination of guilt or innocence.
 - c. Penalization. Taking of corrective action.
 3. Court Situations for Handling Traffic Cases
 - a. Traffic Violations Bureau. For persons who plead guilty and do not wish a hearing. A schedule of standard fines are set up for the less serious violations.
 - b. Justice of the Peace. A simple hearing before a justice (usually elected, with or without legal training).

Without a jury or attorney the justice collects money and keeps own records.

c. Magistrate Without a Jury. A formal courtroom setting with a prosecuting attorney and defense counsel.

d. Jury Trials. A large courtroom equipped with witness stand, jury box and seats for spectators. A court reporter makes a permanent record of what is said and done. There are usually several witnesses who are examined and cross examined.

4. Problems and Applications

a. Educational versus Punitive Measures

- i. Driver improvement schools.
- ii. Rehabilitation clinics.

b. Plea Bargaining and Out of Court Settlements

c. Loss of Driving Privileges

- i. Suspensions.
- ii. Revocations.
- iii. Cancellations.

d. Mandatory Jail Sentences and Probation

e. Chemical Tests and Drinking-Driving Conviction

Problems

C. Suggested Activities

1. Students are to identify the duties of these officials or persons:

- a. state's attorney;
- b. judge or magistrate;
- c. defendant;
- d. plaintiff;
- e. witness;
- f. jury.

Define the terms acquittal, bail, complaint, conviction, forfeiture, plea bargaining, probation, sentence, subpoena, summons, suspended sentence, and warrant. Give examples and discuss definitions of the above terms with classmates.

2. Ask students to collect descriptions of traffic law violations and accidents reported in the paper. Have them decide how the court should handle such judgments. Make comparisons with the final dispositions of cases.

3. Provide separate lists of traffic law violations and penalties for convictions of traffic offenses. Have students to match the penalty with correct violation. Discuss the consequences of these convictions.

D. Definition of Terms

Acquittal—a judgment, issued by courts, declaring a person innocent of legal charges.

Arrest—the act of taking a person into custody for the purpose of holding him to answer a charge.

Bail a sum of money deposited with the court to guarantee a person will appear in court at the set time and date.

Breath Test—a chemical test to measure the percentage of alcohol in a person's blood.

Cancellation the termination of a driver's license because the person is no longer eligible. The application for a new license may be made at any time after such cancellation.

Citation a traffic ticket which is a summons to appear before a court of law at a certain time to determine the guilt or innocence of the person charged with violating a traffic law.

Complaint—an official paper which charges a person with some offense.

Conviction the finding by the court that a person is guilty of violating a law as charged.

Crime a violation of laws of the state.

Custody the physical control over a person.

Defendant—a person charged or accused of committing a wrongful act or offense.

Felony a major crime for which a person can be sentenced to a state prison for one or more years.

Forfeiture—procedure which allows the court to keep the bail instead of appearing in court.

Hit and Run Driving the intentional failure of the driver of a vehicle involved in or causing any accident, to stop such vehicle at the scene of the accident, to give his identity and to render reasonable aid.

Magistrate a judge limited to cases that involve small sums.

Misdemeanor a minor crime for which a person cannot be sentenced to more than twelve months or held in a state prison.

Parties to Crime every person who commits, attempts to commit, conspires to commit, or aids, or abets in the commission of any act declared to be a crime, whether individually or in connection with one or more other persons or as principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, coerces, requires, permits, or directs another to violate any such provision of this act is likewise guilty of such offense.

Plaintiff—a person who charges another person with the violation of one's civil rights.

Probation—the procedure whereby the judge releases the convicted person into the custody of a probation officer.

Prosecutor an attorney or lawyer who is an official of the court. Such an attorney represents the state and presents the facts to the judge relating to offense.

Reckless Homicide—the operation of any motor vehicle, aircraft, vessel, or other means of conveyance in a criminally negligent or reckless manner.

Revocation the termination of a driver's license by the Secretary of State due to certain traffic law violations. The person must wait at least one year after date of revocation before becoming eligible to apply for a new license.

Sentence—the punishment ordered by the court for a violation of a law.

Subpoena an official order to a witness to appear in court and testify.

Summons a written notice or request for a person (defendant) to appear in court to answer to a charge of a law violation. The order is for a specific time.

Suspended Sentence a sentence that is not put into effect if certain conditions are met.

Suspension—the temporary withdrawal of a person's privilege to drive for a specific period of time. The license will be returned by the Secretary of State at end of period.

Warrant—a legal order issued by a judge which commands a police officer to arrest a certain person on a specified complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1233 (July 1999).

§1311. General Approaches for Unit III

A. The general approach is through the use of situational case studies. Situations are provided in which drivers come in contact with public officials who have duties relating to licensing, enforcement, and legislation. Students are asked to assume roles of police officers, judges, and other law enforcement officials. In this way they learn the requirements of the laws as well as the problems of legislation and enforcement. Hopefully, students will gain a better understanding and respect for the operation of our judicial, legislative, and executive branches of government.

B. The case studies can be utilized for demonstration and small group discussion purposes. They can be assigned as homework or self-testing exercises. Teachers and students can add to these with those described in local newspapers or from personal experience. Teachers should become well acquainted with judges and police officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

Chapter 15. Classroom Unit IV—Motor Vehicle Capabilities and Limitations

§1501. Introduction

A. What can a motor vehicle do or not in a given situation? In a complex HTS, drivers are constantly faced with such a problem. The more drivers know about a car's maneuvering and performance capabilities, the better they can handle emergencies. Drivers will also be better prepared to predict the probable actions of other drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1503. Unit Objective

A. Identify the capabilities and limitations of motor vehicles under various conditions that are found in the HTS. Compare the range of performance and control capabilities of the different types of motor vehicles used in the HTS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1505. Basic Performance Capabilities

A. Instructional Objectives

1. Students can explain why the control of motor vehicles requires space, traction, and time.

2. The students can estimate a car's acceleration and speed capabilities in terms of space and time for given situations.

3. The students can estimate a car's directional control and cornering capabilities in terms of space and time.

4. The students can estimate the deceleration and braking capabilities in terms of space and time.

5. The student can predict loss of traction and control, for given situations.

B. Content Outline

1. Role of Traction in Vehicle Movement and Control
 - a. Nature and importance of traction.
 - b. Tire adhesion and *foot prints*.

- c. Effect of sliding and spinning wheels on traction.
 - d. Measurement of friction.
2. Role of Space and Time in Vehicle Performance
 - a. Space for movement and maneuvers.
 - b. Time for acceleration, deceleration, and vehicle control responses.
 3. Acceleration and Speed
 - a. Static and dynamic acceleration concepts.
 - b. Effect on handling characteristics.
 - c. Techniques for increased power and acceleration.
 - d. How to estimate time and speed, requirement for crossing and joining at various intersections.
 - e. Acceleration and passing capabilities according to the owner's manual.
 4. Directional Control and Cornering
 - a. Concepts of directional control, steering response, and cornering.
 - b. Oversteering and understeering tendencies of vehicles.
 - c. Time and space requirements for cornering and lane changing.
 - d. Tracking during cornering in relation to degree of steering actions.
 - e. Vehicle body overhang and space requirements.
 - f. *Road feel* or feedback phenomena for power and standard steering systems.
 5. Deceleration and Braking
 - a. Concepts of deceleration, downshifting, weight transfer, locked wheels stops, engine drag, braking distance, reaction time, distance, and sight distance.
 - b. Comparison of antilock braking system (ABS), power brakes and standard actions.
 - c. Various types of braking actions.
 - d. Time-distance stopping zones for various speeds and road conditions.
 - e. How to establish the two second and four second stopping zones.
- C. Suggested Activities
1. Develop a list of questions related to concepts and principles. Have students use dictionary, encyclopedia, and texts to find and write answers in a notebook.
 2. Prepare transparencies illustrating the various concepts and rules. Discuss these rules and ideas related to each of the vehicle performance capabilities. Ask students to give examples of each.
 3. Prepare a list or set of diagrams of various roadway situations. Have students make drawings of the proper pathway a car should follow when completing prescribed maneuvers. Have tire tracks shown.
 4. Have students develop or complete a time-distance stopping zone chart for various speed. Require students to make own computations.
 5. Make a list of vehicle performance capabilities that can be found in car owner manuals. Have students use the list to collect data on their family or friend's car. Compare and discuss the results.
 6. Prepare an instruction sheet for a speed survey. Assign students to make a survey of car speeds along given stretches of roadway. Have students try to estimate speed and then check on these estimates. Make a summary of results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1507. Factors and Forces that Affect Vehicle Control Capabilities

A. Instructional Objectives

1. The students can identify factors and forces that could have an adverse effect on an automobile's performance capabilities in given HTS situations.
2. The students can predict the probably effect on the automobile performance capabilities and control for different factors and forces.
3. The students can identify the proper driver actions for preventing any adverse effects and forces from loss of control.

B. Content Outline

1. Roadway Conditions that Affect Vehicle Performance Capabilities
 - a. Design features such as flat, crowned and banked surfaces, and various curbing.
 - b. Areas of reduced space such as obstructed lanes, merging lanes or vehicles.
 - c. Types of roadway substance such as brick, blacktop, and gravel.
 - d. Presence of surface materials such as oil, water, leaves, gravel, ice and snow.
 - e. Surface conditions and obstacles such as chuckholes, manhole covers, railroad tracks and bumps.
2. Vehicle Conditions That Affect Vehicle Performance Capabilities
 - a. Tire type, tread wear, and inflation.
 - b. Front wheel alignment and suspension system.
 - c. Type of brakes and their adjustment.
 - d. Gear ratio and transmission maintenance.
 - e. Size and proper functioning of engine.
 - f. Weight and center of gravity.
 - g. Amount and distribution of loads.
 - h. Car overloaded with power accessories or equipment.
3. Driver Actions that Affect Vehicle Performance Capabilities
 - a. Amount of speed—control capabilities of fast moving car compared to slow moving.
 - b. Sudden changes of direction or speed under various roadway conditions.
 - c. Steering techniques and feedback responses.
 - d. Acceleration applications.
 - e. Brake applications.
 - f. Proper use of gear ratios.
4. Natural Forces that Affect Vehicle Performance Capabilities
 - a. Gravity and kinetic energy.
 - b. Centrifugal effect and force of inertia.
 - c. Cross winds and tail winds.
 - d. Air turbulence from large vehicles.
5. Loss of Control Consequences
 - a. Sliding skids.
 - b. Spinning skids.
 - c. Hydroplaning.

C. Suggested Activities

1. a. Collect videos, pictures and slides of HTS situations and classify by category:

- i. roadway;
- ii. vehicle;
- iii. driver activity; and
- iv. natural forces.

b. Then have students in small group identify the various factors by listing them in accordance with their effect on the three control capabilities:

- i. acceleration;
- ii. braking; and
- iii. steering.

2. Prepare demonstrations using models and diagrams, which show the effect of the natural forces for various roadway conditions such as flat, crowned, and banked roadway curves.

3. Make lists of factors and vehicle capabilities in various combinations. Assign students to create diagrams, written descriptions or models for illustrating probable effects.

4. Have students collect newspaper accounts of accidents involving loss of control by drivers. Analyze, summarize, and chart the findings.

5. Discuss the types of skids and the conditions which bring them about. Ask students to formulate a set of principles or rules for preventing such loss of traction.

6. Develop a set of demonstrating exercises using bicycles that can be performed on the school parking lot using bicycles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1235 (July 1999).

§1509. Performance Capabilities for Various Motor Vehicles

A. Instructional Objectives

1. The students can identify and classify into similar groups those motor vehicles that have reduced or increased performance capabilities when compared to the standard passenger car.

2. The students can state the type and performance capability of various classes of motor vehicles and their differences from the standard passenger car.

B. Content Outline

1. Passenger Cars with Trailers

- a. Two wheel trailers.
- b. Four or more wheel trailers.

2. Recreation Vehicles

- a. Vans.
- b. Pickups with camper unit.
- c. Motor homes.

3. Small Passenger Cars

- a. Economy sub-compact.
- b. High performance sports car or sedan.

4. Trucks

- a. Pickups and vans.
- b. Standard one unit.
- c. Semi-trailer.

5. Buses

- a. Commercial carriers.
- b. School and church buses.

6. Motorcycles

- a. Standard size.
- b. Motor-scooter or motor driven cycles.

7. Slow moving vehicles

- a. Farm tractors.
- b. Maintenance machinery.

C. Suggested Activities

1. Have students collect car dealer brochures and magazines that provide motor vehicle performance tests. Develop a chart of various types of vehicles with similar performance characteristics.

2. Assign students to develop a set of questions for interviews with experienced truck drivers, recreational vehicle drivers, and others. Invite them to class for presentations and discussion.

3. Ask students to visit rental agencies for copies of brochures relating to use of trailer and trucks.

4. Conduct a survey of high school students whose parents have recreational vehicles. Have students interview drivers of these vehicles for an account of experiences and problems faced.

D. Definition of Terms

Acceleration—the ability of a car to increase from a standing position or a certain speed to a greater speed in a given amount of time.

Braking Distance the distance a car travels from the moment the service brakes are first applied to the moment the car has stopped moving.

Cornering—the ability of a car to be steered around a sharp turn in the roadway without leaving the intended pathway.

Deceleration the ability of a car to decrease from one speed to a lower speed during a given period of time, with or without the use of brakes.

Downshifting—the changing of the gear positions in the transmission to a lower or more powerful gear ratio. It can be used for increased acceleration or deceleration.

Feedback—the return of information to the driver about the results of his vehicle control actions.

Four Second Stopping Zone that part of the intended path of travel which extends for a distance of four seconds in front of the car.

Gap (in traffic) the distance or time between the front end of one car and the back end of the next car in line.

Interval the time or distance between the front of one car and rear of the car ahead. It is the same as following distance.

Maneuver a series of planned and skillfully performed vehicle movements which changes the position of the vehicle to a more desired or better position.

Overhang that part of the motor vehicle body which extends beyond the wheels to the front, rear, or sides.

Oversteer (vehicle) the tendency of a car's front end to move to the inside of the pathway being steered toward.

Path of Travel—that strip of roadway that extends in front or back of the car and is wide.

Sight Distance—the distance the driver can see along his intended path of travel.

Speed the rate of distance a vehicle travels during a given period of time. Speed equals distance divided by time.

RULE

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

**Comprehensive Toxic Air Pollutant Emission Control
Program (LAC 33:III.5112) (AQ181)**

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5112 (Log Number AQ181).

This rule updates the ambient air standards (AASs) of 12 toxic air pollutants (taps) listed in Table 51.2 in LAC 33:III.5112. This rule decreases the AASs of the following taps: acetaldehyde, acetonitrile, biphenyl, carbon disulfide, chloroethane, cresol (all isomers), 1,4-dichlorobenzene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, ethylene glycol, and manganese. These decreases will be effective January 1, 2002. The rule increases the AAS of 1,1,1-trichloroethane. Also, the rule corrects the Cas number of Glycol Ethers in Table 51.3. The basis and rationale for this rule are to comply with LAC 33:III.5109.B.5, which requires the administrative authority to periodically, but no later than 12 months after December 20, 1991 and every 12 months thereafter, review and update the ambient air standards listed for each toxic air pollutant in Table 51.2. Changes in the data used to calculate ambient air standards indicate that 12 of the standards in Table 51.2 need to be updated to reflect more recently published values.

This 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 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General
Provisions**

§5112. Tables

* * *

[See Prior Text in Table 51.1 Minimum Emission Rates Toxic Air
Pollutants-EXPLANATORY NOTE 11]

Stopping Distance (Zone)—the distance the car travels from the moment the driver sees a situation and decides to stop, to the moment the car stops moving.

Two Second Following Distance—that part of the path of travel behind the ongoing car which extends for a distance of two seconds in front of the car following.

Understeer (Vehicle) the tendency of a car's front end to move straight ahead instead of along the pathway being steered toward.

Vehicle Capabilities—those things or abilities that a vehicle can be made to do such as stopping, cornering, and accelerating.

Vehicle Performance—the vehicle's actual doing of those things that a vehicle is supposed to be able to do. Some people use vehicle performance as applying only to engine capability. We shall use vehicle performance as the sum total of all capabilities.

Weight Transfer—the shifting of part of the car's weight from one end to the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1236 (July 1999).

§1511. General Approaches For Unit IV

A. This unit is a beginning for building a file of stored information about vehicle dynamics. Such information can be utilized in the development of basic control skills. Therefore, these learning experiences should be closely coordinated with the beginning on-street lab lessons when practical and psychologically sound. With additional information and experience, the learner can become proficient in monitoring his own vehicle and the highway environment for the competent operation and control of his car. The driver should not put himself into a situation where either he or the car is incapable of the desired response.

B. Please note that the two second stopping zone (or following distance) works for all speeds when following a moving car ahead. However, the four second stopping zone must be used for fixed objects or objects moving across your path. In order to eliminate confusion and allow for a margin of safety, the four second rule is recommended for all speeds.

C. Actually, for urban areas, with limits of 30 mph, the two second zone would be adequate for cross traffic. The illustration below may help clarify the various speed—braking—distance relationships in terms of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 25:1237 (July 1999).

Weegie Peabody
Executive Director

9907#020

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards

Compounds	Cas Number	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
Acetaldehyde	75-07-0	II	4,290.00[13]	
Acetaldehyde	75-07-0	II		45.50[14]
Acetonitrile	75-05-8	II	940.00[13]	
Acetonitrile	75-05-8	II	810.00[14]	
* * *				
[See Prior Text in Acrolein-Beryllium [1]]				
Biphenyl	92-52-4	II	31.00[13]	
Biphenyl	92-52-4	II	23.80[14]	
* * *				
[See Prior Text in Bis (2-Chloroethyl) Ether-Cadmium (and compounds)[1]]				
Carbon Disulfide	75-15-0	II	86.00[13]	
Carbon Disulfide	75-15-0	II	71.40[14]	
* * *				
[See Prior Text in Carbon Tetrachloride-Chlorobenzene]				
Chloroethane	75-00-3	II	62,900.00[13]	
Chloroethane	75-00-3	II	6,290.00[14]	
* * *				
[See Prior Text in Chloroform-Copper (and compounds)[1]]				
Cresol [4]	1319-77-3	III	276.00[13]	
Cresol [4]	1319-77-3	III	238.00[14]	
* * *				
[See Prior Text in Cumene-Dibutyl Phthalate]				
1,4-Dichlorobenzene	106-46-7	II	10,700.00[13]	
1,4-Dichlorobenzene	106-46-7	II	1,430.00[14]	
* * *				
[See Prior Text in 1,2-Dichloroethane-1,3-Dichloropropylene]				
2,4-Dinitrotoluene [5]	121-14-2	II	35.70[13]	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76[14]	
2,6-Dinitrotoluene [5]	606-20-2	II	35.70[13]	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76[14]	
* * *				
[See Prior Text in 1,4-Dioxane-Ethyl Benzene]				
Ethylene Glycol	107-21-1	III	3,020.00[13]	
Ethylene Glycol	107-21-1	III	2,380.00[14]	
* * *				
[See Prior Text in Ethylene Oxide-Maleic Anhydride]				
Manganese (and compounds) [1]	7439-96-5	II	27.60[13]	
Manganese (and compounds) [1]	7439-96-5	II	4.76[14]	
* * *				
[See Prior Text in Mercury (and compounds) [1]-Toulene-2,6-diisocyanate [8]]				
1,1,1-Trichloroethane	71-55-6	III	45,200.00	
* * *				
[See Prior Text in 1,1,2-Trichloroethane-Zinc (and compounds)[1][10]]				

Explanatory Notes:

[See Prior Text in EXPLANATORY NOTES *- [12]]

[13] Effective until January 1, 2002.

[14] Effective starting date is January 1, 2002. Compliance with the revised ambient air standards is to be addressed in the permitting process after the effective date.

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas Number	Class	Synonyms
*** [See Prior Text in Acetamide-Fine Mineral Fibers [2]]			
Glycol Ethers [3]	112-35-6	II	
*** [See Prior Text in Heptachlor-Vinyl Bromide]			

[See Prior Text in EXPLANATORY NOTE *- [4]]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#014

RULE

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

Incorporation by Reference, 40 CFR Part 60—Emission Guidelines for MSW Landfills and Hospital/Medical/Waste Incinerators (LAC 33:III.3003)(AQ191*)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.3003 (Log #AQ191*).

This rule is identical to a federal regulation found in 40 CFR Part 60, July 1, 1998, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference Title 40 *Code of Federal Regulations* (CFR) Part 60 as revised July 1, 1998, into LAC 33:III.Chapter 30. Louisiana receives delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS), by incorporating the federal regulations into the LAC. EPA's 105 Grant Objectives require incorporation by reference of new and revised NSPS regulations to be made annually. This rulemaking meets that requirement. The basis and rationale for this rule are to mirror the federal regulations.

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

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

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

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1998, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
*** [See Prior Text in A-C]	
Ca	Reserved
Cb	Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994
*** [See Prior Text in Cc-Cd]	
Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators

* * *	
[See Prior Text in D-Ea]	
Eb	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction Is Commenced After June 19, 1996
Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced after June 20, 1996
* * *	
[See Prior Text in F-WWW]	

* * *

[See Prior Text in Table 1.A]

B. Reserved.

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#019

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Organic Solvents (LAC 33:III.2123)(AQ189)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.2123 (Log Number AQ189).

This rule will clarify the wording of LAC 33:III.2123.B.1. LAC 33:III.2123.D.6 provides exemptions on emissions of VOCs for surface coating facilities in attainment and nonattainment areas of Louisiana and refers to LAC 33:III.2123.C.1-10 to determine emission limitations. This citation is corrected to include Paragraph 11, also. The basis and rationale for this rule are to make a grammatical clarification and correct a reference oversight.

This 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

Subchapter B. Organic Solvents

§2123. Organic Solvents

* * *

[See Prior Text in A-B]

1. For the purposes of this Subsection, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

* * *

[See Prior Text in B.1.a-D.5]

6. Surface coating facilities on any property in Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes which when controlled have a potential to emit at maximum production a combined weight (total from the property) of volatile organic compounds less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C.1-11 of this Section. Surface coating facilities on any property in parishes other than Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge which when uncontrolled have a potential to emit a combined weight of volatile organic compounds less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C.1-11 of this Section.

* * *

[See Prior Text in D.7-G]

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 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#018

RULE

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 adopts 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 25:1241 (July 1999).

§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 25:1241 (July 1999).

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 25:1241 (July 1999).

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;

l. 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 25:1241 (July 1999).

§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 25:1243 (July 1999).

§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 25:1243 (July 1999).

§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 LSBACSAC.

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 25:1243 (July 1999).

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 25:1244 (July 1999).

§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 25:1244 (July 1999).

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 25:1244 (July 1999).

§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 25:1244 (July 1999).

§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 25:1244 (July 1999).

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 25:1244 (July 1999).

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 25:1244 (July 1999).

§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 25:1245 (July 1999).

§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 25:1245 (July 1999).

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. - C.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 LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC.

* * *

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 25:1245 (July 1999).

Michael Hollingsworth
Chairman

9907#039

RULE

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

Authorized Practice
(LAC 46:XLVII.4513)

Notice is hereby given, that the Louisiana State Board of Nursing (herein referred to as Board) and the Louisiana State Board of Medical Examiners, pursuant to the authority

vested in the Board by R.S. 37:918(K), and 37:1031-1035 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended the Advanced Practice Registered Nurse Demonstration Projects, LAC 46:XLVII.4513.C to read as LAC 46:XLVII.4513.C, Limited Prescriptive and Distributing Authority for Advanced Practice Registered Nurses, and standardized the process and requirements for application for prescriptive privileges as a nurse practitioner, certified nurse midwife, and clinical nurse specialist in Louisiana. The rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - B.8. ...

C. Limited Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3) and the provisions of R.S. 37:1031-1035.

1. The 1997 Louisiana legislature authorized the creation of the Joint Administration Committee on Prescriptive Authority for Advanced Practice Registered Nurses, under the joint jurisdiction of the Board and the Louisiana State Board of Medical Examiners, to develop and promulgate rules and regulations governing the APRN's limited prescriptive authority.

2. The application requesting that an APRN be granted limited prescriptive authority to prescribe assessment studies, drugs, and therapeutic devices, and to distribute free drug samples and other gratuitous medications supplied by drug manufacturers may be made with initial APRN licensure application or by separate application as set forth in LAC 46:XLVII.3341.

3. Definitions as used in this Part:

Act Acts 1997, Number 720, R.S. 37:1031-1034.

Assessment Studies diagnostic studies including, but not limited to laboratory testing, radiologic studies, electrocardiograms, and pulmonary function tests.

Board the Louisiana State Board of Nursing.

Contact Hour a unit of measurement that describes 50 minutes of participation in an educational activity which meets the Board's continuing education criteria. Ten contact hours equal one continuing education unit (C.E.U.).

Collaborating Physician—a physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners.

Distribute, Distribution or Distributed—the issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by clinical practice guidelines contained in a collaborative practice agreement for limited prescriptive authority.

Gratuitous Medications the medications provided by the manufacturer to be distributed to indigent populations and/or HIV and STD patients free of charge.

Joint Administration Committee or Committee the joint Committee comprised of three members designated by the Board and three members designated by the Louisiana State Board of Medical Examiners, and two nonvoting members, one APRN appointed by the Louisiana State Nurses Association and one physician, appointed by the Louisiana State Medical Society.

Medical (Therapeutic) Device or Appliance any piece of equipment used as an aid to living by a patient including, but not limited to, a wheelchair, crutches, or hospital bed. Medical device or appliance shall not be construed to mean any diagnostic tool or test or any item or equipment of a therapeutic or corrective nature which is outside the scope of practice of advanced nursing. Clinical practice guidelines will indicate appropriate medical devices or appliances to be prescribed by an APRN.

National Professional Accrediting Organization an organization that provides accreditation for educational activity offered by a nursing, medical, or pharmacy association or other educational entities and is approved by the Board and Committee relative to pharmacotherapeutics.

Prescribe to direct, order, or designate the preparation, use of or manner of using by spoken or written words.

Prescription an order for a drug, chemical, or medicine, or combination thereof, either written or given orally to a registered pharmacist by a licensed physician, dentist, optometrist, advanced practice registered nurse, or veterinarian, to be filled, compounded, or dispensed by a registered pharmacist in a registered pharmacy, and to be preserved on file as required in R.S. 37:1198.

Samples a unit of prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

Under Physician Direction the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices.

4. The applicant shall:

- a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;
- b. hold a current, unencumbered, unrestricted and valid APRN license;
- c. submit a notarized application on a form provided by the Board with a non-refundable fee as set forth in LAC 46:XLVII.3341;
- d. provide evidence of:
 - i. 500 hours of clinical practice within the last six months in the clinical specialty for which the applicant was

educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority;

- ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the Board, within the four-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the Board for review and approval. The APRN shall obtain at least two-thirds of the required pharmacotherapeutic hours by attending continuing education programs and may obtain one-third of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the Board. In order for the continuing education course to be approved by the Board, the course shall include:

- (a) content relevant to advanced practice nursing;
- (b) knowledge of pharmacotherapeutic principles and their clinical application;
- (c) the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health;

- iii. successful completion of a minimum of 12 contact hours in physiology/pathophysiology at an advanced practice level;

- iv. any deviation from 4.d.ii shall be submitted to the Board and Committee for review and approval;

- v. a collaborative practice agreement with one or more licensed collaborating physicians which shall acknowledge that the applicant for prescriptive authority shall only act as or engage in the prescriptive functions of an APRN under physician direction, and which shall include, but not be limited to:

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

- (i) defines the limited prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;
- (ii) delineates a plan for possible hospital admissions and privileges;
- (iii) delineates mechanisms and arrangements for diagnostic and laboratory requests for testing;

- (iv) delineates a plan for documentation of medical records and the frequency of collaborating physician review of patient charts;

- (v) delineates a plan to accommodate immediate consultation with the collaborating physician regarding complications or problems not addressed by clinical practice guidelines;

- (vi) contains a disclosure statement regarding the status of professional liability insurance;

- (b.) clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic

substitution for prescription that complements the APRN's licensed category and area of specialization as delineated in the collaborative practice agreement and be:

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

(ii). specific to the practice setting;

(iii). maintained on site;

(iv). reviewed and signed at least annually by the APRN and physician to reflect current practice;

(c). documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. Availability shall be adequate if the collaborating physician:

(i). is available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral;

(ii). visits the practice setting at least every week during regular clinic/office hours and provides consultation to include, but not be limited to:

(aa). reviewing with the APRN histories of patients with problems or complications encountered;

(bb). personally diagnosing or treating patients requiring physician follow-up;

(cc). verifying that treatment and acts of limited prescriptive authority are provided in accordance with agreed upon clinical practice guidelines;

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

(e). an acknowledgment of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of limited prescriptive authority of the APRN are properly documented in written form by the APRN and that each such entry is reviewed and countersigned by the collaborating physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department;

vi. the Committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in §4513.C.3, as well as the requirements of §4513.C.4.d.v.(c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics;

vii. any written complaint regarding deviation from 4.d.v. shall be investigated by the Committee or its agents and referred to the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, or both boards, as appropriate, for review and action, if any, and either or both boards' action shall be reported to the Committee.

e. submit a copy of the current renewal card of the collaborating physician(s) issued by the Louisiana State Board of Medical Examiners.

5. Limited Prescriptive Authority

a. The Committee shall review the application, reapplication or renewal, the collaborative practice

agreement for limited prescriptive authority and all related materials and shall approve, modify, or deny the application, reapplication or renewal for prescriptive authority. An APRN with limited prescriptive authority approved by the Committee may prescribe drugs and therapeutic devices as indicated by clinical practice guidelines and the parameters of the collaborative practice agreement.

b. Prior to granting an APRN limited prescriptive authority the collaborating physician or physicians shall be approved by the Louisiana State Board of Medical Examiners.

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 C.F.R. §1308.11-15, R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The Committee may develop guidelines specifically authorizing an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LVIII.3531, Schedule Drug Prescription Requirements.

d. An APRN granted limited prescriptive and distributing authority shall comply with all applicable federal and state laws and rules in prescribing, distributing and administering drugs. Each order for a prescription, whether oral or written, shall include the following information:

i. the name, office address and telephone number, RN designation and specialty area of the APRN and the identification number assigned to the APRN by the Board;

ii. the collaborating physician's name and primary office address;

iii. the date the prescription is ordered and the patient's name;

iv. shall indicate if generic substitution is acceptable to the APRN and physician. If this information is not provided, substitution, where legally allowable, may occur if the patient accepts the generic product.

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. In order for the continuing education program to be approved by the Board, the program shall:

i. be provided by a Board approved national certifying organization;

ii. include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

f. APRN limited prescriptive authority may be renewed after review and approval by the Board and Committee.

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, or practice site, the APRN shall notify the Board in writing requesting approval of such changes.

h. The Board shall be responsible for maintaining a current up-to-date public list of APRNs who have limited authority to prescribe in the state. An updated list of APRNs with limited prescriptive authority shall be sent by the Board to the Louisiana State Board of Pharmacy. The Board shall notify the Louisiana State Board of Pharmacy when changes occur in the APRN's limited authority: modified, restricted, or loss.

i. The Board shall supply whatever data are needed by the Office of Narcotics and Dangerous Drugs of the Department of Health and Hospitals.

j. An APRN shall demonstrate compliance with the Board's rules relating to authorized practice, section LAC 46:XLVII.4513.C.2.

k. A physician may enter into collaborative practice agreements for the exercise of limited prescriptive authority with not more than two (2) APRNs, except as may otherwise expressly approved by the Joint Administration Committee in accordance with guidelines developed by the Committee. The Committee shall develop guidelines specifically authorizing a physician to enter into collaborative practice agreements for the exercise of limited prescriptive authority for more than two (2) APRNs. Until such guidelines are developed, the Committee may approve a physician's collaborative practice agreements with more than two (2) APRNs on a case by case basis.

6. Limited Distribution of Free Drug Samples and other Gratuitous Medications Supplied by Drug Manufacturers:

a. Distribution of free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, shall:

i. be consistent with, and not beyond the parameters of, the APRN scope of practice and collaborative practice agreement;

ii. be recorded in the patient record; and

iii. be in accordance with other state and federal statutes and regulations.

b. Free drug samples distributed by an APRN shall be in the manufacturers' original packaging.

7. Limitation

a. An APRN's limited prescriptive and distributing authority is personal to that individual APRN and is not delegable. An APRN shall not enter into any agreement, arrangement or contract with another health care provider, practitioner, person or individual which in any manner transfers any of the prescribing or distributing authority that the APRN derives as a result of approval by the Board and Committee pursuant to the provisions of Act 720 of 1997 and these rules.

b. Only registered practitioners of medicine, dentistry, or veterinary medicine are authorized to compound and dispense drugs in accord with R.S.37:1204.

8. Exclusion. Nothing herein shall require a CRNA to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicine necessary for anesthesia care.

9. Exception. The Committee may make an exception to the said rules when reviewing the request of each individual APRN for limited prescriptive authority.

10. Continuance. Those APRNs who have previously been granted limited prescriptive and distributing authority by the Committee shall continue under these rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999).

Barbara Morvant, MN, RN
Executive Director, LSBN

Delmar Rorison
Executive Director, LSBME

9907#049

RULE

Department of Health and Hospitals Board of Medical Examiners

Dispensing of Medications—Prohibitions, Sanctions, and Registration (LAC 46:XLV.6507 and 6513)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by R.S. 37:1261-1292 and R.S. 37:1204, has amended LAC 46:XLV.6507 and 6513 of its existing rules governing action against and eligibility for registration as a dispensing physician. The rule amendments are set forth hereinafter.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter B. Prohibitions and Sanctions

§6507. Action Against Medical License

Violation of the prohibitions set forth in §6505 shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the Board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285(A)(6) and R.S. 1285(A)(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999).

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. ...

B. A physician shall be deemed ineligible for registration as a dispensing physician who:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime constituting a felony under the laws of the United States or of any state, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. ...

4. has voluntarily surrendered or had suspended, revoked or restricted, his narcotics controlled substance license, permit or registration (state or federal);

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has agreed not to seek re-licensure, voluntarily surrendered, or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has had an application for professional examination or license rejected or denied;

7. has been denied, had suspended, revoked, restricted, or voluntarily relinquished, staff or clinical privileges in any hospital or other health care institution or organization;

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

9. has had any court determine that he is currently in violation of a court's judgment or order for the support of dependent children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999).

Delmar Rorison
Executive Director

9907#010

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Prescribing and Dispensing Drugs; Business Names
(LAC 46:LXXXV.705 and 1053)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.705 and 1053 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.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. Prohibited Activities

1. - 2. ...

3. Any drug, medicine, chemical or controlled substance prescribed, dispensed, administered, delivered or ordered pursuant to this rule must be intended for the use of the patient and shall not be prescribed, dispensed, administered, delivered or ordered for the use of the client or any other human.

B. - G.4. ...

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 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998) and LR 25:1249 (July 1999).

Chapter 10. Rules of Professional Conduct

§1053. Business Names

A. Business names used by veterinary facilities and licensed veterinarians should provide the general public and other practitioners with a clear understanding of the kind and extent of veterinary services being offered. The following provisions shall govern the selection and use of business names in the veterinary profession.

1. The business name of a hospital or clinic as defined and classified in §§700 and 711 of this Part:

a. shall include a combination of words, animal or veterinary, in connection with the words, hospital or clinic ; or

b. if a business name of a hospital or clinic as defined and classified in §§700 and 711 of this Part does not comply with §1053.A.1.a, there shall be a legible sign at the business entrance clearly identifying the facility as either a veterinary or animal hospital or clinic. The designation chosen shall be based on the standards set forth in §711 of this Part.

2. The business name of a mobile clinic as defined and classified in §§700 and 711 of this Part:

a. shall include a combination of words, animal or veterinary in connection with the words, mobile clinic ; or

b. if the business name does not comply with §1053.2.a, a legible sign shall be placed at the business entrance of the mobile clinic identifying it as a veterinary or animal mobile clinic.

3. Any other business name used by a licensed veterinarian who does not operate a veterinary or animal hospital, clinic, or mobile clinic as defined and classified in §§700 and 711 of this part must clearly indicate the kind and extent of veterinary medical services which are being offered to the public.

B. - D. ...

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 16:231 (March 1990), amended LR 25:1249 (July 1999).

Charles B. Mann
Executive Director

9907#001

RULE

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

Durable Medical Equipment—Mucus Clearance (Flutter) Device

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands Medicaid coverage under the Durable Medical Equipment Program to include mucus clearance (flutter) devices used in the treatment of lung diseases or conditions producing retained secretions. Small hand held mucus clearance (flutter) devices shall be subject to prior authorization when prescribed by a physician for recipients with lung diseases or conditions producing retained secretions.

David W. Hood
Secretary

9907#036

RULE

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

Durable Medical Equipment—Peak Flow Meters

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage under the Durable Medical Equipment Program to include the portable manual peak flow meter used for the treatment of asthma. Portable manual peak flow meters shall be subject to prior authorization when prescribed by a physician for the measurement of lung function as part of an effective asthma management program.

David W. Hood
Secretary

9907#037

RULE

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

Facility Need Review—Relocation of Hospital Service District Beds (LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 40:2116 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

The Department of Health and Hospitals, Bureau of Health Services Financing amends §12501 entitled Introduction as follows:

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. ...

B. Definitions. When used in this rule the following terms and phrases shall have the following meanings unless the context requires otherwise:

* * *

Hospital Service District—a political subdivision of the State of Louisiana created or authorized pursuant to R.S. 46:1051 et seq.

* * *

F.1. - 7. ...

8. A nursing facility's approved beds may be relocated only under the following conditions.

a. The approved beds cannot be relocated to a different service area.

b. Subject to the exception provided in Subparagraph c, all of the approved beds must be relocated to a single new location, and the approval of any beds not relocated to that new location shall be revoked.

c. Notwithstanding the requirements of Subparagraph b, a partial relocation of approved beds may be effected if the following conditions are met:

i. the approved beds are in a nursing facility owned by a hospital service district as of the date of adoption of this Rule and at the time of the partial relocation;

ii. the partial relocation meets the requirements of subparagraph a;

iii. the approved beds are relocated to the site of a currently operational hospital owned by the same or a different hospital service district. If the new location is owned by a different hospital service district, the ownership of the approval of the relocated beds must be transferred to the hospital service district to which the beds are relocated;

iv. no more than 25% of the nursing facility's approved beds are relocated.

d. If, within five years after a partial relocation to a hospital site pursuant to Subparagraph c, the hospital located at that site ceases operations, the relocated beds shall revert to the original facility from which they were relocated. This provision shall not apply to relocations which require a transfer of ownership of the approval of the relocated beds.

e. A hospital service district may relocate or transfer the ownership of the approval of approved beds pursuant to Subparagraph c only once.

f. Subparagraphs c, d, and e are not intended to prohibit or restrict the relocation of all of the approved beds in a nursing facility by a hospital service district in accordance with Subparagraphs a and b.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:806 (August 1995), amended LR 25:1250 (July 1999).

David W. Hood
Secretary

9907#038

RULE

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

Targeted Case Management Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule 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.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the June 20, 1997 rule and adopts the following rule governing the provision of case management services to targeted population groups and certain home and community based services waiver groups. The number of case management agencies that may be enrolled to provide services to recipients in the Mentally Retarded/ Developmentally Disabled (MR/DD) Waiver Program shall be limited to those agencies who have been awarded a contract by the Department. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies must comply with the policies contained in this rule and the Medicaid Case Management Services Provider Manual issued March 1, 1999 and all subsequent changes.

I. General Provisions

A. Case Management Agency Responsibilities. Case Management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services. The Department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by individualized planning with the recipient's family, and other persons/professionals deemed appropriate. Services are provided in accordance with a written comprehensive plan of care which includes measurable person-centered outcomes. All Medicaid enrolled case management agencies are required to perform the following core elements of case management services.

1. Case Management Intake. The purpose of intake is to serve as an entry point for case management services and to gather baseline information to determine the recipient's need, appropriateness, eligibility and desire for case management.

2. Case Management Assessment. Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to establish a contract between the case manager and recipient for the provision of service. The assessment shall be performed in the recipient's home.

3. Comprehensive Plan of Care Development. The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The purpose of the CPOC is to identify the services required and the resources available to meet these needs.

a. The CPOC must be developed through a collaborative process involving the recipient, family, case manager, other support systems, appropriate professionals and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family, case manager, support system and appropriate professional personnel must be directly involved and agree to assume specific functions and responsibilities.

b. The CPOC must be completed and submitted for approval within 35 calendar days of the referral for case management services.

4. Case Management Linkage. Linkage is the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party, attempts must be made to meet service needs with informal resources as much as possible.

5. Case Management Follow-Up/Monitoring. Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. The purpose of follow-up/monitoring contacts is to determine if the services are being delivered as planned; are effective and adequate to meet the recipient's needs; and whether the recipient is satisfied with the services. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC.

6. Case Management Reassessment. Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every quarter, a complete review of the CPOC must be performed to assure that the goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family.

7. Case Management Transition/Closure. Discharge from a case management agency must occur when the recipient no longer requires services, desires to terminate services, becomes ineligible for services, or chooses to transfer to another case management agency; provided that

the recipient has satisfied the requirements of linkage under Section B below. The closure process must ease the transition to other services or care systems. The agency shall not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

8. Maintenance of Records. All agency records must be maintained in an accessible, standardized order and format at the DHH enrolled office site. The agency must have sufficient space, facilities and supplies to ensure effective record keeping.

a. Administrative and recipient records must be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction or unauthorized use.

b. The case management agency must retain its records for the longer of the following time frames:

(1) Five years from the date of the last payment; or

(2) Until the records are audited and all audit questions are answered.

c. Agency records must be available for review by the appropriate state and federal personnel at all reasonable times.

B. Monitoring Provision. The Department of Health and Hospitals and the Department of Health and Human Services have the authority to monitor and audit all case management agencies in order to determine continued compliance with the rules, regulations, policies, and procedures governing case management services.

C. Agency Caseload Limitations. Under the terms of the contractual agreement, case management agencies have a restriction on the total number of recipients it may serve. In a region where there are two agencies providing services, the maximum number of recipients that any one agency may serve is sixty percent (60 percent) of the available recipient population. In a region where there are three agencies providing services, the maximum number of recipients that any one agency may serve is forty percent (40 percent) of the available recipient population.

D. Recipient Freedom of Choice. Selection of Case Management Agency. Recipients have the right to select the provider of their case management services from among those available agencies enrolled to participate in the Program. Recipients are requested to indicate a first and second choice of a provider from among those available providers in the region. If the recipient fails to respond or fails to indicate a second choice of provider and their first choice is full, the Department will automatically assign them to an available provider. Recipients who are auto-assigned may change once, after 30 days but before 45 days of auto assignment, to an available provider.

Recipients must be linked to a case management agency for a six-month period before they can transfer to another agency unless there is good cause for the transfer. Good cause is determined to exist under the following circumstances: 1) the recipient moves to another DHH Region or 2) there are irreconcilable differences between the agency and the recipient. Approval of good cause shall be made by the DHH Case Management Administrator.

Recipients who are being transitioned from a developmental center into the MD/DD Waiver Program shall receive their case management services through the

Office for Citizens with Developmental Disabilities (OCDD).

Recipients who are under the age of 21 and require ventilator assisted care may receive case management services through the Children's Hospital Ventilator Assisted Care Program.

II. Standards of Participation

A. In order to participate as a case management services provider in the Medicaid Program, an agency must comply with licensure and certification requirements, provider enrollment requirements, the case management manual, and the specific terms of individual contractual agreements.

B. Provider Enrollment Requirements. A separate PE-50 and Disclosure of Ownership form is required for each targeted or waiver population and DHH designated region that the agency plans to serve, as well as for each office site it plans to operate. The agency shall provide services only in the parishes of the DHH administrative region for which approval has been granted. The following enrollment requirements are applicable to all case management agencies, regardless of the targeted or waiver group served and failure to comply with these requirements may result in sanctions and/or recoupment and disenrollment.

To serve the MR/DD waiver recipients the agency must have a contract with Medicaid and comply with the terms of the contract.

1. demonstrate direct experience in successfully serving the target population and have demonstrated knowledge of available community services and methods for accessing them including the following:

a. maintain a current file of community resources available to the target population and have established linkages with those resources;

b. demonstrate knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. employ a sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in Section III.A, B, and D;

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with DHH licensing and programmatic requirements;

3. submit a yearly audit of case management costs only and have no outstanding or unresolved audit disclaimer(s) with DHH;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual case managers and/or supervisors is prohibited. However, those agencies who have been awarded Medicaid contracts for case management services may subcontract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the Department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers must attend all training mandated by the Department. Each case manager and supervisor must satisfactorily complete case management

related training annually to meet the minimum training requirements;

6. implement and maintain an ongoing quality assurance plan and a self-evaluation plan evidenced by written documentation approved by the Department to determine program compliance and effectiveness;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the MR/DD or Elderly and Disabled Adult Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager, or other service providers and the right to change providers or case managers; all the above are subject to the recipient's freedom of choice requirements contained in Section I.B. of this rule;

9. assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless by an affiliate agency with a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's attending physician;

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal must be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports as described in the provider manual.

C. Agencies serving certain specific target groups must meet the following additional participation requirements:

1. Case management agencies serving high risk pregnant women must also demonstrate successful experience with the coordination and/or delivery of services for pregnant women; have a working relationship with a local obstetrical provider and acute care hospital that provides deliveries for 24-hour medical consultation; and have a multidisciplinary team which consists, at a minimum, of the following professionals: a physician, primary nurse associate or certified nurse manager, registered nurse, social worker, and nutritionist. The team members must meet the licensure and perinatal experience requirements applicable for services to high-risk pregnant women; and

2. Case managers serving HIV-infected individuals must also satisfactorily complete a one-day training approved by the Department's HIV Program Office.

III. Standards for Payment. In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below.

A. Staff Coverage

1. Case management agencies must maintain sufficient staff to serve recipients within the mandated caseload size of 35 with a supervisor to staff ratio of no more than eight case managers per supervisor. All case managers must be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday). Case management supervisors must be full time

employees and must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are being provided. All exceptions to the maximum caseload size or full time employment of staff requirements must be prior authorized by the Bureau. The agency must have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

2. The agency must maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients must be able to reach an actual person in case of an emergency, not a recording.

B. Staff Qualifications. Each Medicaid-enrolled agency must ensure that all staff providing case management services meet the following qualifications, skills and training requirements prior to assuming any full caseload responsibilities.

1. Education and Experience for Case Managers. All case managers must meet one of the following minimum education and experience qualifications.

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and one year of paid experience in a human-service-related field providing direct services or case management services; or

b. a licensed registered nurse with one year of paid experience as a registered nurse in public health or a human-service-related field providing direct services or case management services; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education.

The above-referenced minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for the one year of required paid experience.

In addition, case managers serving High-Risk Pregnant Women must demonstrate knowledge about perinatal care and meet either one of the qualifications cited above or the following qualification:

d. a registered dietician with one year of paid experience in providing nutrition services to pregnant women.

2. Education and Experience for Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements. Supervisors of case managers for High-Risk Pregnant Women must demonstrate knowledge about perinatal care in addition to meeting one of these qualifications:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited college or university and two years of paid post-master's degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education and three years of paid post-bachelor's degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

c. a licensed registered nurse with three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served; or

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and four years of paid post-bachelor's degree experience in a human service related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served.

The above minimum qualifications for case management supervisors are applicable for all targeted and waiver groups.

Thirty hours of graduate level course credit in a human-service-related field may be substituted for one year of the required paid experience.

3. Training. Training for case managers and supervisors must be provided or arranged for by the case management agency at its own expense. Agencies must send the appropriate staff to all training mandated by DHH.

a. Training for New Staff. A minimum of sixteen (16) hours of orientation must be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training must address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training must receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

b. Annual Training. Case managers and supervisors must satisfactorily complete a minimum of forty (40) hours of case-management related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 40 hours.

c. Documentation. All training required in a. and b. above must be evidenced by written documentation and provided to the Department upon request.

C. Supervisory Responsibilities. Each case management supervisor shall be responsible for assessing staff performance, reviewing individual cases, providing feedback, and assisting staff to develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;

2. group face-to-face sessions with all case management staff; or

3. sessions in which the supervisor accompanies a case manager to meet with recipients.

IV. Reimbursement. The reimbursement methodology for optional targeted and waiver case management services is a fixed monthly rate for the provision of the core elements of case management services as described in Section I. A. and in acceptance with the terms of contract with the Bureau. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care.

In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit is to assess the effectiveness of support strategies and to assist the individual to address problems, maximize opportunities and/or revise support strategies or personal outcomes if it is determined necessary.

The case management agency shall also be responsible for monitoring service providers quarterly through telephone monitoring, on-site observation of service visits and review of the service providers' records. The agency must also ensure that the service provider and recipient are given a copy of the recipient's most current CPOC and any subsequent updates.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in the Individualized Education Programs (IEP'S) or Individualized Family Service Plans (IFSP's) and services furnished through Title V public health agencies, reimbursement by Medicaid payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

David W. Hood
Secretary

9907#035

RULE

Department of Insurance Office of the Commissioner

Regulation 33—Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

(Editor's Note: The opening paragraph of the following rules, which appeared on pages 1100 through 1142 of the June 20, 1999 *Louisiana Register*, is being republished to clarify the intent to repeal and repromulgate the rules in their entirety.)

Pursuant to the provisions of R.S. 49:951 et seq. and R.S. 22:224, the Commissioner of Insurance gives notice of his intent to repeal and repromulgate Regulation 33. This action is necessary to bring the Medicare Supplement Insurance Minimum Standards Regulation in line with the

requirements of the Social Security Act, mandated by the Balanced Budget Act of 1997.

James H. "Jim" Brown
Commissioner

9907#016

RULE

Department of Insurance Office of the Commissioner

Regulation 69—Year 2000 Exclusions (LAC 37:XIII.Chapter 87)

In accordance with the provisions of LRS 49:950 et seq. the Administrative Procedure Act, the Commissioner of Insurance hereby adopts Regulation 69 governing the use of Year 2000 endorsements by insurers doing business in Louisiana. This regulation will replace the emergency regulation published in the March, 1999 edition of the *Louisiana Register*.

Preamble

It is a given that come January 1, 2000, and perhaps sooner for some systems, computers which have not been made Y2K compliant will read the wrong date. What is not a given is what results may follow from a computer's miscalculation of the year. It may be that very little will happen but, it is more likely that problems will arise, some of which may be severe in nature.

Most losses from Y2K will be economic losses arising from the cost of replacing or upgrading computer systems and embedded chips and the loss of income if there is a system failure which shuts down business operations. The average cost to upgrade software is \$1.00 to \$2.00 per line. Billions will be spent by private industry and government to make their systems Y2K compliant. The expense of becoming Y2K compliant will be compounded by the shortage of trained personnel, especially those who are trained in the older computer languages such as COBOL and FORTRAN.

As a general rule, insurance policies do not cover economic losses. That is, they do not respond to suits in contract, i.e. for breach of warranty and/or failure to perform or for the consequential damages arising from the breach of contract. However, faced with the possibility of a catastrophic event, the industry has developed exclusions to preclude, or at least minimize, the shifting of the economic costs posed by the Year 2000 problem to it. Most of the Y2K exclusions filed by the industry contain very broad language.

The rationale provided by insurers for approval of the Y2K exclusions includes the potential risk that the cost of repairing, upgrading or replacing non-Y2K compliant computer systems, including systems which employ embedded chips, will be shifted to the insurance industry. There is concern that lawsuits which involve first party disputes which are outside of the scope of coverage provided under liability policies might be recast as "liability" claims. Another area of concern is the possibility that "data and

media" may be re-categorized as "tangible property" to satisfy the predicate for "property damage" under property and liability policies. And there may be an increase in suits against software vendors and providers under expanded theories of negligence or professional "tradesperson" liability which may trigger coverage where previously none has existed. The industry says that the Y2K endorsements are necessary to clarify that losses arising from the Y2K problem are not covered losses.

Due in large part to the regulatory problems arising from the use of pollution exclusions in underwriting and claims handling, the LDOI was not inclined to approve the Y2K exclusions. A sub-committee was formed to study the issue. Eventually the decision was made to approve Y2K exclusions, in order to avoid a disruption in the market, but the approval was conditioned upon industry compliance with Bulletin LIRC 98-04 and with this Regulation.

In adopting Regulation 69 the Department is guided by the following principles taken from the Louisiana Insurance Code.

1. "Insurance is a business affected with the public interest and it is the purpose of this code to regulate that business in all its phases." LSA-R.S. 22:2.

2. Insurers owe to their insureds a duty of good faith and fair dealing and have an affirmative duty to insureds and claimants alike to adjust claims fairly. LRS 22:1220.

3. Liability policies are issued for the benefit of injured persons and for the protection of insureds. LSA-R.S. 22:655.

4. The Commissioner is obligated to protect the public and policyholders from the risk of insurer insolvency. LSA-R.S. 22:2 et seq.

5. The Commissioner is charged with the duty of insuring that insurance policies promote the public interest and safety. LSA-R.S. 22:620.

Additional guidance is derived from traditional civilian principles found in the Civil Code. Of particular applicability is the principle that insurance contracts are contracts of adhesion. See Civil Code Article 2056 and the Comments thereunder. See also 15 Civil Law Treatise §3.

It is intended that this regulation be read in conjunction with Bulletin LIRC 98-04. If there are any inconsistencies between Regulation 69 and Bulletin LIRC 98-04, the provisions of the Regulation govern. This regulation does not restrict the authority of the LDOI, and other regulatory action, as warranted, may be taken in accordance with law.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 87. Year 2000 Exclusions

§8701. Authority

This regulation is adopted pursuant to LRS 22:2 which charges the Commissioner of Insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8703. Purpose

The purpose of this regulation is to set parameters on the use of Y2K exclusions and endorsements in order to protect the public interest and to assure the continued viability of the insurance market in this state.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8705. Scope and Applicability

A. Admitted Insurers. This regulation applies to all admitted property and casualty insurance companies engaged in the business of insurance in this state and governs the use of all Y2K exclusions whether issued before, on or after its effective date.

B. Reinsurers and Surplus Lines. This regulation only applies to reinsurers and the surplus lines insurance industry where specifically referenced. Nothing in this subsection is intended to exempt such insurers from compliance with the obligations imposed under Part XXVI of the Insurance Code.

C. This regulation governs all Y2K exclusions affecting contracts of insurance delivered or issued for delivery in this state which cover property risks or liability risks located in this state, or are to be performed in Louisiana regardless of where made or delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999).

§8707. Severability

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections of provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of this regulation are severable.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8709. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein:

Economic Loss—means losses arising out of business transactions.

File and Use—means the filing of forms which may then be used by the insurer without receiving prior approval, subject to the LDOI's right of review and right to disallow continued use of the forms.

LDOI—means the Louisiana Department of Insurance and/or the Commissioner of Insurance.

LIRC—means the Louisiana Insurance Rating Commission.

Y2K—means the year 2000 anno domini.

Y2K Exclusion—means all exclusions and endorsements developed by the insurance industry, including but not limited to the ISO forms, to address coverage issues raised by the Y2K problem whether they are captioned Y2K or use terminology such as *date recognition*, *computer related*, *electronic data*.

Y2K Problem—means the inability of computers and other electronic systems including embedded chips to accurately process, provide and/or receive date data from, into, and

between the twentieth and twenty first centuries due to a programming design which causes the system to read "00" as 1900 not 2000. The term *Y2K problem* also includes problems resulting from the leap year calculation, date recognition problems attributed to the Global Positioning System arising on or after August 22, 1999 and the programming of 9/9/99 to read end of field or to delete data.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8711. Forms Approval

Y2K exclusions are hereby exempted from the requirement that they be approved prior to use. Such exclusions may be submitted on a "file and use" basis if the filing complies with §8713 of this regulation. Pending filings must be reviewed by the filer to determine compliance. If the original filing does not comply with this regulation the filing must be corrected and resubmitted. Authorization to issue Y2K exclusions expires on January 1, 2002. This section applies only to insurers required by law to file forms with the Commissioner. This exemption applies only to forms. Rate and rule filings must be made with the LIRC as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:620E.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8713. Underwriting Standards

A. Except as provided herein, Y2K exclusions may not be used on a blanket basis. This standard applies to both property and liability coverage. Exclusions should not be used where the insured makes or has made a good faith effort to resolve any Y2K problems on its property or where the insured has demonstrated compliance with Y2K criteria established by the insurer.

1. Personal Lines. Y2K exclusions are not approved for use in personal lines, including homeowner policies, farm owner policies and personal umbrella policies, except for business pursuits coverage. A Y2K exclusion may be used in connection with a personal lines policy's business coverage only if the company can document that there is a realistic risk of exposure which warrants the use of a Y2K exclusion. The underwriting documentation must be maintained in the insured's file for a period of five (5) years from the date of issuance of the exclusion. If a Y2K exclusion is attached to the business pursuits portion of a personal line policy it must provide coverage for ensuing perils otherwise covered by the policy and it must have an exception for on premises bodily injury.

2. Commercial Lines (including but not limited to Commercial Property, Boiler & Machinery, Commercial Auto, General Liability, Professional Liability, Directors & Officers and Business Owners).

a. Property Coverage. ISO's IL 09 35, FP 10 21 and BP 10 04 may be used on a mandatory basis as filed and approved. Y2K exclusions with substantially similar language and which provide coverage for ensuing perils (notwithstanding language in the policy which could be interpreted to the contrary such as "indirectly, concurrently caused, or regardless of other causes") may also be used in the same manner as ISO exclusions. But, because potential Y2K property exposures are definable and measurable

hazards a filing which substantially deviates from the ISO exclusions referenced above must justify the conclusion that there is no impact on premium or specify the premium reduction to be given insureds in exchange for attaching the exclusion.

b. Y2K exclusions which do not contain language stating that ensuing perils are covered may not be used in Louisiana. If approval was granted to a Y2K exclusion in conflict with this provision, the approval is hereby withdrawn.

3. Liability Coverage. Use of Y2K exclusions with liability coverage is strongly discouraged and should be limited to those insureds which have failed to take adequate steps to correct their Y2K problem or which have excessive exposure to outside contamination. "Total" Y2K exclusions, such as ISO's CG 21 60, should be limited to high risk insureds. For other classes, Y2K exclusions which have an exception for bodily injury or which provide for the scheduling of risks and perils, such as ISO's CG 21 63 and CG 21 64, should be used.

a. And, except as provided below, Y2K exclusions may not be used for the following classes of risks: mercantile and restaurants, lodging and habitational, or institutional, such as churches and schools.

b. Y2K exclusions which provide for the scheduling of risks and perils, such as ISO's CG 21 63 and CG 21 64, may be used with a subclasses of the classes stated in the above paragraph if the insurer identifies and justifies the exposure to be excluded or limited in the specific subclass. An insurer attaching a Y2K exclusion to an individual risk within such a subclass must maintain documentation in the underwriting file of each individual risk that identifies and justifies the exposure presented by that particular risk; and, maintain documentation that the insurer has provided loss control information to the insured. This documentation must be maintained in the insured's file for a period of five (5) years from the date of issuance of the exclusion.

B. Surplus Lines. Use of Y2K exclusions by the surplus lines insurance industry should comply with this section. Failure to do so without justification may constitute grounds for removal from the list of approved unauthorized insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8715. Monitoring of Market Conduct

A. Each admitted insurer must file with the LIRC a list identifying the classes it has determined warrant the use of Y2K exclusion. The filing must contain the criteria used in determining that a particular class of business should be included on the list and identify the type of exclusion which it may use with each class. If an insurer issues a "total" Y2K exclusion (such as ISO's CG 21 60) to a risk within the filed classes it must be able to provide documentation upon request which identifies and justifies the exposure presented by that particular risk. If the list filed with the LIRC contains a subclass of any of the following classes, the insurer must still comply with the requirements imposed by §8713: mercantile and restaurants, lodging and habitational, or institutional, such as churches and schools.

B. Any insurer including a surplus lines insurer which denies coverage or issues a reservation of rights letter to an

insured based in toto or in part upon a Y2K exclusion in the policy must notify the LDOI. The notice must be provided to the LDOI within fifteen (15) days of the denial of coverage or issuance of the reservation of rights letter. A copy of the denial of coverage letter or reservations of rights letter is sufficient notice.

C. The LDOI will closely monitor the use of Y2K exclusions to make certain that they are not used inappropriately in underwriting or claims handling, by admitted insurers, the surplus lines insurance industry or reinsurers. Examples of inappropriate activity are: blanket use of Y2K exclusions; failure to individually underwrite except when authorized by this Regulation; denial of claims inconsistent with underwriting standards; canceling or non-renewing coverage or refusing reinsurance as a general business practice; widespread unavailability of buy back coverage; and, unsupported blanket denial of claims based upon lack of fortuity, or the known risk and/or expected or intended exclusions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1215, R.S. 22:1262, R.S. 22:1262.1, R.S. 22:1301 and R.S. 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8717. Representations and Warranties

No representation or warranty may defeat coverage or be used to deny a claim by an admitted insurer, reinsurer or surplus lines insurer unless the representation or warranty is (a) material, (b) false, and (c) made with the intent to deceive. Questionnaires used to assess Y2K exposure are subject to this standard. Any denial of coverage on the grounds that an answer in a questionnaire is erroneous or inadequate, in the absence of fraud, will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:619 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8719. Notice

A. No policy including a surplus lines insurance policy, may be issued or renewed with a Y2K exclusion unless the insured is provided with a copy of the Y2K Notice prepared by the LDOI. (The text of the notice can be found in §8719.C.

B. Notice for renewals must be provided not less than sixty (60) days in advance to the insured and the agent of record; however, the requirement imposed by this Subsection is not applicable to surplus lines insurers.

C. Appendix A

1. Below is the Y2K Notice required by §8719. Issuance of this notice is mandatory. However, insurers are not precluded from issuing their own notices in conjunction with this notice.

2. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

IMPORTANT NOTICE FROM (COMPANY) AND THE LOUISIANA DEPARTMENT OF INSURANCE

PLEASE READ IT!

A NEW ENDORSEMENT HAS BEEN ATTACHED TO YOUR POLICY. THE NEW ENDORSEMENT DEALS WITH THE "Y2K" PROBLEM.

USE OF THIS ENDORSEMENT IS GOVERNED BY LOUISIANA DEPARTMENT OF INSURANCE REGULATION 69.

IF YOU HAVE ANY QUESTIONS ABOUT THE ENDORSEMENT OR THE REGULATION YOU MAY CONTACT THE LOUISIANA DEPARTMENT OF INSURANCE AT THE ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802

OR BY TELEPHONE

342-5900, 342-0895, OR 342-0896
1-800-259-5300 OR 1-800-359-5301

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8721. Exemptions

A. Lines of Coverage. If the commissioner finds that the application of this regulation unduly hinders the availability of coverage for a particular line of insurance he may, by written order, grant an exemption for so long as he deems proper.

B. Individual Insureds. An exemption may be granted upon written notification to the LDOI by an insurer including a surplus lines insurer, regarding an individual policyholder which poses an extraordinary risk due to its failure to take any steps to remedy its Y2K problem. Documentation that demonstrates the necessity for the exemption must be maintained in the insureds file for a period of five (5) years from the date of issuance of the exclusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8723. Penalties for Failure to Comply

Noncompliance with this regulation by any insurer subject to its provisions may result in the imposition of such penalties as are authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1115, R.S. 22:1262.1, and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8725. Effective Date

This regulation shall take effect on July 20, 1999, upon publication in the *Louisiana Register*.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

James H. "Jim" Brown
Commissioner of Insurance

9907#044

RULE

Department of Justice Office of the Attorney General

Ombudsman Certification and Training (LAC 48:IX.1301-1311)

The Office of the Attorney General adopts the following rules and regulations for the certification and training program of ombudsman.

La. R.S. 28:395 established the ombudsman program in the office of the attorney general for the purpose of monitoring care received by persons with mental retardation or developmental disabilities residing in state-licensed facilities for persons with developmental disabilities funded through the Department of Health and Hospitals excluding state-operated residential care facilities.

The Louisiana Attorney General's office adopts the following rules and regulations governing the certification and training program for the establishment of the ombudsman program as follows:

Title 48

PUBLIC HEALTH

Part IX. Mental Retardation Services and Developmental Disability Services

Chapter 13. Ombudsman Certification and Training

§1301. Minimum Ombudsman Qualifications

- A. a high school diploma or GED; and
- B. one of the following:
 1. two years of college with a human services major and at least one year work experience; or
 2. three years of work experience paid or unpaid in a human services area;
- C. an ability to communicate and work with a diverse group of people;
- D. an ability to read and write the English language;
- E. no financial interest in or family members who are residents in a community living facility that will be served by the ombudsman;
- F. no felony convictions, or history of abuse or violent behavior; Ombudsman candidates shall permit the Community Living Ombudsman program to conduct background checks with all necessary federal and state law enforcement organizations
- G. an ability to travel to and from the assigned facilities.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1303. Certification Training

- A. In order to be certified, the Ombudsman shall complete a training program consisting of the following:
 1. a training course consisting of 30 hours.

B. The training course for ombudsman certification shall consist of the following:

1. the history of the treatment of the developmentally disabled;
2. effective communication techniques with the developmentally disabled;
3. techniques for working families of the developmentally disabled;
4. the components of the service system, particularly the regulations governing the Department of Health and Hospitals, Office of Citizens with Developmental Disabilities and agency interaction with private service agencies;
5. knowledge of assistive technology;
6. health standards and safety standards;
7. negotiation strategies and creative problem solving.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1305. Written Exam; Role Playing

Upon completion of the training program, the program director shall administer a written exam and a role playing exercise.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1307. Certification

The program director shall forward the names of the successful candidates to the Department of Justice, consumer protection section for certification. The Department shall maintain a record of the certified ombudsman.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1309. Renewal of Certification

Ombudsman certification may be renewed after one year if the ombudsman demonstrates satisfactory performance and participates in required in service training.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1311. Revocation of Certification

The program director may recommend withdrawal of an ombudsman's certification for the following reasons:

1. a conflict of interest develops or becomes known;
2. unsatisfactory job performance; or
3. unethical conduct related in any way to an ombudsman's work.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

Richard P. Ieyoub
Attorney General

9907#017

RULE
Department of Natural Resources
Office of Conservation

Statewide Order No. 29—Casing Program
(LAC 43:XIX.109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

Title 43
NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations
Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§109. Casing Program

A. Conductor Pipe. Conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. The use and removal of conductor pipe during the drilling of any oil and gas well shall be at the option of the operator.

* * *

E. Tubing and Completion

1. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

2. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure of the casing.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Conservation (August 1943), amended (February 1951), (August 1958), amended by the Department of Natural Resources, Office of Conservation, LR 25:1260 (July 1999).

Philip N. Asprodites
Commissioner

9907#050

RULE
Department of Public Safety and Corrections
Corrections Services

Public Information Program and Media Access
(LAC 22:I.339)

In accordance with the Administrative Procedure Act, La. R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services hereby adopts rules and regulations dealing with the Public Information Program and Media Access.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT
Part I. Corrections

Chapter 3. General

§339. Public Information Program and Media Access

A. Purpose. To state the Secretary's policy regarding methods that will be used within the Department to maintain informative relationships with the public, the media and other agencies.

B. Applicability. Undersecretary, Assistant Secretaries, all Wardens, the Director of Probation and Parole, the Director of Youth Services, and the Director of Prison Enterprises. Each Unit Head shall develop procedures to facilitate interaction with the public, the media, and other agencies and shall ensure that necessary information and instructions are furnished to affected employees and inmates.

C. Policy. It is the Secretary's policy to maintain positive, informative relationships with the public, the media and other agencies, consistent with the security and privacy interests of the Department, its staff, and inmates. All legitimate news media organizations shall be allowed reasonable access to the state's correctional facilities unless security considerations dictate otherwise.

D. Definitions. For the purpose of this regulation, the following definitions shall apply.

Commercial Productions—freelance photographers, writers and film makers who intend to sell their work product for profit to other companies.

News Media—properly credentialed and identifiable news coverage organizations. This includes representatives of general circulation newspapers, periodical magazines of national circulation sold through newsstands and/or mail subscriptions to the general public, local/national/international news services, and radio/television stations holding a Federal Communications Commission license.

Unit Head—refers to the head of an operational unit, such as Wardens, the Director of Probation and Parole, the Director of Youth Services, or the Director of Prison Enterprises.

E. Media Procedures

1. Unit procedures should address emergency and non-emergency responses to the news media and include, at a minimum, the following:

- a. the identification of areas in the facility that are accessible to news media representatives;
- b. the contact person for routine requests for information;
- c. identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws;
- d. special events coverage;
- e. news release policy;
- f. the designation of staff authorized to speak with the news media.

2. All media interested in making inquiries, conducting interviews, or seeking approval to visit a correctional facility shall first contact the Unit Head or his

media relations designee. All requests must be approved by the Unit Head or his designee and requests must be made within a reasonable time frame, considering the scope of the story and the unit's ability to adequately prepare for the visit. The Unit Head will give notice to the Secretary and appropriate Assistant Secretary of any significant or potentially controversial event.

3. All media visitors will be provided with an escorting staff member for the duration of the visit.

4. Only those persons authorized by the Secretary or Unit Head shall release information to the media regarding official matters. Authorized spokespersons shall be knowledgeable of issues and Departmental policy and shall ensure the accuracy of information before releasing it.

5. In the event of an institutional emergency, all public and media access to the institution may be limited. The Warden or his media relations designee will periodically brief all media on the situation. A media briefing center may be established at a remote location.

6. All on-site media contacts with inmates are at the sole discretion of the Unit Head.

7. Written permission should be obtained from an inmate prior to interviewing, photographing, and/or audio or video recording of the inmate. With reference to juvenile offenders, written permission must be obtained from the juvenile's parent, guardian, or attorney, (except when the juvenile is not identifiable). Death Row inmates must also have their attorney's written approval prior to an interview, photograph, and/or audio or video recording. No remuneration will be provided to any inmate.

8. Interviews with inmates housed in maximum custody areas for behavioral problems and/or poor conduct records are discouraged.

9. Access to inmates should also be restricted or disallowed to prevent them from profiting from their crimes, either materially or through enhanced status as a result of media coverage.

F. Procedures for Commercial Productions

1. All commercial productions are required to make a written request to the Unit Head for access. Written requests will include, at a minimum, the following basic information, as applicable:

- a. name, job title and employer of person requesting visit, (if free-lance—who they represent);
- b. topic of story, where it will be used, what purpose;
- c. name of individual(s) to be interviewed;
- d. date and time of arrival, anticipated duration;
- e. name of all persons accompanying requestor;
- f. if applicable, a hold harmless clause: "I recognize a visit to a correctional facility may present certain risks/hazards. I agree to assume all ordinary and/or usual risks to my personal safety inherent in a visit to an institution of this type."

2. All commercial productions are required to read, understand and sign a Location Agreement Form upon their arrival at the unit. The Location Agreement will specifically outline the scope of the work to be performed. The Unit Head (or designee) may require review of the material prior to distribution solely to insure that it comports with the Location Agreement Form.

G. Public Information Procedures

1. All staff shall be responsive to inquiries from the public and local, state and federal agencies by providing prompt, complete responses to all correspondence and other requests.

2. Inquiries from legislative and executive bodies may be referred to authorized staff as designated by the Secretary or Unit Head.

H. Location Agreement Form

I, _____, am aware and agree that upon my entrance to the grounds of _____, I have been authorized by the Unit Head to interview, photograph, and/or audio or video record specific material as follows:

I understand that inmates and visitors have the right not to be interviewed, photographed, and/or audio or video recorded. A release must be signed by inmates and visitors who agree to be interviewed, photographed, and/or audio or video recorded.

I also understand that I am not authorized to interview, photograph and/or audio or video record outside the above stated parameters for security reasons.

Name: _____

Signature _____ Print _____

Affiliation _____

Witnessed on this ____ day of _____, 19____, at _____, LA by:

Witness

Title

I. Inmate Media Release Form

I, _____, an inmate confined at _____, hereby voluntarily agree to be interviewed, photographed, and/or audio or video recorded by _____. I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by _____.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and _____, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and _____, their agents and employees, of any responsibility and/or liability which may occur directly or

indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

Inmate Name & Number

Witnessed on this ____ day of _____, 19____, at _____, LA by:

Witness

Title

J. Visitor Media Release Form

I, _____, a visitor at _____, hereby voluntarily agree to be interviewed, photographed, and/or audio or video recorded by members of _____. I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by _____.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and _____, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and _____, their agents and employees, of any responsibility and/or liability which may occur directly or indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

Visitor's Signature
Witnessed on this _____ day of _____,
19____, at _____, LA by:

Witness

Title

AUTHORITY NOTE: Promulgated in accordance with American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 3-4020 through 3-4022 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999).

Richard L. Stalder
Secretary

9907#012

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

New Dealer Applications and Requirements;
Maximum Cylinder Limit
(LAC 55:IX.105, 107, 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the Commission amends its rules.

**Title 55
PUBLIC SAFETY**

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§105. Applications

Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII a

formal application must be filed for each location. Other classes of permits and registrations require only one formal application to be filed. Formal application(s) must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII and IX, 30 days prior to the date of the commission meeting which the application is to be heard. Application for Classes VI-X, VII-E, and R-1, R-2 registrations have no delay prior to the granting of a permit. These permits will be granted by the office of the Director, upon complying with all Commission requirements, and ratified by the Liquefied Petroleum Gas Commission at the first subsequent Commission meeting. Presence of applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations where appearance is waived. In no cases will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party, other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999).

§107. Requirements

A. - A.1....

2. Application must have been approved by the Liquefied Petroleum Gas Commission except in the cases of Classes VI-X, VII-E and R-1, R-2 registrations then only after they have been ratified by the Liquefied Petroleum Gas Commission.

3. - 5.b....

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations. For succeeding years the permit fee shall be .2250 of 1 percent of annual gross sales of liquefied petroleum gases with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations; or .2250 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For Classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR

24:461 (March 1998), LR 24: 2311 (December 1998), LR 25:1262 (July 1999).

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.7. ...

8. With regard to §4-4.3.1, NFPA 58-1995—The maximum permitted filling limit for any container, where practical, shall be determined by weight. DOT specification cylinders of 100 lbs. propane capacity or less that are in commerce or transportation shall be filled by weight only. Exceptions:

a. DOT cylinders filled from bobtails at customer facilities if equipped for filling by volume and are not transported over the highways of the State of Louisiana. An example would be forklift cylinders filled by bobtails and used on premises and not placed in transportation over the highways of the State of Louisiana.

b. DOT cylinders filled by customers from customer tank facilities, if equipped for filling by volume and are not transported over the highways of the State of Louisiana. An example would be forklift cylinders filled by customers from their tanks and used on their premises and not placed in transportation over the highways.

c. DOT cylinders that are permanently affixed if equipped for filling by volume. An example would be motor fuel tanks or DOT cylinders permanently affixed to recreational vehicles.

9. With regard to §4-4.3.2, NFPA 58-1995—§4-4.3.2.a shall not be applicable in Louisiana. §4-4.3.2.b DOT specification cylinders of 100 lbs. propane capacity or more. (See DOT regulations requiring spot weight checks.)

10. With regard to §2-2.1.4.b, NFPA 58-1995—DOT cylinders of 100 lbs. or less shall not be refilled, continued in service, or transported unless they are properly qualified or requalified for L. P. Gas service, if they are in commerce or transportation. DOT cylinders of 100 lbs. or more shall not be refilled, continued in service or transported unless they are properly qualified or requalified for L. P. Gas service in accordance with DOT regulations, meaning in commerce and transportation. Qualification or requalification must be in accordance with C-3.2 of Appendix C, NFPA 58-1995.

11. Adding NFPA 58-1998, §2-3.1.5 as a supplement to NFPA 58-1995—In Louisiana all new cylinders from 4 lbs. through 40 lbs. propane capacity fabricated after August 1, 1999 shall be equipped with a listed overfilling prevention device (OPD) and a fixed maximum liquid level gauge. All DOT cylinders now in use must be retrofitted with the overfilling prevention device (OPD) either when the cylinders are requalified under Louisiana regulations or by April 1, 2002. No cylinder shall be filled in Louisiana after April 1, 2002 unless equipped with an overfill prevention device (OPD). Lift truck cylinders and cylinders identified and used for welding and cutting gases are exempt from these provisions.

12. With regard to §6-2.2.7, NFPA 58 - 1995 edition—Containers having an individual water capacity not exceeding 108 lb (49kg) [nominal 45 lb (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity not exceeding 10 lb (4.5 kg) [nominal 4.2 lb (2 kg) LP-Gas] capacity transported in enclosed spaces of the vehicle shall be permitted to be

transported in other than the upright position, however may not be transported in the upside down position or resting on their protective ring or protective collar. Containers having an individual water capacity exceeding 108 lb (49 kg) [nominal 45 lb (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity exceeding 10 lb (45 kg) [nominal 4.2 lb (1.9 kg) LP-Gas] capacity transported in enclosed spaces shall be transported with the relief device in direct communication with the vapor space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999).

The effective date of these rule changes is August 1, 1999.

Charles M. Fuller
Director

9907#047

RULE

**Department of Social Services
Office of Rehabilitation Services**

**Vocational Rehabilitation Policy Manual
(LAC 67:VII.Chapter 1)**

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) revised its Vocational Rehabilitation Policy Manual. These revisions were made in order to comply with H.R. 1385, Workforce Investment Act of 1998, Title IV Rehabilitation Act Amendments of 1998.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. Vocational Rehabilitation Policy Manual

§101. Agency Profile

A. Mission. To assist persons with disabilities in their desire to obtain or maintain employment and/or to achieve independence in their community by providing rehabilitation services and by working cooperatively with business and other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Vocational Rehabilitation Program;
2. Title VII Part B Independent Living Program;
3. Louisiana Commission for the Deaf;
4. Title VI Supported Employment Program;
5. Randolph-Sheppard Blind Vending Facility Program;
6. Personal Care Attendant Program;
7. Community and Family Support Program;
8. Traumatic Head and Spinal Cord Injury Trust Fund (THSCI).

C. **The Manual's Function.** This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Vocational Rehabilitation Program.

D. **Exceptions.** The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. **Nondiscrimination.** All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. **Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures.** Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title I of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. **Cost-Effective Service Provision.** Services shall be provided in a cost-effective manner.

H. **Records**

1. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, Order of Selection, and subsequent decisions to provide, deny, or amend services.

I. **Data Collection.** Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. **Expeditious Service Delivery.** All referrals, applications and provision of services will be handled expeditiously and equitably.

K. **Client Assistance Program.** All programs, including community rehabilitation programs, and projects that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. **Equal Employment Opportunities**

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with these laws.

M. **Affirmative Action Plan.** LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bona fide occupational qualification.

N. **Comprehensive System of Personnel Development.** LRS will provide a comprehensive system of personnel

development in accordance with the Rehabilitation Act Amendments of 1998.

O. **Applicant/Client**—For purposes of representation, the term *applicant/client* refers to an individual who has applied for vocational rehabilitation services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. **Cooperative Agreements.** LRS will use services provided under a cooperative agreement as comparable services and benefits.

Q. **Services to American Indians with Disabilities.** LRS will provide vocational rehabilitation services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. **Misrepresentation, Fraud, Collusion, or Criminal Conduct**

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's vocational rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/ or investigation. If Department of Social Services, Bureau of General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. **Informed Choice.** LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the rehabilitation process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services;

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Individualized Employment Plan.

T. **Construction.** Nothing in this Policy Manual shall be construed to create an entitlement to any vocational rehabilitation service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1263 (July 1999).

§103. Enabling Legislation

A. The Rehabilitation act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 361, 363, 365, and 370.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:473 (May 1995), LR 25:1265 (July 1999).

§105. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client

is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. that it will not be released to persons not connected with the study under consideration; and

iii. that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

6. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

- a. inform the regional manager or designee of the request;

- b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

- c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

- a. notify the regional manager or designee;
- b. honor the subpoena;

- c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

- d. if called upon to testify or to present the case record information, inform the court of the following:

- i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

- ii. the subpoenaed case record information is in agency possession;

- iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 22:993 (October 1996), repromulgated LR 25:1265 (July 1999).

§107. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a

means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the administrative review appeal process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the counselor must include:

- a. the agency's decision;

- b. the basis for, and effective date of the decision;

- c. the specific means for appealing the decision;

- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

- f. the name and address of the regional manager who should be contacted in order to schedule an administrative review, mediation session, or fair hearing.

NOTE: All administrative reviews must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

B. Mediation

1. The mediation process will provide the applicant/client, (or as appropriate the applicant's/client's representative) an opportunity for dispute resolution proceedings which are fair, effective, and expeditious. This process may be used by applicants/clients for a timely resolution of disputed findings of an Administrative Review; or as a direct avenue of appeal bypassing the Administrative Review option, but must occur prior to the Fair Hearing option.

2. The mediation process will also be offered to an applicant/client as an option at the time a formal request for a fair hearing is made. However, this process may not be used as a means to delay or supplant a Fair Hearing conducted by an Impartial Hearing Officer.

3. The mediation process will be conducted by a qualified and Impartial Mediator as expeditiously as possible upon receipt of the initial written request from the applicant/client. A list of qualified Impartial Mediators will be maintained by Louisiana Rehabilitation Services.

4. The mediation process must be entered into voluntarily by all parties. Discussions that occur during the mediation session will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties involved in the mediation session will be required to sign a confidentiality pledge prior to the

commencement of such process. The Impartial Mediator must ensure that if an agreement is reached by the parties in dispute, this agreement is set forth in a written mediation agreement prior to the conclusion of the session. This written agreement is the only information from the mediation session that may be presented at any subsequent due process hearing or civil proceeding.

5. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the Mediation process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that an applicant/client is afforded the option of availing themselves the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the Counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an Administrative Review, if conducted);
- b. the basis for, and effective date of the decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the Mediation session or Fair Hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the name and address of the Regional Manager who should be contacted in order to schedule a mediation session or fair hearing.

NOTE: All mediation sessions must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; at any point after a mediation session; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an Impartial Hearing Officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute if mediation has not been exercised already.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the

applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the fair hearing process unless the services being provided under the current Individualized Plan for employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

5. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

NOTE: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 25:1266 (July 1999).

§109. Eligibility and Ineligibility

A. Criteria for Eligibility

1. An individual is eligible for vocational rehabilitation services, if the individual:

- a. has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and
- b. requires vocational rehabilitation services to prepare for, secure, retain, or regain employment; and
- c. can benefit in terms of an employment outcome from vocational rehabilitation services.

B. Presumption of Benefit

1. An individual who meets the criteria in §109.A.1.a and b shall be presumed to be an individual who can benefit in terms of an employment outcome from vocational rehabilitation services, unless LRS can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

2. In making the demonstration of clear and convincing evidence, LRS shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, except

under limited circumstances when an individual cannot take advantage of such experiences.

a. Such trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services.

b. Trial work experiences shall also include appropriate supports and training.

C. Presumption of Eligibility

1. An individual who has a disability or who is blind as determined pursuant to Title II or Title XVI of the Social Security Act (42 U.S.C. 401 et seq. And 1381 et. seq.) shall be:

a. Considered to be an individual with either a significant disability or a most significant disability, such determination to be made by LRS; and

b. Presumed to be eligible for vocational rehabilitation services, provided that the individual intends to achieve an employment outcome.

2. LRS can find an SSDI or an SSI recipient ineligible for vocational rehabilitation services if LRS can demonstrate by clear and convincing evidence through the use of trial work experiences that the severity of the individual's disability prohibits the individual from benefiting from vocational rehabilitation services in terms of an employment outcome.

D. Determinations by Officials of other Agencies

1. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies, particularly Education Officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment.

E. Compliance Provisions

1. Nondiscrimination and Non-exclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served. Disabled aliens who have a legal, unexpired work visa, and who otherwise meet the eligibility criteria, can be served.

F. Determination of Ineligibility

1. A determination of ineligibility for vocational rehabilitation services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which constitutes or results in a substantial impediment to employment; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require vocational rehabilitation services to prepare for, secure, retain, or regain employment; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefiting from vocational rehabilitation services, including available supported employment services in terms of an employment outcome.

2. If an individual who applies for vocational rehabilitation services is determined (based on the review of existing data and, to the extent necessary, the assessment of activities of a trial work period as described under the Presumption of Benefit) not eligible for services, or if an eligible individual receiving services under an Individualized Plan for Employment (IPE) is determined to be no longer eligible for services, LRS shall:

a. Provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. Inform the individual, or as appropriate, the individual's representative, in writing of:

i. The reason(s) for the ineligibility determination; and

ii. An explanation of the means by which the individual may express and seek a remedy for an dissatisfaction with the determination, including the procedures for review by an impartial hearing officer and the availability of services from the Client Assistance Program; and

iii. A referral to any other agencies or programs from whom the individual may be eligible to receive services, including other components of the statewide workforce investment system.

3. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed:

a. within 12 months; and

b. annually thereafter, if such a review is requested by the individual or the individual's representative.

G. Use of Existing Information

1. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for vocational rehabilitation services, LRS shall use information that is existing and current (the current functioning of the individual), including information available from the individual, programs, and providers, particularly education officials and the Social Security Administration.

H. Time Frame for Making an Eligibility Determination

1. LRS shall determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless:

a. Exceptional and unforeseen circumstances beyond LRS' control preclude making an eligibility determination within 60 days and the individual agrees to an extension of time; or

b. LRS is exploring an individual's abilities, capabilities, and capacity to perform in trial work experiences.

I. Individual with a Significant Disability

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following three categories:

a. the individual is a recipient of Social Security Disability Insurance (SSDI); or

b. the individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or

c. the individual is one:

i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and

iii. who has one or more physical or mental impairments resulting from:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and

epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. Order of Selection

1. LRS follows an Order of Selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

a. any duration of residency requirement, provided the individual is present in the state;

b. type of disability;

c. age, gender, race, color, creed, or national origin;

d. source of referral;

e. type of expected employment outcome;

f. the need for specific services or anticipated cost of services required by an individual; or

g. the income level of an individual or an individual's family.

3. Prerequisite to Placement in the Order of Selection

a. Assignment to a selection group is made after a determination of both of the following:

i. eligibility for Vocational Rehabilitation Services; and

ii. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. Selection Group I—Most Significantly Disabled. An eligible individual is considered most significantly disabled if all of the following apply:

i. the individual has one or more physical or mental impairments resulting from any of the following:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and

epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations; and

ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group II—Significantly Disabled. An eligible individual is considered significantly disabled if all of the following apply:

i. an eligible individual has one or more physical or mental impairments resulting from any of the following:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and epilepsy);
- (u). paraplegia, quadriplegia, other spinal cord conditions;
- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations; and

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

c. Selection Group III—Non-Significantly Disabled. An eligible individual is considered non-significantly disabled if existing functional limitations do not meet the criteria of an individual with either a most significant disability or a significant disability;

d. Public Safety Officers. Priority shall be given in all selection groups to those individuals with disabilities whose disability arose from an impairment sustained in the line of duty while performing as a public safety officer and the immediate cause of that impairment was a criminal act, apparent criminal act, or a hazardous condition resulting from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, fire fighting, or related public safety activities;

e. Functional Capacity Areas. Functional capacity areas are identified as follows:

- i. mobility;
- ii. motor skills;
- iii. communication;
- iv. self-care;
- v. self-direction;
- vi. interpersonal skills;
- vii. work tolerance;
- viii. work skills;

f. Other Considerations

i. individuals shall be placed in the highest priority category for which they are eligible;

ii. upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS' order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection Groups(s) not being served to other components of the statewide workforce investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999).

§110. Information and Referral Services

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities who are not being served under LRS' Order of Selection receive accurate vocational rehabilitation information and guidance to assist such individuals in preparing for, securing, retaining, or regaining employment; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including other components of the statewide workforce investment system.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational vocational rehabilitation services:

- i. individualized guidance and counseling;
- ii. individualized vocational exploration;
- iii. supervised job placement referrals to workforce investment;
- iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate Federal or State program, including other components of the statewide workforce investment system, that is best suited to address the specific employment needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

- i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and
- ii. information identifying a specific point of contact within the agency carrying out the program; and
- iii. information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:1270 (July 1999).

§111. Comprehensive Assessment

A. Purpose

1. To make a determination of the employment-related needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of vocational rehabilitation services required for development of the Individualized Plan for Employment (IPE) of an eligible individual.

B. Scope

1. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual, including the need for supported employment.

2. The comprehensive assessment includes, to the degree needed, an assessment of the following:

- a. personality;
- b. interests;
- c. interpersonal skills;
- d. intelligence and related functional capacities;
- e. educational achievements;
- f. work experience;
- g. vocational aptitudes;
- h. personal and social adjustment;
- i. employment opportunities;

j. medical, psychiatric, and/or psychological factors;

k. other pertinent vocational and educational factors;

1. appraisal of patterns of work behavior;

m. services needed to acquire occupational skills, develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the rehabilitation needs of the eligible individual and to develop the Individualized Plan for Employment (IPE).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

D. Trial Work Periods

1. As appropriate, LRS will use trial work periods to explore an individual's abilities, capabilities, and capacity to perform in work situations.

2. An assessment will be conducted as often as necessary and at least every 90 days.

3. As appropriate, LRS will provide a referral for the provision of rehabilitation technology services to assess and to develop the capacities of the individual to perform in a work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 24:1271 (July 1999).

§113. Individualized Plan for Employment (IPE)

A. Purpose of the Individualized Plan for Employment (IPE). The Individualized Plan for Employment, hereafter referred to as IPE, and all subsequent amendments assure that each individual determined eligible for vocational rehabilitation services or determined appropriate for extended evaluation services shall have a formal plan, for services.

B. Client Choice and Client Participation

1. The format of the IPE, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's IPE will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an employment goal, intermediate objectives, services and service providers.

2. The client (or where appropriate, the client's parent, guardian or other representative) must sign the IPE and must receive a copy of the original IPE and all subsequent amendments.

C. Options for Developing an IPE

1. After completion of the assessment for determining eligibility and vocational rehabilitation needs (comprehensive assessment), LRS shall provide the eligible individual, or the individual's representative, in writing, and

in an appropriate mode of communication, with information on the individual's options for developing an IPE including the following:

- a. Information on the availability of technical assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the IPE;
- b. A description of the full range of components that shall be included in an IPE;
- c. As appropriate, an explanation of agency guidelines and criteria associated with financial commitments concerning an IPE;
- d. As appropriate, additional information the eligible individual requests or LRS determines necessary; and
- e. As appropriate, information on the availability of assistance in completing designated LRS forms required in developing an IPE.

D. Mandatory Components of an IPE

1. Regardless of the approach selected by an eligible individual to develop an IPE, an IPE shall, at a minimum, contain components consisting of the following:

- a. the specific employment goal chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual resulting unemployment, and to the maximum extent appropriate, in an integrated setting;
- b. the specific vocational rehabilitation services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the employment goal, including as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training and management of such services;
- c. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;
- d. a time frame for the achievement of the employment goal;
- e. the entity chosen to provide the vocational rehabilitation service and the methods to procure such services;
- f. the criteria to evaluate the individual's progress towards achievement of the employment goal.
- g. the terms and conditions of the IPE, including, as appropriate, information describing:
 - i. responsibilities of LRS;
 - ii. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the employment goal;
 - iii. if applicable, the participation of the eligible individual in paying for the costs of the planned services;
 - iv. responsibility of the eligible individual with regard to applying for and securing comparable benefits;
 - v. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits.
- h. For an eligible individual with the most significant disabilities for whom an employment goal is in a supported employment setting, information identifying:

- i. the extended services needed;
- ii. the source of extended services, or to the extent that the source of extended services cannot be identified at the time of development of the IPE, a description of the basis for concluding that there is reasonable expectation that such source will become available.
 - i. a statement of the projected need for post-employment services.
 - j. The rights and remedies available to the individual through the Appeal Process and information regarding the availability of the Client Assistance Program.

E. Review and Amendment

1. The IPE shall be reviewed as least annually by a qualified vocational rehabilitation counselor and the eligible individual, or as appropriate, the individual's representative; and
2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a qualified vocational rehabilitation counselor, (if there are substantive changes in the employment goal; the vocational rehabilitation services to be provided; or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual, or as appropriate, the individual's representative, and a qualified vocational rehabilitation counselor employment by LRS).

F. IPE Document

1. An IPE for employment shall be a written document prepared on forms provided by LRS.
2. An IPE shall be developed and implemented in a manner that afford eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the IPE, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1 of this policy manual.
3. An IPE shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified vocational rehabilitation counselor employed by LRS.
4. A copy of the IPE shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

G. Content of the IPE for Case Closure as "Ineligible"

1. The IPE and amendments relating to case closure based on the decision that the individual is no longer capable of achieving an employment goal, must document with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services, to include available supported employment services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.
2. IPE closure documents shall set forth the rights and remedies available to the individual through the Appeal Process and provide information regarding the availability of the Client Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1271 (July 1999).

§115. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in A.1. above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS' Information and Referral System;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services.

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. vocational and other training services when the training program is related to the achievement of a direct job placement outcome, including supported employment, on-site training, and on-the-job training;

viii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, and adjustment/orientation and mobility training services.)

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. maintenance;

iii. transportation;

iv. books and supplies;

v. occupational tools and equipment;

vi. telecommunication, sensory, and other technological aids and devices, including assistive technology devices;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. home modifications for accessibility;

xi. vehicle modifications/renovations;

xii. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;

xiii. vocational and other training services, such as college/university, vocational and proprietary school training, not related to an immediate direct job placement outcome;

xiv. other goods and services;

xv. post-employment services consisting of the services listed above.

c. The only exception to items §115.B.1.b.xii and xiii is as follows:

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, items xii and xiii in b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the Counselor determines that a surplus exists:

- i. adjustment/orientation and mobility services;
- ii. attendant services;
- iii. reader services;
- iv. scribe services, notetaker/braille services;
- v. interpreter services;
- vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

(d). Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

g. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

h. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis

for each client requiring vocational rehabilitation services as listed above in §115.B.1.b.i-xv. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 25:1273 (July 1999).

§117. Vocational Rehabilitation Services

A. Vocational Rehabilitation Services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment goal that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

5. vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this Title unless

maximum efforts have been made by LRS and the individual to secure grant assistance in whole or in part, from other sources to pay for such training;

6. to the extent that financial support is not readily available from a source other than LRS (such as through health insurance of the individual or a comparable service and benefit consistent with LRS policy, Chapter 115 Financial, Comparable Services and Similar Benefits) diagnosis and treatment of physical and mental impairments, including:

a. corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

b. necessary hospitalization in connection with surgery or treatment;

c. prosthetic and orthotic devices;

d. eyeglasses and visual services as prescribed by qualified personnel who meet State license laws;

e. special services, artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

f. diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State license laws;

7. maintenance for additional costs incurred while participating in and assessment for determining eligibility and vocational rehabilitation needs or while receiving other services under an IPE and needed by the individual to achieve an employment goal;

8. transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service under an IPE and needed by the individual to achieve an employment goal;

9. on-the-job or other related personal assistance services provided while an individual is receiving other services under an IPE and needed by the individual to achieve an employment goal;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State license law;

11. rehabilitation teaching services, and orientation and mobility services for individuals who are blind;

12. occupational licenses, tools, equipment, and initial stocks and supplies;

13. technical assistance and other consultation services to conduct market analyses, develop plans and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment goal;

14. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

15. transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the IPE;

16. supported employment services;

17. services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome identified in the IPE;

18. specific post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services. After medical science has restored the individual to their maximum level of healthy functioning, LRS can provide vocational rehabilitation services to remediate residual deficits medical science could not restore, if such impairments impact the individual's ability to work. LRS can provide all necessary and appropriate vocational rehabilitation services if these services address these functional deficits and assist the individual in performing job functions and/or gaining knowledge or skills necessary to compete for and obtain employment.

2. LRS will not provide experimental services or supplies.

C. Scope of Services in Community Rehabilitation Programs (CRP)

1. Cost Effectiveness

a. In consideration of the cost-effective provision of services in Community Rehabilitation Programs, LRS shall first use publicly-supported Community Rehabilitation Programs to provide assessment services, both for diagnostic purposes and in the provision of trial work periods, before using either private or private-non profit Community Rehabilitation Programs.

b. The only exceptions shall be as follows:

i. the service in a publicly supported CRP is not available.

ii. provision of the service in a publicly supported CRP would create an extreme hardship for the client.

D. Scope of Establishment of Small Business Enterprise

1. The purpose of a self-employment goal for a client is to establish an individual with a disability in a small business enterprise that will provide sufficient income to support the individual and their family, thereby enabling the individual to meet ordinary daily living expenses and business costs. LRS desires to make self-employment an available option only when it is clearly demonstrated that self-employment is the best choice for the client.

2. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the following apply:

a. the client must present evidence of a record of success in the industry pertinent to the products and/or services the client plans to offer in this particular self-employment venture;

b. the client must attend at least one workshop on small business development designed to develop and raise the management skills of small business owners. Acceptable workshops include those operated by the small business development centers (SBDC), chambers of commerce (SCORE), Louisiana Department of Economic Development, and colleges and universities;

- c. the client must develop a business plan;
- d. the business plan must:
 - i. be thorough, realistic, and in writing;
- ii. include, but is not limited to:
 - (a). estimates of revenues and expenses;
 - (b). estimates of profit;
 - (c). a market analysis;
 - (d). client as the owner/proprietor of the business actually working in/managing the business;
 - (e). evidence to indicate the business venture has the potential to generate sufficient profits to provide client with gainful income to support client/family's daily living expenses and business costs;
 - e. available Social Security work incentives, such as PASS and IRWE, must be investigated, applied for, and used for clients who are recipients of Social Security Benefits (SSI and SSDI);
 - f. the client must:
 - i. submit the business plan to a small business development center for evaluation of the viability of the business venture in terms of competitive profitability;
 - ii. share with LRS the small business development center's evaluation of and comments regarding the business plan;
 - iii. if suggested by the small business development center, make modifications to the business plan, with the recommendations made by the small business development center; and
 - iv. resubmit such plan for re-review by the small business development center;
 - g. LRS has defined the scope of the establishment of a small business enterprise as reasonable start-up costs not to exceed an aggregate assistance of \$20,000. The cost of any training/workshops relative to establishing the client in a small business and/or disability-related assistive technology devices is not included in the \$20,000 limit;
 - h. commitment by the client to make a minimum cash capital contribution of 20 percent of the total transaction. Such funds can be from the client's personal resources, loans, etc.
 - i. LRS will not assist a client in the establishment of multiple (more than one) small businesses. Once the initial business is set up, LRS will not provide funds for expansion or improvements to the business. If changes in the nature of the client's disability require disability-related modifications and/or assistive technology to enable the client to continue in this employment capacity, the individual must:
 - i. be an eligible client or eligible for post-employment services;
 - ii. complete an updated business plan;
 - iii. meet all other applicable policy/procedure regulations;
 - j. LRS will not provide funding for:
 - i. businesses that are speculative in nature, such as investments in real estate, etc.;
 - ii. businesses organized as nonprofit;
 - iii. businesses organized as hobbies;
 - iv. construction and/or purchase of real estate;
 - v. purchase of land;
 - vi. refinancing of existing debt;
 - vii. purchase of vehicles;

k. all other applicable state, federal, and agency laws, policy and procedure must be followed, including state purchasing laws;

l. these policy provisions do not apply to the Randolph Sheppard Program;

m. ultimate approval of funding a small business enterprise for an eligible vocational rehabilitation client lies with Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1274 (July 1999).

§119. Transition Process for Individuals in Secondary Education Programs

A. Louisiana Rehabilitation Services (LRS) will provide vocational rehabilitation transition services to eligible individuals in their exit year from the state secondary education system. Although the education system will be involved in education-related transition services prior to the exit year, LRS' first consultation with school personnel, students with disabilities, and family members of students with disabilities will be in the year prior to the exit year. This consultation in the year prior to the exit year will enable school personnel and LRS to identify those students who might be eligible for and interested in vocational rehabilitation services.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible student with an official secondary education transition plan. Such vocational rehabilitation transition services are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training and/or integrated employment (including supported employment).

C. LRS' vocational rehabilitation transition services shall be based upon the eligible student's individual needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, and the achievement of an employment outcome.

D. The coordination and collaboration between LRS and the state education system will assure continuity of services for eligible students.

E. The following provisions are the key points in LRS' transition process:

1. LRS will provide consultation (to the extent possible considering time and resources) the year prior to the individual's exit year with regard to students who have official transition plans within the state education system.

2. LRS will provide vocational rehabilitation transition services during the eligible individual's exit year to students who have official transition plans within the state education system. The provision of these vocational rehabilitation transition services will be assured through the completion of an eligible individual's IPE BEFORE the individual leaves the school system.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on transition services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999).

§121. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the vocational rehabilitation process when it has been determined that:

1. the individual is not available for services;
2. the individual is ineligible;
3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate, except as may be provided under post-employment services.

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;
2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;
4. the individual has maintained the employment outcome for a period of at least 90 days;
5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 23:994 (August 1997), repromulgated LR 25:1277 (July 1999).

Gwendolyn P. Hamilton
Secretary

9907#043

RULE

**Office of Transportation and Development
Office of the General Counsel**

**Specific Services (LOGO) Signing
(LAC 70:I.105 and 107)**

In accordance with the applicable provisions of the Administrative Procedure Act, L.R.S. 49:950 et seq., the Louisiana Department of Transportation and Development hereby promulgates a rule which amends Subchapter A of Chapter 1 of Title 70 entitled "Outdoor Advertisement." This rule deals specifically with "Specific Services (LOGO) Signing." It is promulgated in accordance with the provisions of R.S. 48:461.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter A. Outdoor Advertising Signs

§105. Location

A. - F. ...

G. Number of Signs Permitted. There shall be no more than one specific information sign for each type of service along an approach to an interchange or intersection. There shall be no more than nine business signs displayed on a specific information sign.

H. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:352 (March 1993), LR 22:224 (March 1996), LR 25:1277 (July 1999).

§107. Criteria for Specific Information Permitted

A. - C.4. ...

D. Specific Criteria for "FOOD"

1. Indoor seating for at least 16 persons.
2. Clean modern restroom facilities for each sex.
3. Year-round operation at least six (6) days per week and operating at least 12 continuous hours per day.

E. Specific Criteria for "LODGING"

1. Adequate sleeping accommodations consisting of a minimum of 20 units with private baths.
2. Off-street vehicle parking spaces for each lodging room for rent.
3. Year-round operation.
4. Bed and Breakfast facilities may be placed on the "Lodging" services sign provided that they meet the following criteria:
 - a. adequate off-street vehicle parking;
 - b. year-round operation at least five (5) continuous days per week;
 - c. adequate sleeping accommodations consisting of a minimum of three (3) units with private baths;
 - d. complimentary breakfast provided and included in the rate of the room;
 - e. member of the Louisiana Bed and Breakfast Association or in compliance with additional specific criteria established by the Department of Transportation and Development in lieu thereof.

F. ...

G. Specific Criteria for "ATTRACTIONS"

1. Fall under one of the following categories:
 - a. Arena/Stadium*;
 - b. Cultural Center*;
 - c. Historical Society*;
 - d. Historic District;
 - e. Historic Structure/Museum*;
 - f. Industrial Facility*;
 - g. Museum/Art Gallery;
 - h. Scenic/Natural Attraction (forest, garden, nature preserve, park, etc.);

- i. Tour Boat;
- j. Winery/Brewery*;
- k. Zoo/Aquarium.

*providing visitor tours

- 2. Adequate off-street vehicle parking.
- 3. Clean modern restroom facilities for each sex and drinking water suitable for public use.
- 4. Year-round operation at least five continuous days per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:353 (March 1993), LR 22:225 (March 1996), LR 25:1277 (July 1999).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9907#009

RULE

Department of the Treasury Board of Trustees of the State Employees' Retirement System

Trustee Election (LAC 58:I.301, 303, 501, and 503)

Under the authority of LSA R.S. 11:515 and in accordance with LSA R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees Retirement System ("LASERS") hereby amends LAC 58:I.301, 303, 501 and 503. The proposed amendment to the rules changes the time period for the election of Trustees of the Board of Trustee of LASERS.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

* * *

- B. The schedule for elections shall be as follows:

* * *

4. fourth Friday in September: the final day that information on candidates and ballots may be mailed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

§303. Election Rules

* * *

D. Ballots or election brochures shall be distributed or mailed by the fourth Friday in September. Every active contributing member appearing on the June Monthly Retirement Reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active member's election and shall have ballots or election brochures mailed to their homes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

* * *

- B. The schedule for elections shall be as follows:

* * *

4. Fourth Friday in September: the final day that information on candidates and ballots may be mailed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

§503. Election Rules

* * *

D. Ballots or election brochures shall be distributed to each retired member by the fourth Friday in September. Every retiree member appearing on the June Retiree Master List shall receive a ballot or election brochure for voting.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

Glenda Chambers
Executive Director

9907#011

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Seasons, Wildlife Management,
and Game and Fish Preserves
(LAC 76: III.311-314, 327 and XIX.111)

In accordance with the Notice of Intent published in the March 1999 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July does hereby ratify rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§311. Atchafalaya Delta Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:101 (February 1989), LR 25:1278 (July 1999).

§312. Point-au-Chien Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:102 (February 1989), LR 25:1279 (July 1999).

§313. Salvador Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:103 (February 1989), LR 25:1279 (July 1999).

§314. Pass-a-Loutre Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:104 (February 1989), LR 25:1279 (July 1999).

§327. Timken Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:860 (September 1996), LR 25:1279 (July 1999).

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire, muzzleloader rifle .36 caliber or smaller or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Blackbirds and crows. All blackbirds, cowbirds, grackles and crows are considered crop depredators in Louisiana and may therefore be taken year round during legal shooting hours with no limit. Shooting hours are 30 minutes before sunrise to sunset.

4. Pheasant

a. Bag limit - 2 (males only). Possession limit - 4.

b. Pheasant season restricted to the following portion of Calcasieu and Cameron parishes: That portion west of Choupique Bayou south of U.S. 90 and La. 27, west of La. 27 to north boundary of Sabine NWR, north of Sabine NWR north boundary to Sabine River, east of Sabine River to Intracoastal waterway, south of Intracoastal waterway to Gum Cove, east of Gum Cove Road to La. 108, north and east of La. 108 from Gum Cove Road to U.S. 90, and south of U.S. 90 from Vinton to Choupique Bayou.

5. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

6. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

7. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 5 cents/acre fee. Deer management assistance tags must be attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow and muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in immediate cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

8. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—For purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: Consult the regulations pamphlet

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer: Same as outside

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-tailed Deer: Same as outside.

ii. Exotics: No

person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be

transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of taking resident game birds and quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria and beaver cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required during open trapping season to sell or pelt nuisance beavers or nutria taken.

7. Threatened and endangered species - Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon,

Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only by licensed trappers during the trapping season. Remainder of the year "chase only" permitted by licensed hunters.

9. Hunting and/or discharging firearms on public roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right of way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights of way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow and muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is en route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically permitted.

3. Deer hunting restricted to legal bucks only, except where otherwise permitted.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with

anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is permitted in all other areas having open deer seasons that are not specifically designated as still hunting only. Use of dogs to trail wounded deer is expressly prohibited in still hunting areas.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment: (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and be fitted only with iron sights or non-magnifying scopes except persons 60 years of age or older may use magnified scopes. This includes those muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Pass-a-Loutre and Point-au-Chien WMAs (See schedule).

a. Bow and arrow regulations: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d) to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a cap or a hat that is completely covered with hunter orange material in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not permitted by agreement of the landowner or lessee. WARNING: DEER HUNTERS ARE CAUTIONED TO WATCH FOR PERSONS HUNTING OTHER GAME OR ENGAGED IN ACTIVITIES NOT REQUIRING "HUNTER ORANGE".

12. Special Handicapped either-sex deer season on private land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Catahoula, East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open:

i. Avoyelles - North of La. 1.

ii. Caldwell - East of U.S. 165.

iii. Grant - East of U.S. 165 and south of La. 8.

iv. LaSalle - Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.

v. Livingston - North of I-12.

vi. Rapides - East of U.S. 165 and north of Red River.

vii. St. Tammany - All *except* that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa - North of I-12.

ix. West Feliciana - All *except* that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles - That portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. 451 and on the west by the Big Bend Levee from its junction

at the Bayou des Glaise structure east of Bordelonville, southward to its juncture with La. 451.

ii. Catahoula - South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

iii. East Feliciana and East Baton Rouge - East of Thompson Creek from the Mississippi line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi line. South of Mississippi line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iv. Franklin - All

v. St. Helena - North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa - That portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany - East of La. 21 from the Mississippi line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi line, south of the Mississippi line from the Pearl River westward to La. 21. Also that portion of St. Tammany Parish north of La. 22 from U.S. 190 to La. 1077, east of La. 1077 northward to junction with U.S. 190, south and west of U.S. 190 from La. 1077 to junction with La. 22. Also, that portion of Washington Parish south of La. 10 from the Tchefuncte River, eastward to the Bogue Chitto River, west of the Bogue Chitto River from La. 10 southward to St. Tammany Parish. Also that portion of Washington Parish west of La. 25 from the Mississippi state line southward to La. 38, then west to the Tangipahoa parish line, north along the parish line to the Mississippi state line then east to La. 25.

viii. West Feliciana - West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2
 - a. All of the following parishes are open:
 - i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine.
 - ii. Except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.
 - b. Portions of the following parishes are also open:
 - i. Allen - North of U.S. 190 east of Reeves and east of La. 113.
 - ii. Avoyelles - That portion west of I-49.
 - iii. Beauregard - East of La. 113. Also, west of La. 27 north to DeRidder and south and east of U.S. 190 west of DeRidder to Texas line.
 - iv. Calcasieu - West of La. 27 north of Sulphur and north of U.S. 90 from Sulphur to Texas line.
 - v. Caldwell - West of U.S. 165.
 - vi. Evangeline - All except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.
 - vii. Grant - All except that portion south of La. 8 and east of U.S. 165.
 - viii. Jefferson Davis - North of U.S. 190.
 - ix. LaSalle - All except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.
 - x. Morehouse - West of U.S. 165 (from Arkansas line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line.
 - xi. Ouachita - All except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line.
 - xii. Rapides - All except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 113 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.
 - xiii. Vernon - East and south of La. 113, north and east of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas line.
 - c. Still hunting only in all or portions of the following parishes:
 - i. Claiborne and Webster - Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).
 - ii. Ouachita - East of Ouachita River.
 - iii. Rapides - West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La.

- 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.
 - iv. Vernon - East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.
3. Area 3
 - a. All of Acadia, Cameron and Vermilion Parishes are open.
 - b. Portions of the following parishes are also open:
 - i. Allen - South of U.S. 190 and west of La. 113.
 - ii. Beauregard - West of La. 113. ALSO east of La. 27 north to DeRidder and north and west of U.S. 190 west of DeRidder to Texas line.
 - iii. Calcasieu - East of La. 27 north of Sulphur and south of U.S. 90 from Sulphur to Texas line.
 - iv. Iberia - West of U.S. 90 and north of La. 14.
 - v. Jefferson Davis - All except north of U.S. 190.
 - vi. Lafayette - West of I-49 and U.S. 90.
 - vii. Rapides - South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.
 - viii. St. Landry - West of U.S. 167.
 - ix. Vernon - West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas line.
4. Area 4
 - a. All of East Carroll and Richland parishes are open.
 - b. Portions of the following parishes are open:
 - i. Morehouse - East of U.S. 165 (from Arkansas line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line.
 - ii. Ouachita - South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line.
5. Area 5
 - a. All of West Carroll Parish is open.
 - i. All deer hunting is for bucks only including muzzleloader season.
6. Area 6
 - a. All of Orleans Parish is closed to all forms of deer hunting.
 - b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.
 - c. Portions of the following parishes are also open:
 - i. Avoyelles - South of La. 1 and also that portion east of I-49.
 - ii. Evangeline - That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.
 - iii. Iberia - East of U.S. 90.
 - iv. Lafayette - East of I-49 and U.S. 90.
 - v. Livingston - South of I-12.

- vi. Rapides - South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
- vii. St. Landry - East of U.S. 167.
- viii. St. Mary - North of U.S. 90.
- ix. St. Tammany - That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.
- x. Tangipahoa - South of I-12.
- xi. West Feliciana - West of Mississippi River, known as Raccourci and Turnbull Islands.
- d. Still hunting only in all of the following parishes:
 - i. Plaquemines - East of the Mississippi River.
 - ii. Rapides - South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
 - iii. St. Bernard - All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.
 - iv. St. John - South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.
 - v. St. Landry - Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

- a. The following parish is open: Terrebonne.
- b. Portions of the following parishes are open: Iberia and St. Mary Parishes - South of La. 14 and west U.S. Hwy. 90.

G. Wildlife Management Area Regulations

1. General

- a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.
- b. Citizens are cautioned that by entering upon a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.
- c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).
- d. Hunters may enter the WMA no earlier than 3:00 am unless otherwise specified. Hunters must exit the WMA no later than two hours after sunset unless otherwise specified.
- e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to

the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.

j. Burning of marshes is prohibited except by permit.

k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations, includes both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self Clearing Permits. On WMAs where Self Clearing Permits are required, all hunters must obtain a WMA Self Clearing Permit from an Information Station. The Check In portion *must* be completed and put in a permit box *before* each day's hunt on the day of the hunt. The Check Out portion *must* be carried by each hunter while hunting and *must* be completed and put in a permit box *after* each day's hunt on the day of the hunt unless otherwise specified. A vehicle tag will also be associated with the Self Clearing Permit and must be displayed in the vehicle while on the WMA.

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, shall be required to possess one of the following: a Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental - Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There will be no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines permitted on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-Au-Chien WMAs except shrimping allowed on Pointe-Au-Chien in Cut Off Canal and Wonder Lake during daytime only. Non-compliance with permit regulations will result in revocation of commercial fishing privileges. Commercial and recreational crawfishing on Sherburne WMA, South Farms, is by permit only. Permits available from the Opelousas Office or Sherburne WMA Headquarters. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are permitted on WMAs when in compliance with current laws and regulations except nighttime frogging prohibited on Salvador/Timken and Pointe-Au-Chien.

i. Additional Department Lands. The Department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline and St. Helena parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not permitted on WMAs during closed hunting seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not permitted on WMAs except during regular archery season, turkey season or except as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not permitted near WMA check stations.

e. Centerfire rifles and handguns, arms larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads and trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized Drivers and standers, Drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters and only with guns or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after sunset each day.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after sunset. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or any materials may be used but must be removed from the WMA within two hours after sunset. Blinds made solely of natural vegetation may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are also prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the Department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. The use of horses and mules is prohibited for hunting or trapping on WMAs except for quail hunting or except as otherwise specified. Horses and mules are specifically prohibited during gun seasons for deer and turkey and except as permitted for bird dog field trials on Sandy Hollow WMA.

o. All hunters except waterfowl hunters (including archers and small game hunters) on WMAs must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Quail and

woodcock hunters as well as hunters participating during special dog seasons for rabbit and squirrel are required to wear a minimum of a "Hunter Orange" cap. Also all non-hunters afield during hunting seasons are encouraged to display "Hunter Orange".

p. Archery season for deer. The archery season on WMAs is the same as outside and is open to either sex deer except as otherwise specified on individual WMAs. Archery season restricted or closed on certain WMAs when special seasons for youth or handicapped hunters are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is permitted only in designated areas and for a period not to exceed sixteen (16) consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring period is limited to a period not to exceed sixteen (16) consecutive days. Permits are required for camping and overnight mooring of houseboats on Pass-a-Loutre. Houseboat mooring permits are required for Atchafalaya Delta Wildlife Management Area. Permits may be obtained from headquarters on respective WMAs or from the New Iberia office for Atchafalaya Delta WMA.

c. Anyone camping on WMAs is required to have an operational waste disposal system attached to the camper, trailer, houseboat or other unit or a portable waste disposal unit to remove all human waste upon leaving the WMA camping area. Discharge of human waste on a WMA is prohibited. Additionally it is against both Federal and State law to discharge human waste into the waterways of Louisiana.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is *experimental* as required by law. Except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed, having or using dogs on any WMA is prohibited. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be held liable. Only recognizable breeds of bird dogs and retrievers are permitted for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

b. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

c. Tractor implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles. ATV tires are restricted to those with maximum allowable tire pressure of 5 psi, as indicated on the tire by the manufacturer.

d. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexandria State Forest WMA.

e. No internal combustion engines permitted in certain Greentree reservoir.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Motorized vehicles, including ATVs, ATCs and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps, except on Atchafalaya Delta WMA where ATVs, ATCs and motorcycles are prohibited. WMA maps available at all region offices. This restriction does not apply to bicycles.

i. Use of special ATV trails for handicapped persons restricted to special ATV handicapped permittees. Handicapped ATV permittees restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 70 years of age and older, with proof of age, are also permitted to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should

make application for a Physically Challenged Hunter Program Permit with the Department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition or construction.

l. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except on designated camping areas. All roads including trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15 and from two hours after sunset to 3:00 a.m. unless otherwise specified. ATV off-road travel is prohibited unless permitted by signs on trail walk-in only.

m. Caution: Many Department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

11. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

12. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

13. Archery. Consult regulations pamphlet.

14. Hogs. Consult regulations pamphlet.

15. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

16. Wildlife Management Areas Hunting Schedule and Regulations

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided.

e. Bayou Pierre. No ATVs or ATCs allowed on the area. Motorized vehicles are allowed only on parish roads and roads marked on WMA map.

f. Bens Creek. All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. No hunting in restricted areas. (See WMA Map). Horses and mules are specifically prohibited during gun seasons for deer and during the spring turkey season.

g. Big Colewa Bayou. ATVs restricted to designated trails. Refer to WMA map for location of designated trails. All other motorized vehicles prohibited. All nighttime activities prohibited.

h. Big Lake. Free-ranging livestock prohibited.

i. Biloxi

j. Bodcau

- k. Boeuf. Free-ranging livestock prohibited.
- l. Boise-Vernon. Road travel and hunting restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicle travel.
- m. Buckhorn. Free-ranging livestock prohibited.
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported.
- o. Dewey W. Wills. Crawfish: 100 pounds per person per day. Roads may be closed during wet weather conditions.
- p. Elm Hall. No ATVs allowed.
- q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.
- r. Georgia-Pacific. Except as otherwise provided, all nighttime activities prohibited.
- s. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.
- t. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management roads and trails. However, all ATVs/ATCs prohibited March 1 through September 15.
- u. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.
- v. Lake Boeuf
- w. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.
- x. Little River. Roads may be closed during wet conditions.
- y. Loggy Bayou
- z. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.
- aa. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during waterfowl season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.
- ab. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay and Northshore Bay oil and gas canals as described on the Department Pass-a-Loutre WMA map.
- ac. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting South of Hwy. 90. No hunting

in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

ad. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.

ae. Pointe-au-Chien. Hunting until 12 noon on *all game*, except for *dove* hunting as specified in regulation pamphlet. Point Farm: Gate will be open during opening weekend of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegue and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only in the waterways known as Grand Bayou, Humble Canal, Little Bayou, Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department.

af. Pomme de Terre. Commercial Fishing: Permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except permitted after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, 100 lbs. per person per day limit. No traps or nets left overnight. Free-ranging livestock prohibited.

ag. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

ah. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Note: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ai. Sabine

aj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

ak. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements.

During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact New Orleans Region Office-Fur and Refuge Division.

al. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as permitted for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

am. Sherburne. Crawfishing: permits required, for South Farms from Area Headquarters. Free-ranging livestock prohibited. Vehicular traffic prohibited on east Atchafalaya River Basin levee road within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area. No commercial activity on ANWR, except trapping.

an. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

ao. Soda Lake. Entire area is walk-in only - no motorized vehicles allowed. Access into the area is allowed only from south end of the area off of Hwy. 173 at Twelve Mile Bayou. All trapping and hunting prohibited except archery hunting for deer.

ap. Spring Bayou. Commercial Fishing: Permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except

permitted only after 2 p.m. during waterfowl season. Crawfish: 100 lbs. per person per day limit. Permit required from area supervisor. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing permitted only in Old River and Grand Lac.

aq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

ar. Three Rivers. Free-ranging livestock prohibited in area.

as. Tunica Hills. All vehicles restricted to Parish roads. ATV's restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Highway 66 (Angola Tract) closed to the public except during open hunting season.

at. Union. All nighttime activities prohibited except as otherwise provided.

au. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

av. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999).

Bill A. Busbice, Jr.
Chairman

9907#024

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season—1999-2000
(LAC 76:XIX.101 and 103)

In accordance with the Notice of Intent published in the March 1999 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulation on open hunting season dates, bag limit and methods of taking on Department operated wildlife management areas and the state at large for the period September 1, 1999 through August 31, 2000. Authority to establish regulation is vested in the Commission by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950. A copy of this information is attached and made part of this rule.

For those interested, a copy of the rules and regulations is available upon request by contacting: Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 9800, Baton Rouge, LA 70898-9000.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

The Resident Game Hunting Season, 1999-2000 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the Department.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999).

§103. Resident Game Birds and Animals 1999-2000

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 13-Feb. 29	10	20
Rabbit	Oct. 2-Feb. 29	8	16
Squirrel	Oct. 2-Feb. 13	8	16
Pheasant	Nov. 13-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 24-Jan.30	Nov.20- Dec. 5 Jan.10- Jan.23	Dec.11- Jan.9
2	Oct. 1-Jan. 31	Oct. 30-Nov. 5 Jan. 15-Jan. 21	Nov. 6- Dec.10	Dec.11- Jan.14
3	Sept.18-Jan. 18	Oct. 9-Oct. 15 Dec. 13-Dec. 17	Oct.16- Dec.12 Dec.18- Jan. 2	

4	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 15-Jan. 21	Nov. 20- Jan. 14	
5	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 15-Jan. 21 (Bucks Only)	Nov.20- Nov. 28	
6	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 24-Jan. 30	Nov. 20- Dec.5	Dec.11-Jan. 23
7	Oct. 1-Jan. 31	Oct. 9-Oct. 15 Jan. 17-Jan. 23	Oct. 16- Oct. 31 Nov. 20- Dec. 5	Dec. 11- Jan. 16

D. Modern Firearm Schedule (Either Sex Seasons)

Area	Basic Season Dates	Total Days	Exceptions (those portions of the following parishes)
1	Nov. 20-21, 26-28 Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28 (Franklin, Catahoula, LaSalle, Caldwell) Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles), Nov. 20-21, 26-28, Dec.4-5,11-12 (Grant and Rapides)
2	Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 11-12	13	Nov. 6-7, 26-28 (Caldwell, LaSalle) Nov. 6-7, 26-28, Dec. 11-12 (Avoyelles)
3	Oct. 16-17, 23-24, Oct. 30-31, Nov. 6-7, 20-21, 26-28	13	Oct. 16-17, Nov. 20-21, Dec. 11-12 (St. Landry)
4	Nov. 20-21, 26-28 (except East Carroll)	5	Nov. 20-21, 26-28, Dec. 4-5, 11-12 (East Carroll—That portion between the Mississippi River Levee and the Mississippi River)
5	None		
6	Nov. 20-21, 26-28, Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles, Rapides, St. Landry)
7	Oct. 16-17, Nov. 20-21, 26-28, Dec. 11-12, 18-19	11	

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex	Muzzleloader
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Dec. 6 Dec. 21-23 Dec. 26-Jan.31	Nov. 1-3 Dec. 21-23 Dec. 26-30	Dec. 7-20 (Either Sex)

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999).

Bill A. Busbice, Jr.
Chairman

9907#022

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Directory: G:\INTERNET\REG\9907
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Change Number: 4
Last Saved On: 07/19/99 12:51 PM
Last Saved By: State of Louisiana
Total Editing Time: 1 Minute
Last Printed On: 07/19/99 1:34 PM
As of Last Complete Printing
Number of Pages: 81
Number of Words: 64,549 (approx.)
Number of Characters: 367,934 (approx.)