

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Economic Development Award Program (EDAP) (LAC 13:III.Chapter 1)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to amend rules and regulations in LAC 13:III. Chapter 1 for the Economic Development Award Program.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP)

§101. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§103. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant [and/or company(ies)] receiving an award under this program.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or overseeing

implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§105. General Principles

The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§107. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December

1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§109. Criteria

A. Job Creation/Retention

1. Projects must create or retain at least ten (10) permanent jobs in Louisiana.

2. Number of jobs to be retained and/or created as stated in the application will be strictly adhered to and will be made an integral part of the contract.

B. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

C. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

D. Companies must be in full compliance with all state and federal laws.

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

F. The minimum award request size shall be \$25,000.

G. Preference will be given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the Secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§111. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§113. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant,

other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;

2. validate the information presented;

3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C.1. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

a. the Secretary of the Department of Economic Development;

b. the Governor; and

c. the Joint Legislative Committee on the Budget.

2. The Secretary can invoke emergency procedures and approve an application under the following conditions: the company documents in writing to the Secretary of Economic Development with copies to the Governor and Chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§115. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the compan(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will oversee the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

a. engineering and architectural expenses;

b. site acquisition;

c. site preparation;

d. construction expenses;

e. building materials;

f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven (7) years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:
 - a. ninety (90) percent for projects located in parishes with per capita personal income below the median for all parishes; or
 - b. seventy-five (75) percent for projects in parishes with unemployment rates above the statewide average; or
 - c. fifty (50) percent for all other projects.
 - d. Other state funds cannot be used as the match for EDAP funds.

2. The award amount shall not exceed twenty-five (25) percent of the total funds available to the program during a fiscal year.

3. The Secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of required documentation to DED from the sponsoring entity.

2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement, contingent on the final approval by the Governor and the Joint Legislative Committee on the Budget.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, describing the progress towards the performance objectives specified in the award agreement. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§117. Public Safety Provision

The Secretary may approve a request for funding for less than \$25,000 if the request involves the protection and enhancement of the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

The proposed rules are to become effective on August 1, 1999 as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family:

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Economic Development Award Program (EDAP)

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

Pursuant to Louisiana R.S. 51:2341, et seq., this program is administered by the Department of Economic Development (DED), Office of the Secretary. No net changes in cost are anticipated. An additional staff member will be added within the National Marketing Division who will monitor the entities contracting with DED, assist in administering the program and in providing the economic impact analysis.

The Department of Economic Development via this amendment has made the following changes:

A. The definition of "Sponsoring Entity" has been revised to clarify its meaning.

B. Language was included under "criteria" that provided that employment numbers stated on the application will be strictly adhered to.

C. Language was added under "Disbursement of Funds" to indicate when eligible expenses can be incurred based on the source of funding.

D. Language was added under "Compliance Requirements" that specifies what the sponsoring entity's progress report must include and clarified the duties of the sponsoring entity.

E. Language was added to allow monitoring by DED and for the use of up to 5% of this year's appropriation, up to \$100,000.00 to fund monitoring costs.

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

No effect on revenue collection is anticipated.

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

This change in the program rules is expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses through incentives. This change in the Rules was made in an attempt to

incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

Kevin P. Reilly, Sr.
Secretary
9909#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Port Development Program (LAC 13:III.Chapter 5)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to promulgate rules and regulations in LAC 13:III.Chapter 5 for the Port Development Program.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Incentive Programs

Chapter 5. Port Development Program

§501. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Louisiana Department of Economic Development (DED) is authorized to accept and review applications from eligible port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§503. Definitions

Applicant—the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

Capital Projects—include any port infrastructure development project including land acquisition and attendant development costs.

Cash—any asset on the port's records used for the project. Land's value will be determined by its appraised value.

DED—Louisiana Department of Economic Development.

In-kind—any service, land or equipment, related to the project, donated to a port outside of its legal entity.

Intermodal Infrastructure Development—refers to the provision of highway, rail, water or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program—the Port Development Program.

Project Priority List—a list of projects proposed by eligible applicants ranked for program funding by the Louisiana Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§505. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§507. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Louisiana Port Construction and Development Priority Fund administered by the Louisiana Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§509. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§511. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§513. Application Procedure

Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the Department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to the following:

1. A description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project.

2. Indicate the total cost of the project. Also show the sources of funding and when they will be available.

3. Provide construction, operation and maintenance plans, and a timetable for the project's completion.

4. Any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§515. Submission of Applications

Applications must be submitted to the DED by March 1 to be considered for funding for the following fiscal year. Two copies of the application with all attachments should be submitted to the Secretary of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§517. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to project contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§519. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The Committee will prepare a list of projects for funding and, if necessary, input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;

2. validate the information presented;

3. determine the overall feasibility of the port's plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§521. Funding

A port shall not be allocated in excess of 50 percent of the total appropriation as long as the appropriation does not exceed \$5 million. In the event the appropriation for the Port Development Program exceeds \$5 million, an individual award shall not exceed \$1 million each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§523. Conditions for Disbursement of Funds

A. Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the cooperative endeavor agreement (contract) has been agreed upon, signed and executed will be considered eligible for reimbursement.

B. Ports will be eligible for reimbursement of approved expenses up to 90 percent of the award amount. After all deliverables are completed according to the terms of the contract, the final 10 percent of the award will be made available for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§525. Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent, not to exceed \$50,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

The proposed rules are to become effective on August 1, 1999 as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family.

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

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

RULE TITLE: Port Development Program

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

This program was created by Act 29 of the 1998 Regular Session with the Department of Economic Development (DED), Office of the Secretary given the responsibility for its administration. The rules are being amended in order to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program. No changes in cost are anticipated. Existing staff within the National Marketing Division will be used to administer the program and to provide the economic impact analysis.

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

No effect on revenue collection is anticipated.

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

This program expects to serve approximately four to five (4-5) Ports with this year's funding. The number to be served in future years is anticipated to increase exponentially depending on the increased level of funding.

LAC 13:III.Chapter 5 established the Rules of the Port Development Program. It provides, among other things, the purpose and objectives of the program, eligibility requirements, financial match requirements, application procedures, review procedures, and disbursement of funding criteria.

No net changes in costs are anticipated, although the changes in the program rules are expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program is anticipated to have a positive impact on competition and employment.

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses and Public Port Authorities through project grants to sustain certain Louisiana ports and navigable waterways, particularly those infrastructures that improve the efficiency of the system and contribute to the location, expansion or retention of industry and employment.

Kevin P. Reilly, Sr.
Secretary
9909#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Workforce Development and Training Program
(LAC 13:III.Chapter 3)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of

the Secretary, proposes to promulgate rules and regulations in LAC 13:III.Chapter 3 for the Workforce Development and Training Program.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§301. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§303. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(ies)) receiving a training award under this program.

Contract—a legally enforceable agreement between DED, the awardee and a sponsoring entity governing the terms and conditions of the training award.

Contractee—the awardee and sponsoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Program—the Workforce Development and Training Program.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or not for profit entity responsible for performing and/or overseeing implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement and for reimbursing the awardee for eligible training costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§305. General Principles

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;

3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;

4. evaluations for the enhancement of existing Louisiana businesses that are adding locations within the state will be conducted with the same procedures and with the same priority as the recruitment of new businesses to the state;

5. the anticipated economic benefits to the state will be considered in making the award;

6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§307. Program Descriptions

This program provides two types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees; and

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§309. Eligibility

A. An eligible applicant is an employer, or community-based organization that seeks customized training services to provide training in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic

Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§311. Criteria

A. General. (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants locating in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

4. Number of jobs to be retained and/or created as stated in the application will be adhered to and will be made an integral part of the contract.

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create at least ten (10) net new jobs in the state, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 employees.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§313. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§315. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the Secretary of the Department of Economic Development;

2. the Governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(ies) receiving training) and an appropriate sponsoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the sponsoring entity in a manner determined by DED.

3. The sponsoring entity will oversee the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form approved by DED. DED, at its discretion, may request the sponsor to obtain additional information.

4. Funds may be used for training programs extending up to two (2) years in duration.

5. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the Contractor and the Secretary.

B. Funding. Award may not exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. Instruction Costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. Travel Costs: travel for trainers, training coordinators and trainees;

c. Materials and Supplies Costs: training texts and manuals, audio/visual materials, raw materials for manufacturer's training purposes only and Computer Based Training (CBT) software; and

d. Other Costs: When necessary for training, such as facility rental.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

b. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

c. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by sponsoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training), DED and sponsoring entity has been executed. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement. However, reimbursement's can only be provided upon final execution of a contract with the Department of Economic Development.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§319. Contract Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent or a maximum of \$200,000.00, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family:

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Workforce Development and Training Program

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

Pursuant to Louisiana R.S. 51:2333, et seq., this program is administered by the Department of Economic Development (DED), Office of the Secretary. No net changes in cost are anticipated. An additional staff member will be added within the National Marketing Division who will monitor the entities contracting with DED, assist in administering the program and in providing the economic impact analysis. Any expense associated with this new person will be paid out of savings realized by not having to pay other entities to do the monitoring.

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

No effect on revenue collection is anticipated.

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

This change in the program rules is expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses through incentives. This change in the Rules was made in an attempt to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

Kevin P. Reilly, Sr.
Secretary
9909#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Racing Commission

Substance Abuse and Drug-Free Workplace Program (LAC 13:IX.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and also in accordance with Executive Order MJF 98-38, R.S. 49:1001 et seq., and R.S. 4:141 et seq., notice is hereby given that the Louisiana State Racing Commission intends to promulgate rules

regarding the implementation of a drug testing program for new and existing employees in the Racing Commission's domicile office, field auditors and members appointed to the commission. These rules do not affect those field employees and licensees already covered by LAC 35:I.1791 and LAC 35:I.1793. This proposed chapter of rules has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 13

ECONOMIC DEVELOPMENT

Part IX. Office of the Racing Commission

Chapter 1. Substance Abuse and Drug-Free Workplace Program

§101. Philosophy

A. The Louisiana State Racing Commission (LRC) is totally committed to deterring substance abuse or use which imperils the health and well-being of our employees and the citizens of this state. To accomplish this, the LRC hereby adopts these Substance Abuse and Drug-Free Workplace rules which will enhance the safety and welfare of our employees, increase overall productivity and the quality of our service to the public, preserve property and equipment, promote public safety, reduce absenteeism and job-related accidents which, in turn, will improve the image and reputation of the LRC and its employees.

B. The LRC's philosophy is consistent with the state of Louisiana's long-standing commitment to establishing a drug-free workplace. To deter the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana recently issued Executive Order 98-38 providing for the promulgation, by executive agencies, of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees in accordance with R.S. 49:1001, et seq. The LRC fully supports these actions and is committed to a drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§103. Applicability

A. These rules apply to domicile employees, field auditors and appointees of the LRC, as well as potential employees and appointees to those positions.

B. Following a job offer, potential employees and potential appointees will be required to submit to pre-employment drug testing. All employees/appointees are subject to post-accident/incident, reasonable suspicion and return-to-duty/rehabilitation monitoring drug and alcohol testing. Employees who incumbent safety-sensitive positions and applicants who apply for safety-sensitive positions are subject to both random and pre-selection drug and alcohol testing. Finally, prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position, an employee is required to undergo drug and alcohol testing. A list of the safety-sensitive positions within the LRC is contained within §121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§105. Requirements

A. To maintain a safe and productive work environment, all LRC employees are required to:

1. report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;
2. promptly and cooperatively submit to drug/alcohol testing when required by a supervisor or appointing authority;
3. notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense which occurs on or off duty.

B. The LRC prohibits the use, abuse and presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, scheduled on-call or engaged in LRC business, on or off LRC/state premises. The presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in a state vehicle while on or off duty is also prohibited.

1. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood.

2.a Illegal or unauthorized drugs include:

- i. any drug which is not legally obtainable;
- ii. any drug which is legally obtainable, but has been illegally obtained;
- iii. prescription drugs not being used in accordance with the prescription;
- iv. or any substance which affects the employee's ability to safely and competently perform assigned duties.

b. Controlled dangerous substances are listed in schedule I, II, III, IV and V of R.S. 40:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§107. Drug/Alcohol Testing

A. All employees may be required to submit to drug and/or alcohol testing as a condition of employment, as a condition of continued employment, or as a condition of promotion, demotion, reassignment or detail to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances:

1. Pre-Employment. Drug tests are required of all prospective employees and appointees of the LRC. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a job offer. Pursuant to R.S. 49:1008, a prospective employee/appointee testing positive for the presence of a prohibited substance shall be eliminated from consideration for employment/appointment. Additionally, applicants for safety-sensitive positions listed in §121 shall be required to submit to alcohol testing. Applicants who test positive for the presence of alcohol shall be eliminated from consideration for employment.

2. Post-Accident/Incident. An employee may be subject to drug testing following an on-duty accident where there is a reasonable suspicion that the employee was under the influence of drugs or alcohol. *Reasonable suspicion* is a

belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that an employee has engaged in drug or alcohol use. Only an appointing authority shall require an employee to submit to post-accident/incident testing. Generally, this decision will be based upon the recommendation of supervisory personnel at the scene who have objectively and thoroughly reviewed the circumstances of the accident/incident. The supervisor will fully document the facts upon which the recommendation for testing is made. Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:

a. the accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor;

b. the accident meets the criteria of §107.A.2a and results in or causes the release of hazardous waste as defined by R.S. 30:2173(2) or hazardous materials as defined by R.S. 32:1502(5); or

c. the accident results in a fatality or serious bodily injury.

Note: When post-accident/incident testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

3. Random. Random alcohol and drug testing is required of all employees holding safety-sensitive positions as listed in §121. Such testing shall be periodic and unannounced, and employee selection therefor shall be by a computer-generated random selection process. All such testing shall, unless impracticable, occur during the employee's normal work hours.

4. Promotion/Reassignment/Etc. to Safety-Sensitive Position. Current employees are required to undergo drug and alcohol testing prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position as defined in §121. An offer of promotion, reassignment, detail or demotion will be withdrawn if a positive drug or alcohol test result is reported, and employees are further subject to disciplinary action as specified in these rules.

5. Reasonable Suspicion. An employee shall be required to submit to drug and alcohol testing when he/she exhibits behavior or appearance that is characteristic of drug or alcohol use. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts derived from direct observation of the employee's physical appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

Note: When reasonable suspicion testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

6. Return-to-Duty/Rehabilitation Monitoring. Any employee who retains his/her job following a violation of these rules shall be required, at his/her own expense, to

undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee shall be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of continued employment, participates in an alcohol/substance abuse rehabilitation program, shall be subject to random drug/alcohol testing for a minimum of one year or longer as determined by the treating substance abuse professional. Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§109. Drug Testing Procedures

A. Drug testing pursuant to this policy shall be for the presence of marijuana, opiates, cocaine, amphetamine/methamphetamine and phencyclidine (PCP) in accordance with R.S. 49:1001, et seq. Testing shall be performed by a contractor chosen by the Office of State Purchasing, Division of Administration. At a minimum, the testing procedure shall assure:

1. that all specimens for drug testing are collected, stored, transported and tested in compliance with United States Department of Health and Human Services (DHHS) guidelines (and applicable federal and state regulations) to ensure integrity of the testing process;

2. urine specimens will be collected with emphasis upon the privacy rights of the employee. Direct observation of the employee during collection of the urine specimen will be allowed only under the following conditions:

a. when there is specific, articulable reason to believe that the individual may alter or substitute the specimen;

b. when the individual has provided a urine specimen which falls outside the acceptable temperature range;

c. when the last urine specimen provided by the individual was verified by the medical review officer as adulterated; or

d. when collection site personnel observe conduct or behavior indicating an attempt to substitute/adulterate the sample or otherwise alter the integrity of the collection process;

Note: In all instances in which direct observation is deemed appropriate, the designated LRC representative shall review and concur, in advance, with any decision by collection site personnel to obtain a specimen under direct observation. This representative shall maintain, in a confidential record, the full name of the reporting collection site personnel and the specific facts relied upon to approve the direct observation. The record shall be signed by the LRC representative. All direct observations shall be conducted by same gender collection site personnel.

3. the split sample collection methodology must be used in accordance with R.S. 49:1006(D), with both the primary and split specimens properly stored and transported to the testing laboratory. The primary urine sample will be analyzed for the presence of marijuana, opiates, amphetamines/methamphetamine, cocaine and phencyclidine (PCP);

4. appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its

handling, storage and transportation from point of collection to final disposition;

5. testing shall be performed by laboratories certified for forensic urine drug testing by the U.S. Department of Health and Human Services and in strict compliance with DHHS Guidelines;

6. the dual testing procedure shall be used for all samples. Each primary sample that tests positive for a prohibited substance shall be subject to an additional, more precise confirmatory test (gas chromatography/mass spectrometry);

7. all positive test results (those which exceed federally established cut-off levels as set forth in 49 CFR 40, Section 40.29), shall first be reported by the testing laboratory to the LRC's qualified medical review officer (MRO). The MRO is a licensed physician knowledgeable of substance abuse who has received specialized training in interpreting and evaluating test results in conjunction with an individual's medical history and other relevant biomedical information. The MRO will review the collection procedure, chain of custody and testing methodology before contacting the employee/appointee/applicant to rule out the possibility of error or that medications, medical history or any other condition caused the positive test result;

8. if the test is confirmed to be positive by the MRO, the employee may, within 72 hours of notification from the MRO, request, in writing, directly to the MRO, that the split specimen (initially collected but separated and stored during the collection process) be tested in a different DHHS certified laboratory. This split sample testing shall be allowed if timely requested and performed at the employee's expense;

9. once a positive test is confirmed and reported to the LRC by the MRO, an employee in a safety-sensitive position will be prohibited from performing safety-sensitive functions. A request for testing of the split sample will not delay any such employee's removal from performing safety-sensitive functions; and

10. if testing of the split specimen results in a negative result, the MRO will cancel the positive result of the initial test. All doubts shall be resolved in favor of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§111. Alcohol Testing Procedures

A. Evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration will be used by certified breath alcohol technicians to determine the presence of alcohol in the employee's system.

B. The employee will be advised of the results of the breath screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within 20 minutes, but not less than 15 minutes of completion of the screening test. If the confirmatory test indicates a blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood, the results will be reported as positive to the LRC's designated representative.

C. An employee occupying a safety-sensitive position will be immediately removed from performing safety-sensitive functions in the event of a positive alcohol test.

D. Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§113. Enforcement

A. The use of illegal drugs, unauthorized alcohol and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the LRC's mission. While the LRC's position is firm, the LRC will resolve any reasonable doubt regarding the testing procedure or results in the employee's favor.

B. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and a meaningful opportunity to respond prior to the imposition of disciplinary action.

C. **Penalty for a First Positive Test.** A first positive test (drug or alcohol) will result in disciplinary action up to and including the possibility of termination. Factors to be considered in determining the appropriate sanction include, but are not limited to, the employee's work history, length of service, current job performance and the existence of prior disciplinary action. At a minimum, the first-time offender will remain off from work at least 30 calendar days. For any such period, the first ten workdays will be a suspension, without pay. For the remaining 20 days, the employee will be permitted to use annual, sick or compensatory leave, if available. During this 30-day period, the employee shall obtain a substance abuse evaluation and commence any recommended rehabilitative treatment. Refusal to participate in the evaluation/treatment process, at the employee's expense, will result in termination.

D. Termination will be the recommended penalty for the following violations:

1. second positive drug test result or confirmed blood alcohol level above the applicable thresholds;
2. refusal to submit to a drug or alcohol test;
3. failure to cooperate in any way which prevents the completion of a drug or alcohol test;
4. submission of an adulterated or substitute sample for testing;
5. buying, selling, dispensing, distributing or possessing unauthorized alcohol or any illegal or unauthorized substance while on duty, in a state vehicle or on LRC/state premises; and
6. operating a state vehicle or personal vehicle while on duty under the influence of drugs or alcohol where testing administered by an authorized official confirms a violation of these rules.

E. Suspension will be the recommended penalty for the following violations:

1. failure to notify a supervisor of an off-duty arrest or conviction of DWI or drug-related offense at the beginning of the next scheduled workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§115. Confidentiality/Employee Rights

A. All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

B. In compliance with R.S. 49:1011, any employee, upon learning of a confirmed positive test result, shall, upon written request, have the right of access, within seven working days, to records and other documentation relating to the drug testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceedings of the testing facility.

C. Employees should know that statistical records and reports of drug testing are maintained by the LRC, contract physicians and drug testing laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug testing program.

D. The LRC has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in these rules will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered in/on LRC/state property, or upon the person of an LRC employee, to law enforcement officials. Likewise, any employee engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on LRC/state property shall be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§117. Employee Assistance Program

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the LRC's Employee Assistance Program (EAP) coordinator within the Human Resources Division of the Department of Economic Development. Any such involvement will be held in strict confidence, but employees should know that supervisors and appointing authorities (who need to know) will be kept abreast of the employee's treatment and leave needs.

B. Employees referred to the EAP coordinator by supervisory personnel or who, as a condition of continued

employment, participate in a substance abuse rehabilitation program will be subject to the return-to-duty/rehabilitation monitoring testing set forth in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§119. General Provisions

A. The LRC reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, the LRC will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave.

B. Although the substance abuse testing defined in these rules is restricted to five specified drugs and alcohol, the LRC reserves the right to require employees to submit to additional testing, if warranted. Such tests will only be administered when post-accident or reasonable suspicion testing produce negative results and the employee's behavior clearly indicates impairment or other indicia of substance use. Separate samples will be collected for these additional tests and the testing process will fully comply with DHHS regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§121. Safety-Sensitive Positions

There are no safety sensitive positions in the LRC at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through October 8, 1999, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Albert M. Stall
Chairman

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

**RULE TITLE: Substance Abuse and Drug-Free
Workplace Program**

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

The costs to implement this rule will be limited to the cost-per-sample and total number of samples taken, which will be on a fiscal year basis. The Department of Economic Development will incur the cost for testing, which has been set

at \$23.50 per sample, and the Commission anticipates having no more than 5 samples per fiscal year (\$23.50 x 5 = \$117.50).

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

This action is not anticipated to affect revenue collections.

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

This action is intended to benefit employees. The costs for subsequent testing, where necessary, may be borne by an affected employee, however, this is anticipated to be very rare if at all.

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

This action has no effect on competition nor employment.

Albert M. Stall
Chairman
9909#011

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Louisiana School and District
Accountability System Appeal/Waiver Procedure
(LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The School Accountability System was promulgated as a Rule in the June, 1999 issue of the *Louisiana Register*. The Accountability standards are being amended to add Standard 2.006.13 which includes an appeal/waiver procedure that shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:108 (January 1999), LR 25:

The Louisiana School And District Accountability System

Appeals Procedures

2.006.13 An appeal/waiver procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

There shall be two administrative bodies empowered by SBESE to manage the appeal/waiver process of the Louisiana School and District Accountability System: the Louisiana Department of Education Interdepartmental Review Committee and the Accountability Advisory Committee.

The Interdepartmental Review Committee approves appeal/waiver requests or makes recommendations to the SBESE concerning issues from local educational boards of education that deviate from policies associated with the Louisiana District and School Accountability System.

The Accountability Advisory Committee serves as an independent agent whose function is to make recommendations to the SBESE regarding claims filed by aggrieved parties after they have been heard by the Interdepartmental Review Committee.

An appeal is generally defined as a request for the calculation or recalculation of the School Performance Score (SPS), and/or SPS baseline and Growth Target.

Criteria for Appeal

1. The student population in a school significantly increases by greater than or equal to ten percent as a result of students transferring into the school from outside of the district (Ref. 2.006.14)
2. A school's (K-12) grade structure and/or size (enrollment) is significantly reconfigured by fifty percent or more from the previous academic year (Ref. 2.006.16).
3. An Alternative School in Option I changes to Option II by petitioning SBESE and meeting the eligibility requirements outlined in Bulletin 741, Section 2.006.14.
4. An Alternative School in Option II changes to Option I by petitioning SBESE because the aforementioned school no longer meets the eligibility requirements outlined in Bulletin 741, Section 1.006.14.
5. An Alternative School that is placed in Option I status because of a lack of testing units but desires to be placed in Option II status. (Applicable for school year 1999-2000 only.)
6. As a result of redistricting or other significant enrollment changes, a school is paired or shared with another school (Ref. 2006.15).
7. A *paired* school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board or education (Ref. 2.006.15).
8. A *shared* school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board of education (Ref. 2.006.15).

A waiver is generally defined as a temporary "withholding" of accountability decisions for no more than one accountability cycle. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute

Criteria for Waiver

1. The recalculated SPS baseline of a school changes by five points (+/-5) as a result of a significant change of ten percent or more in the student population because of students transferring into the school from outside of the district (Ref. 2.006.14).
2. A school's grade structure and/or size (enrollment) is changed less than fifty percent but more than twenty-five percent from the previous academic year because of reconfiguration (Ref. 2.006.16).
3. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school.
4. The student body of the school (Pre-K through K-2) comprises primarily Pre-K and K students (greater than fifty percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be paired (Ref. 2.006.15). A feeding pattern is defined as the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.
5. A school lacks the statistically significant number of testing units for the CRT (40 units) and NRT (20 units) necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" (Ref. 2.006.15) because the school is:
 - a Lab School;
 - a Type 1, 2, or 3 Charter School;
 - operated by the Department of Corrections; or
 - beyond the sovereign borders of Louisiana;
 - an SSD #1 or #2 school
 - a BESE school
 - non-diploma bound.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal or waiver on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the Superintendent or an appointed representative authorized by the local governing board of education.

General Guidelines: Local Board of Education-Level Requests

The Superintendent, or official representative, of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the School Performance Scores in the fall of each year. Data corrections shall not be grounds for an appeal or waiver request unless (a) evidence attributes data

errors to the LDE and/or those contractors used for the student assessment program, and (b) a change results in the Performance Label, Growth Label or Corrective Actions status. Requests concerning either the inclusion or exclusion of special education student score in the calculations of a school's SPS and Growth Target, except as outlined in Bulletin 741, shall not be considered by the LDE.

Supporting documentation for appeal/waiver requests should clearly outline those data that are erroneous. Further, computations by the local board of education's officials should provide evidence that the school's SPS is significantly affected by the data in question and such a change results in a different Performance and/or Growth label. Additional information may be required by the LDE to support an appeal or waiver.

Interested persons may submit written comments until 4:30 p.m., November 9, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Louisiana School and District Accountability System Appeal/Waiver Procedure

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

There are no estimated implementation costs to state governmental units. Existing Department of Education staff will manage the appeals/waiver process. Existing Department of Education staff will also serve on the Interdepartmental Review Committee to approve appeal/waiver requests or make recommendations to the State Board of Elementary and Secondary Education concerning issues from local boards of education that deviate from policies associated with the Louisiana School and District Accountability System. Local school systems may incur costs of an unknown amount associated with filing appeals with the Department of Education. However, there may be substantial savings to local school systems if an appeal/waiver is approved and schools and local school boards do not have to assume the costs associated with Corrective Actions, such as, costs not funded by the state for teacher staff development and in-service training, collection and analysis of data for the state's diagnostic process, personnel assigned to District Assistance Teams, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions II and III.

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

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

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

There will be no estimated costs and/or economic benefits affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Without the appeals/waivers process, local school systems have no recourse for addressing unforeseen and aberrant factors impacting schools in Louisiana and could enter or remain in Corrective Actions whereby they could eventually be reconstituted. Teachers who have taught in a school that is reconstituted may have difficulty finding employment as a result of the stigma of having taught in such a school. Local school systems may have difficulty hiring teachers to teach in schools in Corrective Actions.

Marlyn Langley
Deputy Superintendent
9909#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—State Standards for Locally Initiated Electives (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment establishes State Standards for Locally-Initiated Electives and grants local education agencies authority to approve elective courses that meet said standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

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

ADD: Standard 1.090.10 Adding Elective/Exploratories to the Program of Studies

Standard 1.090.10

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

REVISE: Standards 1.090.11 and 1.090.12

Standard 1.090.11

Locally-initiated electives shall support the standards-based initiatives and include the key components addressed in the content standards documents.

Electives shall support the mission of the standards-based initiatives: to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century ;

Electives shall incorporate the Foundation Skills of the State Content Standards (Communication, Problem Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship);

Electives shall expand, enhance, and/or refine Mathematics, Science, Social Studies, English Language Arts, Foreign Language, the Arts, Business Education, Agriscience/Agribusiness State Standards and those standards approved by the State Board of Elementary and Secondary Education (SBESE) for other content areas.

Standard 1.090.12

Electives shall comply with all policies set forth by the SBESE as stated in current *Louisiana Handbook for School Administrators: Bulletin 741*.

ADD: Standards 1.090.13-1.090.15

Standard 1.090.13

A school system shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current *Bulletin 741*, and all laws and regulations pertaining to students with disabilities.

Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives;

Electives shall meet specific curriculum goals of the district;

Electives shall include challenging content that requires students to extend the knowledge and skills acquired through the core curriculum;

Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles;

Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented;

Electives shall incorporate assessment strategies that support statewide assessments.

ADD: Standard 1.090.14

Standard 1.090.14

A school system shall maintain records of all approved electives and submit reports to the Department.

All approved electives shall be submitted to the Department thirty (30) days prior to implementation (submissions may be made electronically).

A school system shall submit a statement of assurance that approved electives meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

A school system shall maintain records of electives that include: a rationale for the course, a detailed content outline, certification of the instructor, Carnegie unit credit, prerequisites for the course, a plan for assessing students, a plan for assessing the course, and the dates of implementation.

ADD: Standard 1.090.15

Standard 1.090.15

Electives shall comply with all state and federal constitutional, statutory, and regulatory guidelines and requirements.

A school system shall be responsible for seeking legal counsel to ensure that elective course content meets the standards set herein.

The Board of Elementary and Secondary Education reserves the authority to require local school systems to submit documentation regarding the course content, approval process, and/or course evaluation of any approved elective. The Board further reserves the right to rescind local authority to approve electives for a school system not in compliance with Standards for Locally-Initiated Electives.

REVISE: Standard 1.105.37 Adding Elective Courses to the Program of Studies

Standard 1.105.37

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

Refer to Standards 1.090.11-15 for State Standards for Locally-Initiated Electives.

DELETE: Standard 1.105.39

Interested persons may submit comments until 4:30 p.m., November 9, 1999 to: Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—State Standards for Locally
Initiated Electives**

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

Marlyn Langley
Deputy Superintendent
9909#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students (TOPS)
Renewal Application Deadline Extension
(LAC 28:IV.503)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

**Chapter 5. Application; Application Deadlines and
Proof of Compliance**

§503. Application Deadlines

A. - A.4....

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1 of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1 deadline. Any student submitting an application for state aid in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-99 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999, and must submit an application to be received by the July 1 deadline for every year thereafter in which the student desires to renew the award. Students who received a TOPS award during academic year 1998-99 and who must file the FAFSA for academic year 1999-2000 to renew their awards, have until September 15, 1999 for their application to be received by the federal processor.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

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

**RULE TITLE: Tuition Opportunity Programs for
Students (TOPS)—Renewal Application
Deadline Extension**

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for funding for TOPS awards are not anticipated to increase as a result of this rule change.

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

No impact on revenue collections is anticipated to result from this rule change.

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

Students who received TOPS during academic year 1998-99 and who must file the FAFSA for academic year 1999-2000 to renew their awards will have until September 15, 1999 for their applications to be received by the federal processor.

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

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
9909#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Air Fee Revisions
(LAC 33:III.207, 209, 211, and 223)(AQ195)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.207, 209, 211, and 223 (Log #AQ195).

The purpose of this proposed rule is to incorporate fees for industry categories not previously in the Fee Schedule, but for which fees have previously been established under the negotiated fee procedures of the fee regulations. The rule change also includes changes in wording to make existing regulations easier to interpret. The changes will not increase any fee paid but should make the fee regulations easier to read and understand. The basis and rationale for this rule are to make the regulations easier to understand and implement. These changes are being made to address part of the fee

regulations that the department and external users of the fees have found difficult to understand.

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

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Program

§207. Application Fees

No application or amendments thereto shall be processed prior to payment of a permit fee. No permit, license, registration, or variance, unless otherwise authorized by the secretary, shall be issued until the full amount of the fee has been paid and such check or draft has been accepted by the bank or drawee and the department's account has been credited with the amount of the fee.

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 14:610 (September 1988), LR 19:1373 (October 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§209. Annual Fees

All parties conducting activities for which an annual fee is provided shall be subject to the payment of such fee by the due date indicated on the invoice. The annual fees are based on a state fiscal year from July 1 to June 30.

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 14:611 (September 1988), LR 19:1373 (October 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§211. Methodology

A. Formula to Apportion Fees

Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50 percent of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation

* * *

[See Prior Text in B]

1. All fees required by this Chapter are listed in LAC 33:III.223, Fee Schedule Listing, which shall be referred to as the Fee Schedule in the remainder of this Chapter. All persons required to obtain a new or modified permit shall be subject to a permit application fee (see Fee Schedule). This fee shall be submitted with any application for a new or modified permit. The annual maintenance fee for a new or modified source shall be paid during the fiscal year (July 1 to June 30) in which the process specified in the permit comes on line.

2. The Standard Industrial Classification (SIC) codes listed in the Fee Schedule shall be used to assist in the determination of the proper fees to assess.

3. The permit fee for sources or facilities with multiple processes shall be equal to the total amounts required by the individual processes involved, as listed in the Fee Schedule, unless the entire facility is covered by a single fee category.

* * *

[See Prior Text in B.4-5]

6. If a process is not listed in the Fee Schedule and is not a source type exempted from fees by this regulation, then the department shall assign a fee based on the most similar processes in the Fee Schedule and negotiated separately. If a process or facility is specifically listed in the Fee Schedule, then the fee cannot be negotiated. The department shall analyze each permit request to determine the number of processes involved and the permit fee associated with each.

7. Annually, the department shall reevaluate the Fee Schedule based upon the previous fiscal year's reasonable costs involved in the operation of the permit system and submit such revised schedule to the secretary for approval.

8. When a company withdraws its application and claims refund for the permit fee, no refund shall be made if the review of the application is essentially completed at the time of withdrawal. However, up to 50 percent refund may be made when the review has been initiated, but is not essentially completed.

9. Annual maintenance fees (AMF) are not prorated. If a facility operates any part of a year or at a reduced rate during the year, the full annual maintenance fee is still charged. In order for the annual maintenance fee to be

Air Toxics Permit Application Fee (Based on Type of Facility and on Rated Production Capacity/Throughput)	Surcharge of 10 Percent of the Permit Application Fee to be Charged When There is an Increase in Air Toxics Emissions Above the Minimum Emission Rates (MER) Listed in LAC 33:III.5112.Table 51.1
Air Toxics Annual Emission Fee (based on Air Toxic Pollutants emitted)	Variable
Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	Variable

cancelled, the facility must not operate at all during the year and the permit to operate for the facility must be cancelled and/or changes must be made to the process or facility in order to make the process or facility not subject to regulation by the department. The cancellation of the permit shall require that a new permit be issued before the facility could be operated again. Failure to pay the annual maintenance fee will cause the permit for the facility covered by the fee to be cancelled.

10. When a permanent shutdown occurs and a company properly notifies the department, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

11. For most fees listed in these regulations, the minor modification fee is equal to the annual maintenance fee (AMF). The major modification fee is three times the AMF, and the new application fee is five times the AMF. Minimum and maximum permit fees shall apply to all categories that have minimum and maximum AMF according to the following table.

Permit Fees	Minimum	Maximum
Minor modification	min. AMF	max. AMF
Major modification	3 x min. AMF	3 x max. AMF
New application	5 x min. AMF	5 x max. AMF

If the above ratio was not used to establish the major modification and new application fees for a category, then the actual ratio of major modification and new application fee to AMF shall be used.

12. NSPS fees may be waived when a PSD application fee is imposed.

13. The department shall determine the type of fee. This determination shall be based on the work load created by the permit application and shall be determined based on the factors described as follows:

a. New Application Fee. The new application fee shall be based on the new capacity when a new process or operation is added or the incremental increase in capacity when the capacity is increased by more than 80 percent. It applies when:

- i. a new facility is added;
 - ii. a new operation in an existing facility is added;
- and
- iii. an existing operation is expanded by more than 80 percent in capacity.

b. Major Modification Fee. The major modification fee shall be based on the existing capacity when the capacity is increased by more than 40 percent and less than 80 percent. The applicant has the option to choose to base the major modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing

capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum major modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum major modification fee for the category. The major modification fee applies when:

- i. the modification will trigger PSD review;
- ii. the modification would have triggered PSD review without the use of contemporaneous emission reductions or banked emissions;
- iii. the modification will increase emissions by 25 tons/year or more of nonattainment pollutant;
- iv. the modification will increase emissions by more than 10 tons/year of an individual toxic air pollutant/25 tons/year of total toxics air pollutants;
- v. the modification will change emissions over 100 tons/year of a criteria pollutant for which the standard has been attained; and
- vi. the modification will increase capacity of an existing operation at least by 40 percent and less than 80 percent.

c. Minor Modification Fee. The minor modification fee (based on existing capacity) applies when a modification is not qualified under new application fee or major modification fee. The minor modification fee shall be based on the existing capacity when the capacity is increased by less than 40 percent. The applicant has the option to choose to base the minor modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum minor modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum minor modification fee for the category.

d. If a permit modification is such that it does not increase capacity and changes emissions by less than 25 tons/year of all nonattainment pollutants, by less than 10 tons/year of an individual toxic air pollutant, by less than 25 tons/year of total toxic air pollutants, and by less than 100 tons/year of all other criteria (attainment) pollutants, then the permit fee shall be charged equal to the minimum minor modification permit fee for each fee process category involved.

e. Fee Schedule. LAC 33:III.223 does not list a minimum minor modification fee for many fee categories. The minimum minor modification fee for these categories shall be determined as follows:

- i. calculate 25 percent of the minor modification fee for the category;
- ii. if the calculated fee is greater than \$200, then use that amount as the minimum minor modification fee; and
- iii. if the calculated fee is less than \$200, then use \$200 as the minimum minor modification fee, unless the minor modification fee is less than \$200. If the minor modification fee is less than \$200, then the minimum minor modification fee would be equal to the minor modification fee.

f. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted

source is not a major source. The permitted source must also emit and have the potential to emit less than 25 tons/year of any regulated pollutant.

14. Air Toxics Annual Emission Fees shall be assessed based on actual annual emissions that occurred during the previous calendar year.

15. For permits issued under LAC 33:III.507 (Title V permits) the following applies:

a. no application fee shall be charged for the initial permit provided no modifications are being made at the facility; and

b. no application fee shall be charged for renewals of permits issued provided no modifications are being made at the facility.

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 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§223. Fee Schedule Listing

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
*** [See Prior Text in Fee Number 0010]						
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	40.00	200.00	120.00	40.00
*** [See Prior Text in Fee Numbers 0020-0030]						
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	68.00	340.00	204.00	68.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	114.00	573.00	344.00	114.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	354.00	1769.00	1061.00	354.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	589.00	2358.00	1769.00	589.00
*** [See Prior Text in Fee Numbers 0050-0770]						
0773	Fiberglass Swimming Pools	NA	201.00	1003.00	602.00	201.00
*** [See Prior Text in Fee Numbers 0775-1190]						
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	429.00	2148.00	1290.00	429.00
*** [See Prior Text in Fee Numbers 1195-1521]						
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN	100.00 200.00	500.00 1000.00	300.00 600.00	100.00 200.00
*** [See Prior Text in Fee Numbers 1530-1590]						
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	2864.00	14327.00	8596.00	2864.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1433.00	7163.00	4298.00	1433.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	816.00	4082.00	2449.00	816.00
1612 *Note 14a*	Bulk Loader - No Grain or Dusty Materials Transfer	5153	544.00	2721.00	1632.00	544.00
*** [See Prior Text in Fee Numbers 1620-1720]						
1722	Small Source Permit	N/A	108.00	540.00	324.00	108.00

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change of an Existing Permit	113.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	226.00

Additional Fees		
Fee Number	Fee Description	Amount
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	108.00
* * *		
[See Prior Text in Fee Numbers 2020-2914]		

Explanatory Notes for Fee Schedule
* * *

[See Prior Text in Note 1-12]

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$100.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions which occurred during the previous calendar year. The minimum fee for this category shall be \$100.

Note 14a. The throughput of these categories shall be based on the amount of grain or other materials that are known to produce significant amounts of particulate emissions. The determination of which materials or grains are considered as dusty materials is based on the material having similar emission factors to grain or having similar properties that can be used to estimate potential emissions.

* * *

[See Prior Text in Note 15]

Note 16. The choice of which program level applies is based on the highest level assigned to any process at the facility that applies at any time during the state fiscal year for which the invoice is being prepared (Program 3 being the highest). This annual maintenance fee is charged based on a state fiscal year from July to June.

* * *

[See Prior Text in Notes 17-Processing Timelines Table]

Note 20. This fee category applies to facilities that use a direct reduction process to process iron ore. The fees are based on the capital cost of the facility. In determination of fees for this fee category, the capital cost shall be used in the same manner as the capacity in other fee categories.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed

amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ195. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ195.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Air Fee Revisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no increase or decrease in cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection for state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
9909#061

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Lists of Hazardous Wastes
(LAC 33:V.Chapter 49)(HW068P)

(Editor's Note: The following rule, which appeared on pages 1541 through 1543 of the August 20, 1999 *Louisiana Register*, is being republished in its entirety to correct typographical errors.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW068P).

DuPont Dow Elastomers L.L.C. has petitioned to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste, known as Dynawave Scrubber Effluent, resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on the supporting documentation found in the 17-volume set dated and received on December 15, 1998, titled "Hazardous Waste Delisting Petition for Dynawave Scrubber Effluent" by DuPont Dow Elastomers L.L.C. of LaPlace, Louisiana. DuPont, the generator of the waste stream, has demonstrated through extensive sampling and analyses that this material, the Dynawave Scrubber Effluent, does not exhibit the hazardous properties that originally justified its listing as a hazardous waste.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

Appendix E - Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded	
Facility	Address
DuPont Dow Elastomers L.L.C.	LaPlace, LA
Waste Description	
<p>Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid:</p>	
<p>(1) - Testing: Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.</p>	
<p>(1)(A) - Inorganic Testing: During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.</p>	
<p>(1)(B) - Subsequent Inorganic Testing: Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.</p>	
<p>(1)(C) - Organic Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.</p>	
<p>(1)(D) - Dioxins and Furans Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.</p>	

(2) - Waste Handling:

Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify DuPont Dow of the corrective action needed. DuPont Dow shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, DuPont Dow may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.

(3) - Delisting Levels:

The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):

(3)(A) - Inorganic Constituents:

Chromium - 2.0; Nickel - 2.0; Zinc - 200.

(3)(B) - Organic Constituents:

Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14; Ethylbenzene - 14; Methylene Chloride - 0.1; Styrene - 2.0; Toluene - 20; Xylenes - 200.

(3)(C) - Dioxins and Furans

The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290 - Monitor only.

(4) - Changes in Operating Conditions or Feed Streams:

If DuPont Dow either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to their combustion permit, DuPont Dow must notify the department in writing. Following receipt of written acknowledgement by the department, DuPont Dow must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR part 264, appendix IX - Ground Water Monitoring List (LAC 33:V.3325). If the results of the appendix IX analyses identify no new hazardous constituents, then DuPont Dow must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. DuPont Dow may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.

(5) - Data Submittal:

DuPont Dow must notify the department in writing at least two weeks prior to initiating condition (1)(A). All data obtained to fulfill condition (1) must be submitted to the Assistant Secretary of the Office of Environmental Services, LDEQ, 7290 Bluebonnet Blvd, Baton Rouge, LA 70810, within 60 days after each sampling event.

Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on site for a minimum of three years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect or to the extent directed by the department and that the company will be liable for any actions taken in contravention of the company's environmental obligations under the Louisiana Environmental Quality Act premised upon the company's reliance on the void exclusion."

[See Prior Text in Marathon Oil Co.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), amended LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW068P. Such comments must be received no later than October 4, 1999, at 4:30 p.m., and should be sent to Patsy Deville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW068P.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

9909#014

NOTICE OF INTENT

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

**Penalty Determination Methodology
(LAC 33:I.705)(OS033)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.705 (Log #OS033).

This proposed rule is to reflect Act 791 of the 1999 Regular Session, which amended R.S. 30:2025(E)(1)(a) and changed the civil penalty maximum daily cap from \$25,000 to \$27,500. Through Act 791 the civil penalty maximum daily cap was changed by 10 percent. This rule will revise the maximum civil penalty for violation of environmental law from \$25,000 to \$27,500 for each day of violation. The basis and rationale for this rule are to reflect the changes made to the maximum daily cap for penalties by Act 791 of the 1999 Regular Session of the Louisiana Legislature.

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

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

**Subpart 1. Departmental Administrative Procedures
Chapter 7. Penalties**

§705. Penalty Determination Methodology

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

Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation			
		Major	Moderate	Minor
Major		\$27,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
Moderate		\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor		\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

* * *

[See Prior Text in A.1 - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025 and 2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS033. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS033.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Penalty Determination Methodology**

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

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

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

No significant effect on revenue collections of state or local governmental units is anticipated. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive a 10 percent increase for those collected penalties.

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

Major violators of environmental law may be assessed a 10 percent increase in civil penalties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

James H. Brent, Ph.D.
Assistant Secretary
9909#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Underground Storage Tank Late Fees
(LAC 33:XI.307)(UT006)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Underground Storage Tanks regulations, LAC 33:XI.307 (Log #UT006).

Act 349 of the 1999 Regular Session of the Louisiana Legislature, R.S. 30:2195.3(A)(7) and (B), repealed the late fee payment for new and used motor oil underground storage tanks and required that late fees be established by rule. This proposed rule amends the UST fee schedule in Chapter 3 to incorporate into the regulations, fees that were previously established by statute. This amendment will subject all annual UST fees to department late payment fees previously promulgated in accordance with the Environmental Quality Act and Administrative Procedure Act. This change does not add any new fees. This change, which lists all UST fees, both statutory and regulatory, in the UST regulations, will also assist the regulated community in determining its annual fee obligations. The basis and rationale for this proposed rule are to make all UST annual fees subject to the department's existing late fee regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. Applicability. These regulations apply to registered UST systems, regardless of their operational status.

B. Annual Fees

1. Fees are assessed according to the following schedule:

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$45
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$500
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$120
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$120
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

* * *

[See Prior Text in B.2 - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25.

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by UT006. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville,

Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of UT006.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Underground Storage Tank Late Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation cost or savings to state or local governmental units are expected as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is difficult to calculate the effect on revenue collections since this late payment fee is dependent on failure to pay. However, the effect is expected to be minimal.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No economic costs and/or benefits to directly affected persons are expected as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is expected as a result of this rule.

James H. Brent, Ph.D.
Assistant Secretary
9909#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Automated Medication System
(LAC 46:LIII.Chapter 12)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and the Pharmacy Law R.S. 37:1182, the Louisiana Board of Pharmacy hereby gives notice to adopt LAC 46:LIII.Chapter 12.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 12. Automated Medication System

§1201. Definitions

Automated Medication System—includes, but is not limited to, a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, or delivery of medications, and which collects, controls, and maintains all transaction information. An automated medication system may be profile driven, non-profile driven, or a combination of both.

1. *Profile Driven* system requires that medication orders/prescriptions be reviewed by the pharmacist for appropriateness, dosage, and contraindications prior to, or concomitantly with, being entered into the system, and before access is allowed into the system for medication administration.

a. *Non-Profile Driven* system does not require prior or concomitant pharmacist review of medication orders/prescriptions in order to gain access to the system for medication administration. A non-profile driven system may include, but is not limited to, a night drug cabinet, emergency drug kit, or floor stock/first dose cabinet.

b. *Floor Stock/First Dose Cabinet* is a medication storage device, which shall be used by personnel, authorized by a protocol established by the pharmacist-in-charge, to gain access to doses as needed and first doses in patient-care areas. In addition, a floor stock/first dose cabinet may be used to store medications in such specialty areas including, but not limited to, emergency room, surgery suite, and endoscopy suite.

Final Checks of Work—is the requirement that only a pharmacist supervises and releases the completed product prepared by a pharmacy technician.

On-Site Facility—means and refers to the location of a building that houses a board permitted pharmacy.

Off-Site Facility—means and refers to the location of a building that houses a licensee of the Department of Health and Hospitals, but which does not house a board permitted pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1203. Automated Medication System

Automated Medication System may be utilized only by pharmacies permitted by the board and/or health care facilities licensed by the Department of Health and Hospitals as defined in §1227.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1205. Pharmacist-in-Charge Responsibilities

The pharmacist-in-charge shall be a Louisiana-licensed pharmacist and has the following responsibilities:

1. assuring that the system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record-keeping and security safeguards;
2. establishment of a quality assurance program prior to implementation of a system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of a system, which is evidenced by written policies and procedures developed by the pharmacist-in-charge;
3. as provided in §1227, apply to the board for registration of system 30 days prior to installation. Said application shall include, but not limited to:
 - a. Louisiana-permitted pharmacy's name, address, and pharmacy permit number;
 - b. name, address and location, if different from the address of the pharmacy;
 - c. system manufacturer, model; and
 - d. pharmacist-in-charge name and Louisiana pharmacist license number;
4. provide 30 days written notice to the board of removal of the system;
5. define access to the system in policy and procedures of the pharmacy, in compliance with state and federal regulations;
6. assign, discontinue or change access to the system;
7. ensure that access to the medications complies with state and federal regulations as applicable; and
8. ensure that the system are stocked/restocked accurately and in accordance with established written pharmacy policies and procedures;
9. the pharmacist-in-charge shall maintain or have access to all records of documentation specified in this Section for 2 years or as otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1207. Pharmacist Review

System shall be used only in settings that ensure medication orders are reviewed by a pharmacist prior to administration and in accordance with established policies and procedures and good pharmacy practice. A policy and procedure protocol shall be adopted to retrospectively review medications which cannot be reviewed prior to administration, as provided in R. S. 46:1209.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1209. Policies and Procedures

The development of an Automation Medication System Policy and Procedures is the responsibility of the pharmacist-in-charge, who shall submit the complete Automation Medication System Policy and Procedures to the board for approval, on request. These policy and procedures shall be reviewed by the pharmacist-in-charge, at least annually and modified if needed, and such review documented. They shall include, but are not be limited to, the following:

1. criteria for selection of medications to be stored in each system;
2. criteria for medications qualifying for use with a non-profile driven system and the locations and situations that this type of system can be used in;
3. information on the system as outlined below:
 - a. access;
 - i. system entry;
 - ii. access codes;
 - iii. system access privileges;
 - iv. changing access privileges;
 - v. termination of user;
 - vi. temporary access codes;
 - vii. password assignment;
 - b. controlled substances;
 - i. chain of custody;
 - ii. discrepancy resolution;
 - c. data;
 - i. archiving;
 - ii. stored/uploading to database;
 - iii. backup;
 - d. definitions;
 - e. downtime procedures (see malfunction);
 - f. emergency procedures;
 - g. information security/confidentiality;
 - i. patient information;
 - ii. medication information;
 - iii. transaction files;
 - iv. information update plan;
 - v. patient update plan;
 - vi. information access;
 - h. inspection;
 - i. installation requirements;
 - j. maintenance;
 - i. service and repair protocols;
 - k. medication administration;
 - i. medication and patient validation;
 - ii. administration verification;
 - l. medication security;
 - i. security management and control;
 - ii. medication loading and storage;
 - iii. medication loading records;
 - iv. medication containers;
 - v. cross contamination;
 - vi. lot number control;
 - vii. inventory;
 - viii. utilization review;
 - ix. research;
 - m. malfunction;
 - i. troubleshooting;
 - ii. power failure;
 - n. quality assurance/quality improvement;
 - i. documentation and verification of proper loading and refilling of device;
 - ii. proof of delivery;
 - iii. removal of drugs for administration, return, or waste;
 - iv. chain of custody of controlled substances (institutions);
 - v. recording, resolving, and reporting of discrepancies;

vi. periodic audits to assure compliance with policies and procedures;

- o. reports;
 - i. system maintenance;
 - ii. administrative functions;
 - iii. inventory;
 - iv. error;
 - v. discrepancies;
 - vi. activity;
 - vii. problem;
- p. medication inventory;
 - i. management;
- q. staff education and training;
- r. system set-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy LR:

§1211. Quality Assurance

The quality assurance documentation for the use and performance of the system shall monitor for safety, accuracy, and security in accordance with policies and procedures pursuant to R.S. 46:1209.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1213. Documentation

Documentation as to type of equipment, serial number, content, policies and procedures and location shall be maintained on-site in the pharmacy for review by the board. Such documentation shall include, but is not limited to:

1. name, address, and permit number of the pharmacy or licensed health care facility where the system is operational;
2. manufacturer's name and model;
3. quality assurance policy and procedures to determine continued appropriate use and performance of the system;
4. policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention, definitions, downtime, procedures, emergency or first dose procedures, inspection, installation requirements, maintenance security, quality assurance, medication inventory, staff education and training, system set-up and malfunction procedures; and
5. a current copy of all pharmacy policies and procedures related to the use of the system shall be maintained at all off-site facility locations where the system is being used, as well as the pharmacy of the pharmacist-in-charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1215. Records

Records and/or electronic data kept by system shall meet the following requirements:

1. All events involving access to the contents of the system shall be recorded electronically.
2. These internal records shall be maintained for one year by the pharmacist-in-charge and shall be readily available to the board. Such records shall include:

- a. identity of system accessed;
- b. identification of the individual accessing the system;
- c. type of transaction;
- d. name, strength, dosage form, and quantity of the drug accessed;
- e. name of the patient, or identification numbers for whom the drug was ordered;
- f. identification of the certified pharmacy technician or pharmacist stocking or restocking the medications in the system; and
- g. such additional information as the pharmacist-in-charge may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1217. Security System(s)

System shall have adequate security system and procedures, evidenced by written pharmacy policies and procedures, to:

1. prevent unauthorized access or use;
2. comply with any applicable federal and state regulations; and
3. maintain patient confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1219. Stocking and Restocking

A. On-Site Facility System(s). The stocking and restocking of all medications in the on-site system shall be accomplished by Louisiana-licensed pharmacist and/or Louisiana certified pharmacy technician under the supervision of Louisiana-licensed pharmacists. A pharmacist must conduct final checks of work of the work performed by a pharmacy technician. The pharmacy shall have a mechanism in place to identify the pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the system.

B. Off-Site Facility System. The stocking and restocking of all medications in the off-site system shall be accomplished by Louisiana-licensed pharmacists, however, the pharmacy technician may stock or restock an off-site facility system provided a pharmacist is physically present at the off-site facility and supervises and verifies the stocking and/or restocking prior to use. The pharmacy shall have a mechanism in place to identify the pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1221. Packaging and Labeling

All containers of medications stored in the system shall be packaged and labeled in accordance with federal and state laws and regulations and contain an established satisfactory beyond use date based on U.S.P. Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1223. Proof of Use

For medication removed from the system for patient administration, the system shall document the following information:

1. name of the patient or resident;
2. patient's or resident's medical record number or identification number, or room and bed number;
3. date and time medication was removed from the system;
4. name, initials, or other unique identifier of the person removing the drug; and
5. name, strength, and dosage form of the medication or description of the medical device removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1225. Wasted, Discarded, or Unused Medications

The system shall provide a mechanism for securing and accounting for wasted, discarded, or unused medications removed from the system according to policies and procedures, and existing state and federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1227. System(s) Registration

The entire system shall be registered by the board and facilities shall meet the following conditions:

1. facility shall be licensed by Department of Health and Hospitals and/or the board;
2. registration fee for a facility not permitted by the board is as identified in 37:1182(A)(19);
3. no registration fee will be assessed to a board permitted pharmacy;
4. registration period. Registration expires annually on June 30;
5. Initial Application. The initial application is available from the board. Said application shall be completed and signed by the administrator of the facility and the pharmacist-in-charge of the System(s). The completed, signed application and required fee shall be submitted to the board office 30 days prior to installation of system;
6. Annual Renewal. The board shall mail an application for renewal to each registrant on or before May 1 each year. Said application shall be completed, signed, and, with annual renewal fee, returned to the board office to be received on or before June 1 each year;
7. Expired. A registration that is not renewed shall be null and void. A renewal application for an expired registration shall be requested by the pharmacist-in-charge and the completed, signed application may be referred to the board's Reinstatement Committee for disposition in accordance with R.S. 37:1187;
8. Reinstatement. The holder of a registration that has expired may be reinstated only upon written application to the board and upon payment of all lapsed fees and a penalty to be fixed by the board. Other conditions of reinstatement may be required at the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1229. Inspection

System records shall be available and readily retrievable for board inspection and review during regular working hours of operation. The system themselves are also subject to inspection at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1231. Out-of-State Pharmacies

Out-of-State Pharmacies shall apply for registration of any system to be placed in this state. Out-of-state pharmacies must have applied for and been issued an out-of-state pharmacy permit by the board as identified in regulations. Out-of-state pharmacies must have the proper pharmacy permit issued by the state in which they reside in order to utilize a system in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1232. Violations; Penalties

The board may refuse to issue or renew, or may revoke, summarily suspend, suspend, place on probation, censure, reprimand, issue a warning against, or issue a cease and desist order against, the licenses or the registration of, or assess a fine/civil penalty or costs/administrative costs against any person pursuant to the procedures set forth in LAC 46:LIII.375, for any violation of the provisions of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

This rule shall take effect on July 1, 2000.

Any person may submit data, views or positions orally or in writing to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10:00 A.M. to 12:00 Noon, Monday November 29, 1999 at the Board of Pharmacy Office, 5615 Corporate Blvd, Suite 8E, Baton Rouge, LA 70808, 504-925-6496.

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency rule.

Family Impact Statement

1. Implementation of this proposed rule will have no known effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family. Implementation of this proposed rule will have no known effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no known effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no known effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no known effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

Malcolm Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Automated Medication System(s)**

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

The only cost associated with the implementation of the proposed rule Chapter 12 Automated Medication System(s) will be the cost of printing and distribution of the new rule. It is estimated that the register cost of \$300, printing cost of \$1,100, and postage for distribution at \$940 or a total of \$2,340.00 for FY 99/00.

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

Revenues of approximately \$3,000 for FY 00-01 would be collected by the Louisiana Board of Pharmacy. Annually the Board shall require registration fees for the entire Automated Medication System(s). The registration process was authorized by Act 767 of the 1999 Legislative Session. Registration fees will be required for all **non-permitted facilities** that are licensed by the Department of Health and Hospitals at a fee of \$150.00. Facilities that are licensed by the Department of Health and Hospitals and permitted by the Louisiana Board of Pharmacy would be exempt from registration fees due to the fact that these facilities submit permit fees on an annual basis. Registration would be for tracking purposes.

The Board of Pharmacy anticipates receiving Automated Medication System(s) registration fees from non-permitted facilities that are licensed by the Department of Health and Hospitals. There are 471 facilities presently licensed in that category. The Board has not identified facilities that would require a registration at this time.

It is anticipated that approximately 4 percent of these facilities would utilize Automated Medication System(s) in FY 00-01. It is anticipated that approximately 10 percent of these facilities would utilize Automated Medication System(s) in FY 01-02. Based on these assumptions, the Board projects that revenues will be approximately \$3,000 for FY 00-01, and \$7,050 for FY 01-02.

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

The Department of Health and Hospitals licenses 471 facilities (correctional facilities, rural hospitals, nursing homes, etc.). These 471 facilities may voluntarily register annually at a fee of \$150.00 with the Board. The Board has not been able to determine the costs and/or economic benefits to these directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are 1,445 permitted pharmacy locations in Louisiana. In that total 593 permits have been issued to independent

pharmacy classifications and 505 chain pharmacy classifications. These 1,098 permitted sites employ approximately 2,196 Louisiana licensed pharmacists and 3,294 support staff personnel.

The Department of Health and Hospitals licenses 471 facilities (correctional facilities, rural hospitals, nursing homes, etc.). These locations are not permitted or regulated by the Louisiana Board of Pharmacy. These locations all require prescription medications delivered daily/weekly at the facility. These requirements are being satisfied by an unidentified percentage of the 1,098 permitted community pharmacy locations throughout the state

It is anticipated that approximately 4 percent of these facilities would utilize Automated Medication System(s) in FY 00-01. It is anticipated that approximately 10 percent of these facilities would utilize Automated Medication System(s) in FY 01-02. The proliferation of these systems may increase competition for facility prescription services. Conceptually a location could own and operate an Automated Medication System(s). This rule requires pharmacist review and supervision.

Community pharmacy has traditionally met the prescription demands of facilities licensed by the Department of Health and Hospitals. Effects on competition and employment cannot be anticipated at this time. Employment is not expected to increase as a result of the proposed rule

Malcolm Broussard
Executive Director
9909#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees; Certificate Renewal; Late Charge
(LAC 46:LXXXV.809 and 811)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.809 and 811 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. No preamble has been prepared. The proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 8. Registered Veterinary Technicians

§809. Fees

A. The board hereby adopts and establishes the following fees:

Examination fee, pre-examination, state or national (this fee does not include vendor's cost)	\$40
Original certificate fee	\$30
Annual renewal of certificate fee	\$30
Application fee	\$25

B. The examination fee shall be exclusive of vendor costs which must also be paid by the examinee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 25:

§ 811. Certificate Renewal; Late Charge

A. - B. ...

C. Any application for renewal of a certificate of approval and/or any payment of the annual renewal of certificate fee which is postmarked after September 30 of each year shall be subject to all accrued fees and an additional late fee of \$20 per fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 25:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on October 20, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on October 27, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fees; Certificate Renewal; Late Charge

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated \$120). Registered veterinary technicians will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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

The proposed fees are not expected to have an impact until the 2000-2001 year (certificate renewals will not take place again until July 1, 2000, and almost all original certificates will be issued for the 2000-2001 year after the date on which the proposed fees would become effective). The anticipated increase in agency-self generated funds for FY00-01 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Annual renewal of certificate fee	45 x \$25 = \$1,125	45 x \$30 = \$1,350	\$225
Original certificate fee	10 x \$25 = \$250	10 x \$30 = \$300	\$50
Examination fee (fee does not include vendor's cost)	10 x \$40 = \$400	10 x \$40 = \$400	\$0
Application Fee	\$0	10 x \$25 = \$250	\$250
Certificate Renewal Late Fee	1 x \$10 = \$10	1 x \$20 = \$20	\$10
Total	\$1,785	\$2,320	\$535

The additional revenue in subsequent FYs is projected to be the same.

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

Registered veterinary technicians, applicants, and examinees will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. There will be no new paperwork required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
9909#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sanitary Code—Plumbing (Chapter XIV)

The Department of Health and Hospitals, Office of Public Health (DHH-OPH) proposes to amend Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana. This proposed rule change will replace in its entirety Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana, promulgated September 20, 1992. The new Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana is proposed to be comprised of the 1994 edition of the Standard Plumbing Code® as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code®. The 1994 Standard Plumbing Code® is a copyrighted document published by the Southern Building Code Congress International, Inc. (SBCCI) and is recognized as one of several national model plumbing codes. Upon adoption as a final rule, the SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code® and will print a separate copyrighted document called the "Louisiana State Plumbing Code." The SBCCI will sell the "Louisiana State Plumbing Code" at the same price as they currently sell the 1994 Standard Plumbing Code®, i.e., \$38.00 to a SBCCI member and \$57.00 to a SBCCI non-member.

This rule is proposed to be adopted by the state health officer in accordance with R.S. 40:4, approved by the secretary of the Department of Health and Hospitals in accordance with R.S. 40:2, under the general powers and jurisdiction of the state health officer and the Office of Public Health in accordance with R.S. 40:5, and promulgated in accordance with R.S. 49:950 et seq. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The proposed rule is as follows:

**Sanitary Code, State Of Louisiana
Chapter XIV (Plumbing)
14:001 Adoption of Louisiana State Plumbing Code**

The Department of Health and Hospitals, Office of Public Health hereby adopts Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana to be comprised of the

1994 edition of the Standard Plumbing Code[®] as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®]. The 1994 Standard Plumbing Code[®] is a copyrighted document published by the Southern Building Code Congress International, Inc.(SBCCI) and is recognized as one of several national model plumbing codes. Upon adoption as a final rule, SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code[®]. After the Office of Public Health has proofread and approved the combined document to ensure accuracy and consistency with the 1999 Louisiana Amendments, SBCCI will print a separate copyrighted document entitled the "Louisiana State Plumbing Code." The "Louisiana State Plumbing Code" shall be synonymous to "Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:002 Availability

Information concerning purchasing copies of the Louisiana State Plumbing Code may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853 or by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Blvd. - Box 9, Baton Rouge, LA 70810, tel (225) 763-5553 or fax (225) 763-5552.

In addition, the Office of Public Health will purchase at least 33 copies of the Louisiana State Plumbing Code to be given to the Office of the State Library for distribution to various libraries designated as a recorder of state documents. Copies will be provided to the following libraries: LSU-BR, La Tech, UNO, LSU-Shreveport, McNeese, USL, NE La Univ., N.O. Public, NW La Univ., Nicholls, SE La Univ., Jefferson Parish Public (E & W), La College, Nunez Comm., Loyola, Southern-BR, Southern Univ. Law, SUNO, Shreve Memorial, Loyola Law, LSU Medical, Delgado, La Supreme Court, E.B.R. Public, Legislative Library, Grambling, Tulane, Library of Congress, State Library-BR, and the Recorder of State Documents in the Office of State Library. This will enable the general public to review and otherwise have accessibility to the document without the need to individually purchase a copy.

Copies of the Louisiana State Plumbing Code will also be provided to and may be reviewed (pursuant to a request to review public record) at the Office of Public Health's Division of Environmental Health's Central Office in Baton Rouge, any of the 9 Regional Engineering/Sanitarian offices, or any of the 64 Parish Health Unit Sanitarian offices generally between the hours of 8:00 a.m. and 4:30 p.m. on regular work days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the

Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:003 Effective Date

This rule shall become effective on [3 months following promulgation as a final rule].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:004 1999 Louisiana Amendments

The 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®] are attached as follows (numerical citations comport with 1994 Standard Plumbing Code[®] format):

These amendments can be viewed at any Office of Public Health regional office or at the Division of Environmental Health's central office. (See addresses in the following Summary paragraph.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

Summary of Proposed Rule Making

This proposed amendment of Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana (i.e., the Louisiana State Plumbing Code) updates materials of construction and standards referenced in the code, incorporates practices applicable to Louisiana conditions, and provides for consistency with other Chapters of the Louisiana Sanitary Code.

A Plumbing Code Revision Committee has held 37 meetings over more than a three-year period to develop this proposed Louisiana State Plumbing Code. This committee is composed of representatives from the Office of Public Health, DHH's Engineering and Consulting Division, the Louisiana State Plumbing Board, the Louisiana Association of Plumbing, Heating and Cooling Contractors, a city/parish plumbing inspector, and a sanitary engineer. In addition, representatives of OPH's Sanitarian Services Section were in attendance at many of the meetings and provided input to the committee on behalf of the Chief Sanitarian on an ex officio basis.

Due to copyright laws, the Office of Public Health is unable to publish or distribute copies of the 1994 Standard Plumbing Code[®]. Copies of the 1994 edition of the Standard Plumbing Code[®] may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853. Any person may review copies of the 1994 edition of the Standard Plumbing Code[®] (and the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®]) at any of the Office of Public Health regional offices and at the Office of Public Health's Division of Environmental Health Central Office between the hours of 8 a.m. and 4:30 p.m. on regular work days. The locations of the Office of Public Health offices are as follows: Region I, Plaza Towers Annex

Bldg., 1001 Howard Ave. - Suite 100A, New Orleans, (504) 599-0102; Region II, 1772 Wooddale Blvd., Baton Rouge, (225) 925-7230; Region III, 106 Canal Blvd., Thibodaux, (504) 449-5007; Region IV, 825 Kaliste Saloom Rd., Brandywine III Bldg., Suite 100, Lafayette, (318) 262-5318; Region V, 4240 Sen. J. Bennett Johnston Ave., Lake Charles, (318) 491-2149; Region VI, 1500 Lee St., Alexandria, (318) 487-5186; Region VII, 1525 Fairfield Ave., Room 566, Shreveport, (318) 676-7485; Region VIII, 2913 Betin St., Monroe, (318) 362-5246; Region IX, 21454 Koop Drive, Suite 1C, Manville, (504) 871-1331; Division of Environmental Health Central Office, Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd. - Suite 201, Baton Rouge, (225) 763-5553.

Copies of the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®] may be obtained by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Blvd. - Box 9, Baton Rouge, LA 70810, tel (225) 763-5553 or fax (225)763-5552.

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Tuesday, October 26, 1999, in Room 118 of the Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than October 29, 1999 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Plumbing**

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

Since this proposed rule essentially updates and replaces an existing rule, the additional cost to state governmental units is expected to be only approximately a total of \$16,654. This will cover the cost of publication in the *Louisiana Register*, reformatting the rule by the Southern Building Code Congress International, Inc. (SBCCI) to an 8 1/2 x11", 2 column format, and purchasing of at least 255 copies of the Louisiana State Plumbing Code for staff, libraries designated as recorders of state documents, etc.

Essentially, the cost to local governmental units will be the cost of purchasing one or more copies of the Louisiana State Plumbing Code at a basic rate of \$38.00 for SBCCI members and \$57.00 for SBCCI non-members. SBCCI offers quantity discounts to members when 5 or more copies are purchased.

In accord with LSA-R.S. 40:14, the local governmental water supplier (or local plumbing inspection department) would now be authorized and could decide to enact a local comprehensive backflow prevention device testing ordinance on their own using the proposed new state rule as their basis.

Should the local governmental water supplier/plumbing inspection department choose to ensure compliance with this rule within their water supply and/or plumbing jurisdiction, additional funds would have to be expended to maintain a paper trail of when a backflow prevention device was tested, the results of such testing, when the backflow prevention device was repaired or replaced, the name of the tester, etc., as well as possibly a tickler for future testing. These additional, optional steps which may be enacted by local governmental water suppliers/plumbing inspection departments are encouraged by the state for the enhancement of the protection of public health; however, since these additional steps are not specifically required by the proposed rule, an attempt to estimate the cost to local governmental water suppliers/plumbing inspection departments will not be attempted.

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

There is not expected to be any effect on revenue collections of state or local governmental units.

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

Plumbers, architects, engineers, contractors, and other individuals requiring a copy of the Louisiana State Plumbing Code are expected to expend \$38.00 per copy if they are a member of SBCCI or \$57.00 per copy if they are a non-member of SBCCI.

The proposed new rule will allow owners of service stations to realize an economic benefit since the Minimum Plumbing Fixture requirements for many such service stations is proposed to be reduced.

The proposed rule will require that certain types of backflow prevention devices be tested no less frequently than annually (and more often in certain circumstances). It is estimated that the cost for such testing may range between \$125-\$175 per device (depending upon the size of the device). The owner of the device shall be responsible for paying for the testing and record keeping. The number of testable backflow prevention devices statewide is estimated at 20,000; therefore, the total fiscal impact of backflow prevention device testing is estimated to be between \$2.5M - \$3.5M annually (assuming a 100% compliance rate with the rule as written). It is estimated that it may take as many as 5 years before the 100% compliance rate is approached; therefore, the total fiscal impact for the first full FY (2000-2001) would be expected to be \$0.5M - \$0.75M. (*Note: One could equate this requirement to the annual testing of fire extinguishers. Backflow prevention devices must be properly tested and maintained in an attempt to ensure proper functioning at the time of need!*)

All new fire protection/sprinkler systems will be required to be protected against backflow of contaminants into the potable water supply by installation of at least a double check valve assembly. Most fire protection/sprinkler systems are currently required to have this minimal protection; however, several types of installations are currently allowed to be installed without any backflow prevention (with the caveat that the entire fire protection/sprinkler system is installed using potable water piping materials). The proposed rule will eliminate future potential health hazard situations by requiring that all new fire protection/sprinkler systems have a minimum of a double check valve assembly. In accord with section 1:011 of the Louisiana State Sanitary Code, existing fire protection/sprinkler systems are not expected to be affected by this new rule unless (a) substantial renovation of the building or facility is undertaken, or (b) where the ownership thereof or the business therein changes subsequent to the effective date of the new rule, or (c) where it is determined that a serious health threat to the public exists.

Since fire protection/sprinkler systems are generally installed directly to the water main without a water meter, most water suppliers would probably require a somewhat special double check valve assembly called a "double check detector assembly". The "double check detector assembly" device for fire sprinkler systems costs approximately \$1350 for a 3" diameter valve and approximately \$4750 for a 10" diameter valve (with varying sizes and prices in between - the size being dependent upon the flow/pressure requirements of the installation which is generally related to the size of the building and the amount of fire protection/sprinkler coverage to be provided.) This estimate does not include costs for installation or testing. It is felt that this portion of the proposed rule will have minimal fiscal impact since most fire protection/sprinkler systems are not installed using potable water piping materials and are therefore already required to have double check valve assembly protection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is expected to stimulate employment and competition in the private sector relative to the need for certified backflow prevention device testers or others (found to be acceptable to the Plumbing Official or water supplier).

Jimmy Guidry, M.D.
Assistant Secretary
9909#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Sanitary Code—Sewage Disposal (Chapter XIII)
(LAC 48:V.Chapter 75)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942.

The amendment to this paragraph of the Louisiana Sanitary Code will extend for one year the final date for compliance with a newer standard for the testing, evaluation, and approval of residential mechanical wastewater treatment plants, and conforms with the recommendation of the Governor's Task Force on Individual Wastewater Treatment Systems. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code is revised to read as follows:

**Sanitary Code
Chapter XIII. Sewage Disposal
APPENDIX A
Regulations Controlling the Design and Construction
of Individual Sewage Systems**

VI. Mechanical Waste Water Treatment Plants

A:6.5 All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these

regulations shall not be required to meet the requirements of paragraph 6.4 until January 1, 2001. Until January 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective January 1, 2001, all plants shall comply with the standard as stated in paragraph 6.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 10:802 (October 1984); LR 11:1086 (November 1985); LR 19:49 (January 1993); LR 25:49 (January 1999), LR 25:

Comments regarding the proposed rule should be addressed to: Bobby G. Savoie, Executive Director, Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. A public review hearing will be held on October 27, 1999 at 10:00 a.m. in Room 230 of the Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA.

David W. Hood
Secretary

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

RULE TITLE: Sanitary Code—Sewage Disposal

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

Implementation of the proposed action will cost the agency approximately \$160.00 for implementation.

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

A portion of the revenue increases to both state and local governmental units previously projected as a result of increased state/local sales tax collections associated with increased costs of mandatory wastewater systems requirements would be delayed for one year. This results in previously anticipated revenue collections being REDUCED by approximately \$4500 per year (\$2250 during the remainder of the current fiscal year).

The previously projected revenue increases associated with state and local sales tax and ad valorem tax collections (where applicable), which are being delayed for one year, are due to increased fabrication costs as a result of mandatory wastewater systems requirements. These previously projected increases were based upon the 15,000 wastewater systems affected annually, with a projected cost associated with mandatory requirements of \$5 per system, and an average projected state/local sales tax and ad valorem tax(es) of approximately 6 percent.

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

Cost to consumer groups (individuals and businesses) who utilize individual mechanical wastewater treatment systems addressed by the proposed rule would remain unaffected for one additional year. The previously projected average additional cost to an affected consumer (of approximately \$125) would be delayed for a year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The action will delay the previously projected increased competition and employment in the private sector. Related providers of goods and services addressed by the proposed

action will also remain unaffected until the newly proposed implementation date.

Jimmy Guidry, M.D.
Assistant Secretary
9909#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Durable Medical Equipment Program—Augmentative and Alternative Communication (AAC) Devices

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt 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.

The Department of Health and Hospitals, Bureau of Health Service Financing currently provides coverage for durable medical equipment under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized in order to determine medical necessity. Currently, augmentative and alternative communication devices are prior authorized for rental or purchase under the durable medical equipment program according to specific criteria set forth in the Medicaid Eligibility Manual. However, only recipients under the age of 21 are eligible to receive these devices (*Louisiana Register*, Volume 22, No. 5). Therefore, effective June 5, 1999, the Department determined that it was necessary to amend the current rule regarding prior authorization of augmentative communication devices by removing the age restriction for rental or purchase by eligible recipients, which ensured availability to recipients of all ages, and by expanding the criteria for consideration of these devices for prior authorization (*Louisiana Register*, Volume 25, No. 6). Therefore, the Department proposes to adopt the following rule to continue the provisions of the June 5, 1999 rule in force.

In accordance with Act #1183 of 1999, the Department of Health and Hospitals/Bureau of Health Services Financing hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this proposed rule has no known impact on family formation, stability, or autonomy as described in R.S.49:972(B).

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing removes the age restriction for rental or purchase of augmentative and alternative communication devices for eligible recipients and expands the criteria for consideration of these devices for prior authorization under the Durable Medical Equipment Program.

I. Definitions

Augmentative and Alternative Communications (AAC) Devices—electronic or non-electronic aids, devices, or

systems that assist a Medicaid recipient to overcome or ameliorate (reduce to the maximum degree possible) the communication limitations that preclude or interfere with meaningful participation in current and projected medically necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;
2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and
3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

Meaningful Participation—effective and efficient communication of messages in any form the recipient chooses.

Speech-Language Pathologist—an individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;
2. a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association;
3. completed the equivalent educational requirements and work experience necessary for the certificate; or
4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

II. Recipient Criteria

Consideration shall be given for Medicaid reimbursement for AAC devices for Medicaid recipients if the device is considered medically necessary, the recipient has the ability to physically and mentally use a device and its accessories, and if the following criteria is met:

A. Medical Necessity Determinations

1. The following medically necessary conditions shall be established for recipients who/whose:
 - a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;
 - b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and
 - c. had a speech-language pathologist (and other health professional, as appropriate):
 - i. perform an assessment and submit a report pursuant to the criteria set forth in sub-section B. Assessment/Evaluation; and
 - ii. recommend speech-language pathology treatment in the form of AAC devices and services; and
 - iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and
 - iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the

AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

d. requested AAC devices constitute the least costly, equally effective form of treatment that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.

2. The following are additional general principles relating to medical necessity determinations for AAC devices:

a. No cognitive, language, literacy, prior treatment, or other similar prerequisites must be satisfied by a recipient in advance of a request for AAC devices.

b. The unavailability of an AAC device, component, or accessory for rental will not serve as the basis for denying a prior approval request for that device, component, or accessory.

c. The cause of the recipient's impairment or disability (e.g., congenital, developmental, or acquired), or the recipient's age at the onset of the impairment or disability, are irrelevant considerations in the determination of medical need.

d. Recipient participation in other services or programs (e.g., school, early intervention services, adult services programs, employment) is irrelevant to medical necessity determination for AAC devices.

B. Assessment/Evaluation

1. An assessment, or evaluation, of the individual's functioning and communication limitations that preclude or interfere with meaningful participation in current and projected daily activities must be completed by a speech-language pathologist with input from other health professionals, (e.g., occupational therapists and rehabilitation engineers) based on the recommendation of the speech language pathologist and a physician's prescription, as appropriate.

2. Requests for AAC devices must include a description of the speech-language pathologist's qualifications, including a description of the speech-language pathologist's AAC services training and experience.

3. An assessment (augmentative & alternative communication evaluation) must include the following information about the recipient.

a. identifying information:

- i. name;
- ii. Medicaid identification number;
- iii. date of the assessment;
- iv. medical and neurological; diagnoses (primary, secondary, tertiary);
- v. significant medical history;
- vi. mental or cognitive status; and
- vii. educational level and goals.

b. sensory status:

- i. vision and hearing screening (no more than one year prior to AAC evaluation);
- ii. if vision screening is failed, a complete vision evaluation;
- iii. if hearing screening is failed, a complete hearing evaluation;

iv. description of how vision, hearing, tactile, and/or receptive communication impairments or disabilities affect expressive communication.

c. postural, mobility, & motor status:

- i. gross motor assessment;
- ii. fine motor assessment;
- iii. optimal positioning;
- iv. integration of mobility with AAC devices;
- v. recipient's access methods (and options) for AAC devices;

d. current speech, language, & expressive communication status:

- i. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;
- ii. speech skills and prognosis;
- iii. language skills and prognosis;
- iv. communication behaviors and interaction skills (i.e., styles and patterns);
- v. functional communication assessment, including ecological inventory;
- vi. indication of past treatment, if any;
- vii. description of current communication strategies, including use of an AAC device, if any.

Note: If an AAC device is currently used, describe the device, when and by whom it was previously purchased, and why it is no longer adequate to meet the recipient's communication needs.

e. communication needs inventory:

- i. description of recipient's current and projected communication needs;
- ii. communication partners and tasks including partners' communication abilities limitations, if any; and
- iii. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs).

f. Summary of Communication Limitations.

Description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities).

g. AAC devices assessment components:

- i. vocabulary requirements;
- ii. representational system(s);
- iii. display organization and features;
- iv. rate enhancement techniques;
- v. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
- vi. access techniques and strategies; and
- vii. portability and durability concerns, if any.

h. identification of AAC devices considered for recipients:

- i. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
- ii. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate).

- i. AAC device recommendation
 - i. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;
 - ii. identification of the recipient's and communication partner's AAC devices preference, if any;
 - iii. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;
 - iv. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;
 - v. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.
 - j. treatment plan and follow-up:
 - i. description of short term communication goals (e.g., 6 months);
 - ii. description of long term communication goals (e.g., 1 year);
 - iii. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;
 - iv. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals; and
 - v. identification and experience of AAC service provider responsible for training (these service providers may include, e.g.: speech-language pathologists, occupational therapists, rehabilitation engineers, the recipient's parents, teachers and other service providers).
 - k. summary of alternative funding source for AAC device:
 - i. description of availability or lack of availability, of purchase of AAC device through other funding sources.

C. Trial Use Periods

1. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducts the AAC evaluation.
2. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:
 - a. the characteristics of the recipient's communication limitations;
 - b. lack of familiarity with a specific AAC device; and

c. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.

3. If the speech-language pathologist recommends a trial use period, the pathologist must prepare a request that includes the following information:

- a. the duration of the trial period;
- b. the speech-language pathologist information and the recipient information as required in B. Assessment/Evaluation;
- c. the AAC device to be examined during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
- d. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
- e. the identification of the AAC services provider(s) who will assess the trial period; and
- f. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.

4. Trial use period requests must request Medicaid funding for the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental for trial use, Medicaid may consider the purchase of the accessory for the trial use of the communication device by that recipient.

5. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.

6. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

D. Repairs

1. Medicaid will cover repairs to keep AAC devices, accessories, and other system components in working condition. Medicaid coverage for repairs will include the cost of parts, labor, and shipping, when not otherwise available without charge pursuant to a manufacturer's warranty.

a. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act.

i. One of the provisions of this law is that all persons who make, sell, or lease assistive devices, including AAC devices, must provide those who buy or lease the equipment with a warranty which lasts at least one year from the time the equipment is delivered to the customer.

ii. If, during the warranty period, the equipment does not work, the manufacturer or dealer must make an attempt to repair the equipment.

b. Medicaid additionally requires providers to provide the recipient with a comparable, alternate AAC

device while repairing the recipient's device during a warranty period.

c. Medicaid coverage may be provided for rental of an alternate AAC device during a repair period after expiration of the warranty.

d. Medicaid will not cover repairs, or rental of a loaner device, when repairs are made during a warranty period.

2. When a device is received by the provider for the purpose of repair, the provider will conduct an assessment of the device to determine whether it can be repaired, and if so, prepare a written estimate of the parts, labor, and total cost of the repair, as well as the effectiveness (i.e., estimated durability) of the repair. If the manufacturer or provider concludes that the device is not repairable and a replacement device is needed, written notice will be provided to the recipient.

3. Medicaid coverage for repairs greater than \$300.00 must be accompanied by a statement from the speech-language pathologist. The statement must indicate:

a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in B.2. (b through g, and j); and

b. whether the device remains the speech language pathologist's recommendation for recipient's use.

E. Replacement or Modification

1. Modification or replacement of AAC devices will be covered by Medicaid subject to the following limitations:

a. requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three (3) or more years from the date of purchase of the current device and accessories in use.

b. requests for modification or replacement require prior authorization and must include the recommendation of the speech-language pathologist.

c. requests for replacements of AAC devices may be submitted for identical or different devices.

d. requests for replacements of identical AAC devices must be accompanied by a statement from the provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

i. age;

ii. repair history;

(a). frequency,

(b). duration, and

(c). cost; and

iii. repair projections (estimated durability of repairs).

e. requests for modification or replacement of AAC devices with different devices must include the following additional information:

i. a significant change has occurred in the recipient's expressive communication, impairments, and/or communication limitations. Modification or replacement requests due to changed individual circumstances must be supported by a new assessment of communication limitations by a speech-language pathologist, and may be submitted at any time; or

ii. even though there has been no significant change in the recipient's communication limitations, there has been a significant change in the features or abilities of available AAC devices (i.e., a technological change) that will overcome or permit an even greater amelioration of the recipient's communication limitations as compared to the current AAC device. A detailed description of all AAC device changes and the purpose of the changes must be provided with the results of a re-evaluation by a speech-language pathologist.

f. requests for replacements of AAC devices due to loss or damage (either for identical or different devices) must include a complete explanation of the cause of the loss or damage and a plan to prevent the recurrence of the loss or damage.

III. Prior Authorization

A. All requests for AAC devices and accessories must be prior authorized by Medicaid in accordance with the criteria described in this rule.

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

C. When the medical necessity cannot be determined for an AAC device pursuant to the criteria stated above and to the information submitted in support of a prior authorization request, the following steps shall be taken:

a. If Medicaid determines that any essential information in establishing medical necessity for the AAC device is incomplete, or has been omitted in the prior authorization request as required in sub-section B. Assessment/Evaluation, Medicaid will make direct contact with the speech-language pathologist who conducted the assessment for the recipient. Medicaid will then identify the specific, additional information that is needed and request that the additional information be submitted; and/or

b. If Medicaid determines that an additional interpretation of information in the prior authorization request is needed by the medical reviewer in establishing medical necessity for an AAC device, Medicaid will seek the advice of speech language pathologist(s) with extensive AAC experience recommended to Medicaid by the American Speech Language & Hearing Association (ASHA), the United States Society for Augmentative & Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), who shall provide the required interpretation.

i. Only one request for additional information by direct contact with the speech/language pathologist and/or only one interpretation will be made per prior authorization request;

ii. If additional information requested by Medicaid from the speech/language pathologist who conducted the assessment, or if an additional interpretation requested from a consulting speech-language pathologist, is not received by Medicaid within the 25 day time frame required of Medicaid for a prior authorization determination, a decision will be made by the medical reviewer for

Medicaid based on the information that has been submitted with the prior authorization request and on the reviewer's interpretation of that information. If the additional information or additional interpretation is provided at a later time, another request will need to be submitted by the provider to the Prior Authorization Unit for additional review.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment
Program—Augmentative and Alternative
Communication (AAC) Devices**

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

It is anticipated that implementation of this proposed rule will increase costs in the Durable Medical Equipment Program by approximately \$18,970 for SFY 1999-00, \$18,964 for SFY 2000-01, and \$19,508 for SFY 2001-02. Included in SFY 1999-00 is \$1,066 (\$533 SGF and \$533 FED) for the state's administrative expense of promulgating this proposed rule and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$44,152 for SFY 1999-00, \$44,954 for SFY 2000-01, and \$46,328 for SFY 2001-02.

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

Implementation of this proposed rule shall ensure the availability of augmentative and alternative devices for rental or purchase to Medicaid recipients who meet the criteria. This proposed rule will result in an increase in reimbursements to providers of Durable Medical Equipment of approximately \$62,056 for SFY 1999-00, \$63,918 for SFY 2000-01, and \$65,836 for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9909#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Hospital Prospective Reimbursement Methodology
Teaching Hospitals**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously adopted a rule, June 20, 1994, that established the reimbursement of major and minor teaching hospitals as peer groups under the prospective reimbursement methodology for hospitals (*Louisiana Register*, Volume 20, Number 6).

The Department proposes to amend the criteria for participation in the peer groups for major and minor teaching hospitals and to adopt new criteria for the reimbursement of graduate medical education (GME) pursuant to Section 15 Schedule 09 of Act 19 of the 1998 Regular Legislative Session and R.S. 39:71 et seq.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the criteria for participation in the peer groups for major and minor teaching hospitals and adopts new criteria for the reimbursement of graduate medical education (GME).

I. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). These facilities must be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets both of the following criteria:

1. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits, the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

2. the facility must participate in residency programs that:

- a. require residents to rotate for a required experience, or
- b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility, or
- c. provide residency rotations of more than one-sixth of the program length or more than a total of six (6) months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education (ACGME).

C. Major teaching hospitals must maintain an intern and resident full time equivalency of at least thirty filled positions.

II. Minor Teaching Hospital

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). These facilities must participate significantly in at least one approved medical residency program. At least one of these programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets both of the following criteria:

1. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits, the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

2. the facility must participate in residency programs that:

- a. require residents to rotate for a required experience, or
- b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility, or
- c. provide residency rotations of more than one-sixth of the program length or more than a total of six (6) months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education (ACGME). If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than one-sixth of the program length or more than a total of six (6) months at the facility.

C. Minor teaching hospitals must maintain an intern and resident full time equivalency of at least six filled positions.

III. Approved Medical Residency Program

A. An approved medical residency program is one that meets one of the following criteria:

1. counts toward certification of the participant in a specialty or sub-specialty listed in the current edition of

either The Directory of Graduate Medical Education Programs published by the American Medical Association, Department of Directories and Publications, or The Annual Report and Reference Handbook published by the American Board of Medical Specialties; or

2. is approved by the ACGME as a fellowship program in geriatric medicine; or

3. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangement for such training regardless of whether the standard provides exceptions or exemptions.

B. A residency program at a non-hospital facility may be counted by a hospital if:

1. there is a written agreement with the non-hospital facility that requires the hospital facility to pay for the cost of the training program; and

2. the agreement requires that the time that residents spend in the non-hospital setting is for patient care.

IV. Graduate Medical Education

A. In addition, the Bureau adopts new criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME.

B. Payment for GME costs shall be limited to the direct cost of interns and residents in addition to the teaching physician supervisory costs. Teaching physician supervisory costs shall be limited in accordance with the provisions of the Medicare Provider Reimbursement Manual. The GME component of the rate shall be based on hospital specific graduate medical education Medicaid cost for the latest year on which hospital prospective reimbursements are rebased trended forward in accordance with the prospective reimbursement methodology for hospitals.

C. Hospitals implementing GME programs approved after the latest year on which hospital prospective reimbursements have been rebased shall have a GME component based on the first full cost reporting period that the approved GME program is in existence trended forward in accordance with the prospective reimbursement methodology for hospitals.

V. Requirements for Reimbursements

A. Qualification for teaching hospital status or to receive reimbursement for GME costs shall be reestablished at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital or to receive reimbursement for GME costs, a facility shall submit the following documentation within thirty days of the beginning of each state fiscal year to the Director, Institutional Reimbursement, P. O. Box 546, Baton Rouge, LA 70821:

1. a copy of the executed affiliation agreement for the time period for which the teaching hospital status or GME reimbursement applies;

2. a copy of any agreements with non-hospital facilities; and

3. a signed Certification For Teaching Hospital Recognition.

C. Each hospital which is reimbursed as a teaching hospital or receives reimbursement for GME costs shall submit the following documentation within ninety days of the end of each state fiscal year to the Director, Institutional Reimbursements, P. O. Box 546, Baton Rouge, LA 70821:

1. a copy of the Intern and Resident Information System (IRIS) report that is submitted annually to the Medicare intermediary; and

2. a copy of any notice given to the ACGME that residents rotate through a facility for more than one sixth of the program length or more than a total of six months.

D. Copies of all contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents.

E. No teaching hospital shall receive a per diem rate greater than 115 percent of its facility specific cost based on the latest rebasing year trended forward to the rate year in accordance with the prospective reimbursement methodology for hospitals.

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor teaching hospitals or the peer group maximum for peer group five, whichever is greater.

G. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from the Department.

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

A public hearing on this proposed rule is scheduled for Tuesday, October 26, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital Prospective Reimbursement Methodology Teaching Hospitals

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

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$904,339)

for SFY 1999-00, (\$2,791,138) for SFY 2000-01, and (\$2,870,996) for SFY 2001-02. Included in SFY 1999-00 is \$320 (\$160 SGF and \$160 FED) for the state's administrative expense of promulgating this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$2,139,766) for SFY 1999-00, (\$6,616,135) for SFY 2000-01, and (\$6,818,495) for SFY 2001-02.

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

Implementation of this proposed rule will amend the criteria for recognition as a peer group under the major and minor teaching hospital prospective reimbursement methodology. Five hospitals previously recognized in the teaching hospital peer groups will now be recognized in the non-teaching peer groups. Hospitals satisfying the private teaching hospital peer group criteria will receive a reduction in reimbursements of approximately (\$3,044,425) for SFY 1999-00, (\$9,407,273) for SFY 2000-01, and (\$9,689,491) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9909#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 69—Year 2000 Exclusions
(LAC 37:XIII.8705, 8709, 8713-8717,
8721, 8725, 8727, 8731)

As authorized by Title 22:1 et seq. and in accordance with the provisions of LRS 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance proposes to amend Regulation 69, which governs the use of Year 2000 Exclusions in this state.

The regulation is being divided into subchapters. Subchapter A contains general provisions. Subchapter B applies only to the admitted market. Subchapter C contains the substantive provisions applicable to the surplus lines market. Subchapter D addresses administrative actions by the Commissioner. All references to reinsurers are being deleted.

Notwithstanding the revisions to this regulation, surplus lines insurers and reinsurers remain subject to all applicable parts of the Insurance Code, including but not limited to Part XXVI, and should act in accordance therewith. Insurers which engage in conduct which is not in the best interest of the public or the policyholder will result in the imposition of sanctions as authorized by law.

Therefore, the Commissioner hereby gives notice of his intent to adopt the following amendments to Regulation 69. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 87. Regulation 69—Year 2000 Exclusions

Subchapter A. General Provisions

§8705. Scope and Applicability

A. The scope of application of this regulation differs depending on whether the insurer is an admitted insurer or a surplus lines insurer.

B. Admitted Insurers. Except for Subchapter C, 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 Y2K exclusions whether issued before, on or after its effective date. It governs all Y2K exclusions affecting contracts of insurance delivered or issued for delivery in this state by admitted insurers which cover property risks or liability risks located in this state, or are to be performed in Louisiana regardless of where made or delivered.

C. Surplus Lines Insurers. Surplus lines insurers must comply with Subchapter C of this regulation. Subchapter B does not apply to surplus line insurers.

(Former subsection C is now the last sentence in subsection A.)

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3., LRS 22:1262 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999), LR 25:

§8709. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein:

Admitted Insurers—means any and all property and casualty insurers authorized to do business in this state pursuant to a Certificate of Authority duly issued by the Commissioner of Insurance for the State of Louisiana.

Commissioner—means the commissioner of insurance for the state of Louisiana.

* * *

Surplus Lines Insurers—means insurers placed on the list of approved unauthorized insurers maintained by the Commissioner of Insurance for the State of Louisiana in accordance with LRS 22:1262.1.

* * *

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), LR 25:

Subchapter B. Admitted Insurers

§8713. Underwriting Standards

A. - A.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 25:

§8715. Monitoring of Market Conduct

A. ...

B. Any admitted 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 by admitted insurers in underwriting or claimshandling. 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 nonrenewing coverage 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 LRS 22:2, LRS 22:3; LRS 22:1211 et seq., LRS 22:1301 and LRS 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 25:

§8717. Representations and Warranties

No representation or warranty may defeat coverage or be used to deny a claim by an admitted 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. Denial of coverage by an admitted insurer 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 LRS 22:2, LRS 22:3, LRS 22:619.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8719. Notice

A. No insurance policy may be issued or renewed, by an admitted insurer, 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 Section 8719.C.)

B. Notice for renewals must be provided by an admitted insurer not less than sixty (60) days in advance to the insured and the agent of record.

C. Below is the notice required by this Section.

C.1 - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8721. Exemptions

A. ...

B. Individual Insureds. An exemption may be granted upon written notification to the LDOI by an admitted 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 LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

Subchapter C. Surplus Lines Insurers
§8723. Mandatory Policyholder Notice

A. Every insurance contract issued or delivered as a surplus line coverage in this state, as provided in Part XXVII., Chapter 1. of Title 22 of the Louisiana Revised Statutes, which has a Y2K exclusion shall have attached to it the Policyholder Notice found in Subsection C. of this Section. Insurers are not precluded from issuing their own notices in conjunction with the mandatory notice.

B. 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.

C. Policyholder Notice Text

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 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 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

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

§8725. Claims Notice

A. Every surplus lines insurer which denies coverage of a claim on the grounds that the claim is excluded in whole or in part by the policy's Y2K exclusion shall provide the insured and the claimant, if the claimant is not an insured, the notice found in subsection C of this section.

B. 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.

C. Claim Notice Text

IMPORTANT NOTICE FROM LOUISIANA DEPARTMENT OF
INSURANCE
PLEASE READ IT!

POLICY No. _____
CLAIMANT: _____
CLAIM No. _____

COVERAGE FOR THIS CLAIM HAS BEEN DENIED BECAUSE
YOUR INSURER HAS DETERMINED THAT THE Y2K

ENDORSEMENT ATTACHED TO THE POLICY EXCLUDES
COVERAGE FOR THIS TYPE OF LOSS.

IF YOU QUESTION THE DENIAL OF COVERAGE, 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 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

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

§8727. Issuance of Notices

Responsibility for the issuance of the notices required by Sections 8723 and 8725 of this subchapter may be delegated to the local surplus lines broker responsible for placing the coverage. Notwithstanding the foregoing, the surplus line insurer, upon request of the Commissioner, must be able to show that it has procedures in place to assure compliance with this subchapter.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

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

Subchapter D. Administrative Actions

§8729. Hearings

Hearings, including investigatory hearings, which arise under the provisions of this regulation shall be conducted by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8731. Penalties

Upon proof of noncompliance with any applicable provisions of this regulation by an insurer, such disciplinary actions and/or penalties as are authorized by law, and in the manner provided thereby, may be imposed by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

A copy of the proposed amendments to Regulation 69 may be obtained from the address below or by telephone at 225-342-4673. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, telephone no. 225-342-5015.

Interested parties may submit a request for a public hearing, or verbal or written comments, on the proposed amendments to: C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214; telephone: 225-342-4632; fax 225-342-1632. The deadline to do so is 5:00 p.m., October 11, 1999.

The proposed amendments to the regulation are scheduled to become effective December 20, 1999.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 69—Year 2000 Exclusions**

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

The proposed revision to Regulation 69 should not result in any implementation costs or savings to local or state governmental units. The revision removes all references to reinsurers. The substantive provisions applicable to the surplus lines market are being set out in a separate subchapter.

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

Regulation 69 provides for the levy of penalties against companies and agents that violate the provisions of LSA-R.S. 22:2, 22:3, et seq. LRS 22:941, 22:1115, 22:1262.1 and 22:1457.215; however, there are not sufficient data available to determine the amount of revenue that might be generated as a result of those penalties.

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

The proposed revision to Regulation 69 might result in lower costs for surplus lines companies because they would not be required to capture certain information; however, it is impossible to quantify any cost savings that might result from this revision.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Regulation 69 is not expected to have any impact on competition and employment.

Craig S. Johnson
Deputy Commissioner
Management and Finance
9909#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of intent to adopt amendments to regulations dealing with the Death Penalty.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

103. Death Penalty

A. - D.1. ...

2. All visits will terminate by 3:00 p.m. on the day of the execution except visits with a priest, minister, religious

advisor, or attorney which will terminate at the direction of the Warden or his designee.

E. Media Access

1. Pursuant to the provisions of Department Regulation No. C-01-013, the media may contact the Warden's office to request interviews. If the Warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

E.2 - F.3. ...

G. Execution Time and Place The execution shall take place at the Louisiana State Penitentiary between the hours of 6:00 p.m. and 11:59 p.m. [R.S. 15:570(C)].

H.1 - 2.b. ...

c. victim relationship witnesses are authorized to attend the execution [R.S. 15:570(D)];

H.2.c.i. ...

ii. At least ten days prior to the execution, the Secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter) of the date and time of execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the Secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the Secretary's office of their intention to attend.

H.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:567-15:571 (as amended by Act Number 717 of the 1990 Regular Session of the Louisiana Legislature and by Act Number 159 of the 1991 Regular Session of the Louisiana Legislature), *Garret v. Estelle* 556 F.2d 1274 (5th Cir. 1977), is amending by Act Number 1260 of the 1997 regular session of the Legislature.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 1999.

Richard L. Stalder
Secretary

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

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

There will be no estimated costs associated with this amendment as the rule has been previously adopted and implemented pursuant to LSA-R.S. 15:571.4 (B).

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

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

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

There are no additional costs or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Bernard E. "Trey" Boudreaux
Undersecretary

9909#059

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Nongaming Suppliers; Imposition of Sanctions;
Supplier Permit Criteria
(LAC 42:XIII.1701, 2108, 2331, and 2325)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.1701, to add 42:XIII.2108 and 2331, and to amend 42:XIII.2325 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meanings described below.

Act—the Louisiana Riverboat Economic Development and Gaming Control Act.

Agent—any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Riverboat Gaming Enforcement Division.

Applicant Records—those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the division from any source incidental to an investigation for licensure, findings of suitability, registration, or other affirmative approval.

Architectural Plans and Specifications or Architectural Plans or Plans or Specifications—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include *FF&E*, as defined in this Chapter.

Associated Equipment—any gaming equipment which does not affect the outcome of the game, except as otherwise provided in these regulations.

Berth—a location where a riverboat is or will be authorized to dock as provided in the act and regulations.

Business Year—the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

Candidate—any person whom the division believes should be placed on the list of excluded persons.

Certification Fees—the fees charged by the division incidental to the certification of documents.

Certified Electronic Technician—qualified service personnel trained by a manufacturer, supplier, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, and other matters relating to servicing of devices.

Chip—a nonmetal or partly metal representative of value, redeemable for cash, and issued and sold by a licensee for use at the licensee's gaming establishment.

Component—any substantial or tangible part of a riverboat that must be built or made to complete construction of the riverboat or that must be modified for installation or use in or on the riverboat, including but not limited to engines, motors, boilers, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. *Component* does not include *FF&E* as defined this Chapter.

Confidential Record—any paper, document or other record or data reduced to a record which is not open to public inspection.

Day—as used in these regulations shall mean a calendar day.

Designated Gaming Area—those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and emergency evacuation routes. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser, and plans, therefore, shall be submitted to and approved by the board.

Designated Representative—a person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

Designated River or Waterway—those rivers or bodies of water listed in the act upon which gaming activities may be conducted.

Division Surveillance Room—a room or rooms on each riverboat for the exclusive use of division agents.

Dock or Docking—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both.

Dock Side Facility—the place where docking occurs and where one or more berths may be located.

Drop—

a. for table games, the total amount of money, chips, and tokens contained in the drop boxes.

b. for slot machines, the total amount of money and tokens removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

Duplication Fees—a charge for duplicating documents for release to the requesting person.

Economic Interest or Interest—any interest in a licensee whereby a person receives or is entitled to directly receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit. Economic interest in a licensee includes voting shares of stock or otherwise exercising control of the day to day operations of the licensee through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the contract the division determines the obligee of such security has an economic interest in the licensee.

Electronic Fund Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Gaming Device—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner.

Emergency Evacuation Route—those areas within the designated gaming area of a riverboat which are clearly defined and identified by the licensee as necessary and approved by the United States Coast Guard for the evacuation of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

Enforcement Action—any action undertaken by the division, to consider sanctions authorized by the act including the suspension, revocation or conditioning of a license or permit, or the assessment of a civil penalty upon the conclusion of an investigation into a violation of the act or of the rules adopted pursuant to the act, a violation of a condition, restriction or limitation placed on a license or permit, a violation of the licensee's rules of play, or a violation of the licensee's internal controls as approved by the division.

Excluded List—a list or lists which contain identities of persons who are excluded from any licensed gaming operation pursuant to the act.

Excluded Person—any person who has been placed on the list of excluded persons by the division and who has failed to timely request a hearing or who remains on the list after a final determination.

FF&E (Furniture, Fixtures and Equipment)—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, supplier, or nongaming supplier, including but not limited to gaming devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

Financial Statements—those statements and the information contained therein which relate to the assets, expenses, owner's equity, finances, earnings, or revenue of an applicant, licensee, permittee, registered company, or person who provides such records as part of an application or division investigation.

Fiscal Year—a period beginning July 1 and ending June 30 the following year.

Game Outcome—the final result of the wager.

Inspection—periodic surveillance and observation by the division of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee.

Internal Control System—internal procedures and administration and accounting controls designed by the licensee and approved by the division, for the purpose of exercising control over the gaming operations.

Key Gaming Employee—any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager of the riverboat, director of finance, accounting controller, director of cage and/or credit operations, director of casino operations, director of table games, director of slots, director of security, director of surveillance, director of management information systems, any employee who supervises the operations of these departments or to whom these individual department directors report, and such other positions which the Division or the Board shall later determine, based on detailed analysis of job descriptions as provided in the internal controls of the licensee as approved by the Division. All other gaming employees, unless determined otherwise by the Division or the Board, shall be classified as nonkey gaming employees. In the case of vacation, leave of absence, illness, resignation, termination, or other planned or unplanned extended absence of a key employee, a nonkey assistant director or manager of the above named individual departments may serve not more than thirty (30) calendar days during any one (1) calendar year as head of that department, after written request to and written approval of the Supervisor of the Division or the Chairman of the Board.

Louisiana Business, Louisiana Company or Louisiana Corporation—a business, company or corporation which is at least fifty-one percent owned by one or more Louisiana domiciliaries who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business.

Manufacturer—is any person that manufactures, assembles, produces, or programs any gaming device for use or play in this state.

Minority Business Enterprise or Minority Owned Business—a business which is at least fifty-one percent owned by one or more minority individuals domiciled in Louisiana who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context, means being actively involved in the day-to-day management of the business.

Net Gaming Proceeds—the total of all cash and property (including checks whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

Nongaming Supplier or Supplier of Goods or Services Other Than Gaming Devices or Equipment—any person who sells, leases or otherwise distributes, directly or indirectly, goods and/or services other than gaming devices and equipment to a licensee.

Operation—a licensed riverboat gaming operation or the operation of a manufacturer or supplier pursuant to the issuance of a permit or the operation of racehorse wagering pursuant to the issuance of a permit under the act.

Operator's License—a riverboat gaming operator's license.

Patron—an individual who is at least 21 years of age and who has lawfully placed a wager in an authorized game on a riverboat.

Payout—winnings earned on a wager.

Permittee—any employee, agent, person, or entity who is issued or applying for a permit pursuant to the act. Permittee does not include an applicant in those particular sections or subsections where an applicant is treated differently than a permittee.

Premises—land, together with all buildings, vessels, improvements, and personal property located thereon.

Public Record—any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

Randomness—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

Records—accounts, correspondence, memorandums, audio tapes, videotapes, computer tapes, computer disks, electronic media, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—the riverboat gaming regulations promulgated pursuant to the act.

Renewal Applicant—a person who has filed any part of an application for renewal of any license or permit authorized by the act.

Renewal Application—all of the information, documents, forms, and materials required by the act and regulations to be filed with the division to renew any license or permit authorized by the act.

Riverboat—a vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid certificate of inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the 19th Century era, and is paddlewheel driven. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

Riverboat Operator—an owner and/or operator of a riverboat.

Route—the path of one or more riverboats moving continuously on designated rivers and waterways as permitted or authorized by the commission.

Sensitive Keys—all keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die and cards. Sensitive keys also include, but are not limited to drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division.

Statements on Auditing Standards—the auditing standards and procedures published by the American Institute of Certified Public Accountants.

Supplier of Gaming Devices and Equipment or Supplier—any person that sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any gaming devices or equipment for use or play in this state or sells, leases, or otherwise distributes any gaming devices or equipment.

Token—a metal representative of value, redeemable for cash, and issued and sold by a licensee for use in electronic gaming devices, table games or counter games at the licensee's gaming establishment.

Wager—a sum of money or thing of value risked on a game.

Win—the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out in winnings to patrons.

Women's Business Enterprise or Woman Owned Business—A business which is at least fifty-one percent owned by one or more women who are citizens of the United States domiciled in Louisiana and who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business. In determining whether a business is fifty-one percent owned by one or more women, the percentage ownership by a woman shall not be diminished because she is part of the community property regime.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 25:

Chapter 21. Licenses and Permits

§2108. Nongaming Suppliers

A. Except as provided in Subsections E and F of this Section, any nongaming supplier shall obtain a nongaming supplier permit from the division, upon providing goods and/or services to a licensee in an amount in excess of \$50,000 during the preceding twelve (12) month period.

B. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

C. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of subsections E or F of this Section; or

3. during the immediate preceding twelve (12) month period, such supplier has received \$50,000 or less from the licensee as payment for providing nongaming services or goods to the licensee.

D. It shall be the responsibility of each licensee to ensure that it has not paid more than \$50,000 to any nongaming supplier during the preceding twelve (12) month period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections E or F of this Section.

E. The following nongaming suppliers shall be deemed to have been waived by the division from the necessity of obtaining a nongaming permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. nonprofit charitable organization shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c), (3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; or
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, televisions stations and radio stations which contract with licensees to provide advertising services;

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities.

F. Any nongaming supplier required to obtain a nongaming permit, other than those listed in subsection E in this Section may request a waiver of the necessity of obtaining a nongaming permit. The division may grant such a request upon a showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

G. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

H. Each licensee shall submit to the division, on a quarterly basis, a report containing a list of all nongaming suppliers which have received \$5,000 or more from the licensee during the previous quarter, or \$50,000 or more during the preceding twelve (12) month period as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the nongaming supplier, a description of the type of goods or services provided, the nongaming supplier's nongaming permit number, if applicable, federal tax identification number, and the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each nongaming supplier during the previous four (4) quarters. For each nongaming supplier listed in this quarterly report which is a provider of professional services as defined in Subsection E.10 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the board and the division not later than the last day of the month following the quarter being reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule (Subsection E). The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory

maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. ...

C. The division may impose any sanction authorized by the act or these rules for violation of the licensee's internal controls as are approved by the division. For purposes of this section, the licensee's internal controls shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, and where appropriated, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;

3. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for and individual to monitor;

4. procedures within the cashier's cage for the receipt, storage, and disbursal of chips, cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;

5. procedures for the collection and security of monies at the gaming tables;

6. procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

7. procedures for the transfers of monies from the gaming tables to the counting process;

8. procedures for the counting and recordation of revenue;

9. procedures for the security, storage, and recordation of chips and other cash equivalents utilized in other gaming operations;

10. procedures for the transfer of monies or chips from and to the slot machines;

11. procedures and standards for the opening and security of slot machines;

12. procedures for the payment and recordation of slot machine jackpots;

13. procedures for the cashing and recordation of checks exchanged by patrons;

14. procedures governing the utilization of the private security force within the designated area;

15. procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels, and all other gaming equipment;

16. procedures and rules governing the conduct of particular games and the responsibilities of the riverboat gaming personnel in respect thereto; and

17. such other procedures, rules or standards that the division may impose on a licensee regarding its operations.

D. A sanction for purposes of this section includes, but is not limited to suspension, revocation, or cancellation of a license or permit, the imposition of a civil penalty and such

other costs as the division deems appropriate, or other conditioning, limiting, or restricting of a license or permit.

E. Penalty Schedule

Penalty Schedule			
Section Reference	Description	Base Fine	Proscriptive Period (Months)
Chapter 21. Licenses and Permits			
2101	General Authority of the Division	\$10,000	18
2110	Maritime Requirements	\$10,000	18
2116.A	Cash Transaction Reporting	\$5,000	12
2116.B	Cash Transaction Reporting (Violations in Other States)	\$20,000	24
2125	Access to Applicants' Premises and Records	\$25,000	60
2127.A	Information Constituting Grounds for Delay or Denial of an Application	\$10,000	24
2159.A	Gaming Employee Permits Required	\$10,000	18
2165	Display of Gaming Employee Permit	\$500	12
Chapter 23. Compliance, Inspections, and Investigations			
2325	Imposition of Sanctions	\$2,500	12
Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions			
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27. Accounting Regulation			
2701	Procedures for Reporting and Paying Gaming Taxes and Fees		
	Late Reports	\$2,000	12
	Late Wire Transfers	\$5,000	12
2703.A-E	Accounting Records (per issue)	\$2,000	12
2705	Records of Ownership	\$500	12
2707	Records Retention	\$10,000	18
2709.A	Uniform chart of accounts	\$1,000	12
2709.B	Quarterly Financial Statements	\$1,000	12
2709.C	SEC Reports	\$500	12
2711.B	Required Signatures	\$500	12
2711.D	Change of CPA Requirements	\$10,000	60
2711.F	Audited Financial Statements (submission date)	\$10,000	60
2711.G	Change of Business Year	\$2,000	60
2711.H	Other CPA Reports	\$2,000	60
2711.I	Quarterly Net Win Reports	\$5,000	24
2711.J	Additional CPA Information	\$10,000	60
2713.D	Submit Monthly Calculation to Division	\$5,000	12
2713.E	Submission of Revised Calculated Amount	\$5,000	12
2715.A.1-7,11	General Requirements	\$2,500	12
2715.A.8-10, 12	Key Control & Entry Logs	\$10,000	24
2715.E	Late Submission	\$10,000	60
2715.F	Amendment of Computerized Controls	\$25,000	24
2715.H	Amendments to Internal Controls required by the Division	\$20,000	24
2715.J-M	General Credit Requirements	\$5,000	18
2715.O	Monthly Credit Report	\$5,000	18
2715.Q	Amendments to Internal	\$25,000	24

Controls			
2716.A	Clothing Requirements	\$5,000	12
2717	Internal Controls, Table Games		
2717.A-F	Fills and Credits	\$2,000	12
2717.G	Credit Procedures in Pit	\$5,000	12
2717.H	Non-Marker Credit Play	\$5,000	12
2717.I	Call Bets	\$10,000	18
2717.J	Table Games Drop Procedures	\$5,000	12
2717.K	Table Games Count Procedures	\$10,000	24
2717.L	Table Games Key Control Procedures	\$10,000	24
2717.N	Supervisory Controls of Table Games	\$2,500	12
2717.O	Table Games Records	\$2,500	12
2717.P	Accounting and MIS Functions	\$2,500	12
2719 A & B	Handling of Cash at Gaming Tables	\$5,000	18
2721	Tips and Gratuities Licensee Violation	\$2,000	12
2723	Internal Controls, Slots		
2723.B & C	Jackpot Request	\$2,000	12
2723.D	Jackpot Payout Slip	\$2,000	12
2723.E	Jackpot Payout Slips greater than \$1,200	\$2,000	12
2723.F	Jackpot Payout Slips greater than \$5,000	\$2,000	12
2723.G	Jackpot Payout Slips greater than \$10,000	\$2,000	12
2723.H	Jackpot Payout Slips greater than \$10,000	\$2,000	12
2723.I	Slot Fill Slips	\$2,000	12
2723.J	Slot Drop	\$10,000	12
2723.K	Slot Count	\$10,000	12
2723.L	Hard Count Room	\$5,000	24
2723.M	Accurate and Current Records for each slot machine	\$5,000	24
2723.N	Slot Machines removed from gaming floor	\$5,000	12
2723.O	Key Control & Entry Logs	\$10,000	24
2723.P	Sensitive Keys removed from vessel	\$10,000	24
2723.Q	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.T	Accounting Department audit procedures relative to slot operations	\$2,000	12
2723.U	Slot Department Requirements	\$2,000	12
2723.V	Progressive Slot Machines	\$2,000	12
2723.W	Training	\$2,000	12
2725.A-G	Poker	\$2,500	12
2727	Race Book	\$5,000	12
2729	Cage and Credit		
2729.A-H	Cage Procedures	\$5,000	12
2729.I-HH	Credit Extension/Check Cashing	\$5,000	12
2729.II-NN	Other Credit Issues	\$5,000	12
2730	Exchange of Chips and Tokens	\$1,000	12
2731	Currency Transaction Reporting	\$5,000	12
2735	Net Gaming Proceeds Computation	\$5,000	12
2736	Treatment of Credit for Computing Net Gaming Proceeds	\$5,000	12
2744	Amendments to Internal Controls	\$25,000	24
2745	Revisions to Internal Controls	\$25,000	24
Chapter 29. Operating Standards			

2901	Methods of Operation Generally	\$10,000	24
2905	Weapons on the Riverboat	\$10,000	24
2911	Accessibility to Premises; Parking	\$1000	12
2913	Access to Premises and Production of Records	\$10,000	24
2915	Methods to Prevent Minors from Gaming Area	\$10,000	12
2919	Finder's Fees	\$10,000	12
2921.A	Agencies who may Collect	\$10,000	60
2921.B	Collection by Unsuitable Person	\$10,000	60
2921.C	Recordation of Collection Arrangements; Division Inspection	\$10,000	60
2933	Compulsive/Problem Gamblers - Telephone Info and Referral Service Posting	\$1000	24
2935	Entertainment Activities	\$5,000	12
2943	Gaming Employees Prohibited from Gaming	\$2,500	12
2945	Restrictive Areas	\$10,000	24
2953	Promotions and Tournaments	\$5,000	12
Chapter 31. Rules of Play			
Note: Unless otherwise stipulated below, all violations of this chapter have a base fine of \$5,000 and a 12 month proscriptive period			
3101	Authority and Applicability		
	Unauthorized Game	\$25,000	24
3103	House Rules	\$5,000	12
3105	Submission of Rules	\$25,000	24
Chapter 33. Surveillance and Security			
3301	Required Surveillance Equipment	\$10,000	24
3303	Surveillance System Plans	\$25,000	24
3305.A	Division Room	\$10,000	24
3305.B	Access to Surveillance Equipment	\$10,000	24
3305.C	Surveillance Employees Prohibited from Other Gaming Duties	\$5,000	24
3305.D&E	Security of Division and Surveillance Rooms	\$10,000	24
3305.F	Division Agents Access to Surveillance Room	\$15,000	24
3305.G	Division Room Furnishings	\$10,000	24
3305.H	Licensee Surveillance	\$5,000	24
3307	Segregated Telephone Communication	\$5,000	24
3309.A	Maintaining Logs	\$10,000	24
3309.B	Logging of Unusual Occurrences	\$10,000	24
3311	Storage and Retrieval	\$20,000	24
3313	Dock Side Division Facility	\$10,000	24
3315	Maintenance and Testing	\$20,000	24
3317	Surveillance System Compliance	\$25,000	24
Chapter 35. Patron Disputes			
3501	Division Notification	\$1,000	12
Chapter 37. List of Excluded Persons			
3705	Duty of Licensees and Permittees to Exclude	\$5,000	12

Chapter 41. Enforcement Actions			
4101	Emergency Orders	\$50,000	60
4103	Supervisor Action By Order (Division Orders)	\$20,000	18
Chapter 43. Specifications for Gaming Devices and Equipment			
4301	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309	Use of Chips and Tokens	\$1,000	12
4311	Receipt of Gaming Chips or Tokens from Manufacturer or Supplier	\$5,000	12
4313	Inventory of Chips	\$5,000	12
4315	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
4319	Approval and Specifications for Dice	\$5,000	12
4321	Dice; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4323	Approval and Specifications for Cards	\$5,000	12
4325	Cards; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4327	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4331.B&C	Display	\$2,000	12
4331.D	Amount Reduction	\$5,000	12
4333	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4339	Certification by Manufacturer	\$1,000	12
4343	Duplication of Program Storage Media	\$20,000	24
4345	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4347	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4349	Maintenance of Gaming Devices	\$20,000	24
4355	Approval of Associated Equipment; Application and Procedures	\$5,000	12
Title 27 of the Louisiana Revised Statutes Louisiana Gaming Control Law			
Chapter 4. The Louisiana Riverboat Economic Development And Gaming Control Act			
Part I. General Provisions			
27:47	License or permit required	\$10,000	60
Part III. Gaming Enforcement Division			
27:61(1)	Net gaming procedures	\$2,000	12
27:61(2)	Tax paid	\$2,000	12
27:61(3)	Quarterly financial statements	\$1,000	12
27:61(3)	Annual financial statements	\$10,000	60
Part V. Conducting Of Gaming Operations			
27:65B(1)	Sailing requirements	\$5,000	12
27:65B(2)	Sailing duration	\$5,000	12

27:65B(3)	Division agents may inspect anytime	\$25,000	60
27:65B(4)	Gaming equipment must be from permitted suppliers	\$25,000	
27:65B(5)	Wagering restrictions	\$10,000	18
27:65B(6)	Gaming only in designated areas	\$25,000	60
27:65B(7)	Gaming equipment storage	\$25,000	60
27:65B(8)	Wagering person must be present	\$10,000	18
27:65B(9)	No one under 21 allowed	\$10,000	12
27:65B(10)	Gaming only on the river as described	\$25,000	60
27:65B(11)	Wagering only with chips, tokens, etc.	\$10,000	18
27:65B(12)	Use of approved berth	\$25,000	60
27:65B(13)	Adequate insurance	\$25,000	60
27:65B(14)	Licensee must have necessary licenses	\$100,000	60
27:65B(15)	Must obey all rules	\$10,000	18
Part VII. Application And Licensing			
Part VIII. Issuance Of Permits To Manufacturers, Suppliers, And Others			
27:82C	Distribution of unapproved devices/supplies	\$25,000	60
27:82E	Supplier requirements	\$5,000	12
27:84	Gaming employee permits	\$10,000	18
27:84A	Unpermitted employee	\$10,000	18
27:84B	Underage patron/employees	\$10,000	12
27:86	Issuance of permit to conduct racehorse wagering	\$5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended Gaming Control Board, LR 25:

§2331. Supplier Permit Criteria

The division shall determine whether suppliers providing goods and/or services to licensees are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to licensees;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the licensee are brokered, and if so whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953A., the Louisiana Gaming Control Board, through its chairman, has

considered the potential family impact of the proposed amendments to LAC 42:XIII.1701 and 2325, and addition of 42:XIII.2108 and 2331.

It is accordingly concluded that the amendments to LAC 42:XIII.1701 and 2325, and addition of 42:XIII.2108 and 2331 would appear to have no impact on any of the following.

1. The Effect On Stability Of The Family.
2. The Effect On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children.
3. The Effect On The Functioning Of The Family.
4. The Effect On Family Earnings And Family Budget.
5. The Effect On The Behavior And Personal Responsibility Of Children.
6. The Ability Of The Family Or A Local Government Too Perform The Function As Contained In The Proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through October 10, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nongaming Suppliers; Imposition of
Sanctions; Supplier Permit Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that there will be no implementation costs or savings to state or local government units. The addition of LAC 42:XIII.2331, supplier permit criteria, will result in some increased workload to the Riverboat Gaming Enforcement Division of State Police. However, the amount of increase and cost cannot be estimated at this time due to the fact that the information to be submitted by applicants has not been received and the number of suppliers is not constant. It is anticipated that any increase in workload can be performed at existing staffing levels.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is unknown whether revenue collections will increase or decrease as a result of the amendments to LAC 42:XIII.2325, the penalty schedule. Promulgation of a schedule with a repeat violation provision may result in greater compliance and fewer requests for administrative hearings. However, whether and to what extent violations will be committed by licensees cannot be projected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9909#019

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Reciprocity, Application and Reporting Forms,
Application and License
(LAC 42:III.119, 120 and 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to add LAC 42:III 119 and 120 and to amend LAC 42:XI.2405 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§119. Reciprocity

Any person licensed or permitted pursuant to the provisions of Chapters 4, 5, 6, or 7 of Title 27 of the Revised Statutes which seeks to apply for and be licensed or permitted to manufacture, repair or sell slot machines, gaming devices, gaming supplies or nongaming supplies or to provide services pursuant to another Chapter of Title 27 shall:

1. meet all statutory requirements of the Chapter for which an application or authorization to conduct business is sought, all general rules of the board and all rules and regulations applicable to the new gaming activity;
2. be in good standing with the board, the gaming enforcement section of the Louisiana State Police and the division with responsibility relative to regulation of the gaming activity for which the licensee or permittee is licensed or permitted to engage in. Good standing for the purposes of this section shall mean that:
 - a. the licensee or permittee has no administrative or enforcement actions pending relative to the respective license or permit;
 - b. there are no pending or ongoing investigations of possible violations by the licensee or permittee;
 - c. the licensee or permittee has filed a complete application and provided any and all information required to be furnished by statute, rule or regulation or which has been requested to be provided by the board or the respective division;
3. any administrative or enforcement action, other than assessment of a civil penalty, instituted against a licensee or permittee shall apply to and be given reciprocal effect to all licenses, permits or other authorizations to conduct business held by such licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§120. Application and Reporting Forms

A. All applicants, licensees, permittees, and persons required to be found suitable shall utilize and complete, as applicable, the most recent version of the following forms.

1. Riverboat
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/ Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:
 - i. Instructions;
 - ii. Personal History and Financial Record Suitability Gaming Application;
 - iii. Personal Information;
 - iv. Criminal History Information;
 - v. Civil Litigation Information;
 - vi. Military Service Data Information;
 - vii. Employment History Information;
 - viii. Professional Licenses, Etc., Information;
 - ix. Business Associations Information;
 - x. Financial Information;
 - xi. General Information;
 - xii. Supplemental Page Information;
 - xiii. Verification;
 - xiv. Affidavit of Full Disclosure;
 - xv. Individual's Request To Release Information;
 - xvi. Release of All Claims;
 - xvii. Individual Tax Information Authorization Request;
 - xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - xx. State Individual Consent to Disclosure of Tax Information;

- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
 - c. Level I, Part A & B, Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
 - d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;
 - ii. Criminal History Information;
 - iii. Civil Litigation Information;
 - iv. Employment History;
 - v. Professional Licenses, Etc. Information;
 - vi. Business Associations Information;
 - vii. Financial Information;
 - viii. General Information;
 - ix. Supplemental Page Information;
 - x. Verification;
 - xi. Affidavit of Full Disclosure;
 - xii. Individual's Request To Release Information;
 - xiii. Release Of All Claims;
 - xiv. Individual Tax Information Authorization Request;
 - xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - xvi. State Individual Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Tax Clearance Certificate;
 - xviii. Federal Individual Consent to Disclosure of Tax Information.

f. Casino Gaming Key Employee Permit Application, Instructions and Application, DPSSP 0074, including, but not limited to:

- i. Application for Permit;
- ii. Personal History and Financial Record;
- iii. Personal Financial Questionnaire;
- iv. Verification;
- v. Affidavit of Full Disclosure;
- vi. Release of all Claims;
- vii. Individual Tax Information Authorization Request;
- viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- ix. State Individual Consent to Disclosure of Tax Information;
- x. Federal Internal Revenue Service Tax Clearance Certificate;
- xi. Federal Individual Consent to Disclosure of Tax Information.

g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including, but not limited to:

- i. Instruction Sheet;
- ii. Application For Permit;
- iii. Affidavit of Full Disclosure;
- iv. Release of All Claims.

h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:

- i. Permit Application;
- ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- i. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:

 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.

- j. Supplier of Significant Services (Marine Operations) Permit Application Individual Form Instructions and Application, DPSSP 0089

 - i. Instructions;
 - ii. Personal Information;
 - iii. Criminal History Information;
 - iv. Military Service Data Information;
 - v. Civil Litigation Information;
 - vi. Employment History Information;
 - vii. Professional Licenses Etc. Information;
 - viii. Business Associations Information;
 - ix. Personal Financial Questionnaire;
 - x. Supplemental Page Information
 - xi. Verification;
 - xii. Affidavit of Full Disclosure;
 - xiii. Individual's Request To Release Information;
 - xiv. Release Of All Claims;
 - xv. Individual Tax Information Authorization Request;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - xvii. State Individual Consent to Disclosure of Tax Information;

xviii. Federal Internal Revenue Service Tax Clearance Certificate;

xx. Federal Individual Consent to Disclosure of Tax Information.

k. Individual Marine Operation Permit Renewal Application, DSSP 0091, including, but not limited to:

- i. Instruction Sheet;
- ii. Application For Permit;
- iii. Affidavit of Full Disclosure;
- iv. Release of All Claims.

l. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:

- i. Application for Permit;
- ii. Verification;
- iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
- iv. Business Tax Information Authorization Request;
- v. Tax Clearance Request.

m. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:

- i. Instruction Page;
- ii. Schedule of Fees;
- iii. Application for Permit;
- iv. Statement of Assets;
- v. Statement of Liabilities;
- vi. Verification;
- vii. Affidavit of Full Disclosure;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request;
- x. Applicants Request to Release Information.

n. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:

- i. Personal Information;
- ii. Personal Financial Questionnaire;
- iii. Statement of Assets;
- iv. Statement of Liabilities;
- v. Verification;
- vi. Affidavit of Full Disclosure;
- vii. Individuals Request to Release Information;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request.

o. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:

- i. Instructions;
- ii. Schedule of Fees;
- iii. Application for Permit;
- vi. Application for Permit;
- v. Vendor Reciprocity Affidavit

p. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, (In Accordance with Reciprocity Provisions of La R.S. 27.91(E)), including, but not limited to:

- i. Instructions;
- ii. Application for Permit;
- iii. Vendor Reciprocity Affidavit;

- iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Tax Clearance Request;
- vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
- vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).
- q. Supplier of Significant Services (Marine Operations) Permit Application, DPSSP 0088, including, but not limited to:
 - i. Application for Permit;
 - ii. Business Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Applicants Request to Release Information;
 - viii. Release of All Claims;
 - ix. Applicants Tax Information Authorization Request.
- r. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- s. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - vi. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- t. Fingerprint Cards
- 2. Land Based Casino
 - a. Casino Gaming Key Employee Permit Application Instructions and Application, DPSSP 0074, including, but not limited to:
 - i. Personal History and Financial Record;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individual's Request to Release Information;
 - viii. Release of all Claims;
 - ix. Individual Tax Information Authorization Request;
 - x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

- xii. Businesses, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.
- b. Gaming Key Employee Permit Renewal Application Packet, including, but not limited to:
 - i. Instructions;
 - ii. Gaming Key Employee Permit Renewal Application;
 - iii. Gaming Permit Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- c. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including, but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- d. Gaming Non-Key Employee Permit Renewal Application, including, but not limited to:
 - i. Instructions;
 - ii. Gaming Non-Key Employee Permit Renewal Application;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- e. Gaming Permit/License Application for Manufacturers, Suppliers/Distributors and Service Entities (In Accordance with Reciprocity Provisions), DPSSP 6613, including, but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit.
- f. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Schedule of Fees;
 - ii. Application for Permit;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Release of all Claims;
 - viii. Individual Tax Information Authorization Request;
 - ix. Applicant's Request to Release Information;
 - x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);
 - xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.
- g. Manufacturers and Suppliers Gaming Permit Renewal Application, including, but not limited to:
 - i. Instructions;
 - ii. Renewal Application;
 - iii. Gaming Permit Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - v. Individual Tax Information Authorization Request;

vi. Business Tax Information Authorization Request;

vii. Tax Clearance Request.

h. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services (In Accordance with Reciprocity Provisions), DPSSP 6614, including, but not limited to:

- i. Application for Permit;
- ii. Vendor Reciprocity Affidavit;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- iv. Tax Clearance Request;
- v. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;

vi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (State);

vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (Federal).

i. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:

- i. Application for Permit;
- ii. Verification;
- iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;

iv. Business Tax Information Authorization Request;

v. Tax Clearance Request;

vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;

vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

j. Non-Gaming Suppliers Permit Renewal Application, including, but not limited to:

- i. Instructions;
- ii. Renewal Application;
- iii. Affidavit;
- iv. Non-Gaming Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Business Tax Information Authorization Request;

vi. Tax Clearance Request.

k. Level I, Suitability Gaming Application, Part A, including, but not limited to:

- i. Application for License;
- ii. Statement of Assets;
- iii. Statement of Liabilities;
- iv. Affidavit of Full Disclosure;
- v. Applicant's Request to Release Information;
- vi. Individual Tax Information Authorization Request;

vii. Verification.

l. Level II, Casino Gaming Permit Application Personal History and Financial Record Part B, DPSSP 0077, including, but not limited to:

- i. Personal Information;

ii. Personal Financial Questionnaire;

iii. Statement of Assets;

iv. Statement of Liabilities;

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Individual's Request to Release Information;

viii. Release of All Claims;

ix. Individual Tax Information Authorization Request;

x. Business, Trusts, Estates, Etc. Consent to Disclose Tax Information;

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

m. Land Based Casino Gaming Division, Junket or Limousine Service Casino Gaming Permit Application, DPSSP 6611, including, but not limited to:

i. Schedule of Fees;

ii. Application for Permit;

iii. Statement of Assets;

iv. Statement of Liabilities;

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Release of all Claims;

viii. Individual Tax Information Authorization Request;

ix. Applicant's Request to Release Information;

x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.

n. Gaming Device Shipment Notification, including, but not limited to:

i. Gaming Device Shipment Notification, DPSSP 6501;

ii. Gaming Device Shipment Notification (Supplemental), DPSSP 6502.

o. Finger Print Cards

3. Video Poker

a. Video Gaming Application, DPSSP 0031

b. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information

c. Affidavit of Full Disclosure, DPSSP 0036

d. Request to Release Information, DPSSP 0037

e. Release of All Claims, DPSSP 0035

f. Individual Consent to Disclosure of Tax

Information

g. Personal History Questionnaire, DPSSP 0032

h. Personal Financial Questionnaire, DPSSP 0033

i. Designated Representative/Manager Application Form, DPSSP 5403

j. Multiple Use Reporting Form, VGD 071498

k. Application for Video Poker Device Permit, DPSSP 0059

- 1. Gaming Device Ownership Transfer Notification, DPSSP 0052
 - m. Video Gaming Device Service/Repair Form, DPSSP 0040
 - n. pari-mutuel Wagering Facility Monthly Report, DPSSP 0046
 - o. Authorization Agreement for Pre-Authorized Payments, DPSSP 0038
 - p. Video Gaming Device Shipment Notification, DPSSP 0043
 - q. Minimum Monthly Fuel Sales Report, DPSVGD 1011
 - r. Monthly Fuel Sales Meter Reading Report, DPSVGD 1012
 - s. Renewal Application, DPSSP 0049
 - t. Renewal Affidavit/Certification, DPSSP 0051
 - u. Finger Print Cards
- 4. Live Racing Facility Slot Machine Gaming
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/ Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:
 - i. Instructions;
 - ii. Personal History and Financial Record Suitability Gaming Application;
 - iii. Personal Information;
 - iv. Criminal History Information;
 - v. Civil Litigation Information;
 - vi. Military Service Data Information;
 - vii. Employment History Information;
 - viii. Professional Licenses, Etc., Information;
 - ix. Business Associations Information;
 - x. Financial Information;
 - xi. General Information;
 - xii. Supplemental Page Information;
 - xiii. Verification;

- xiv. Affidavit of Full Disclosure;
- xv. Individual's Request To Release Information;
- xvi. Release of All Claims;
- xvii. Individual Tax Information Authorization Request;
- xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xx. State Individual Consent to Disclosure of Tax Information;
- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
- c. Level I, Part A & B Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
- d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
- e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;
 - ii. Criminal History Information;
 - iii. Civil Litigation Information;
 - iv. Employment History;
 - v. Professional Licenses, Etc. Information;
 - vi. Business Associations Information;
 - vii. Financial Information;
 - viii. General Information;
 - ix. Supplemental Page Information;
 - x. Verification;
 - xi. Affidavit of Full Disclosure;
 - xii. Individual's Request To Release Information;
 - xiii. Release Of All Claims;
 - xiv. Individual Tax Information Authorization Request;

- xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xvi. State Individual Consent to Disclosure of Tax Information;
- xvii. Federal Internal Revenue Service Tax Clearance Certificate;
- xviii. Federal Individual Consent to Disclosure of Tax Information.
- f. Key Riverboat Gaming Employee Permit Application, DPSSP 0074, including, but not limited to:
 - i. Application for Permit;
 - ii. Personal History and Financial Record;
 - iii. Personal Financial Questionnaire;
 - iv. Verification;
 - v. Affidavit of Full Disclosure;
 - vi. Release of all Claims;
 - vii. Individual Tax Information Authorization Request;
 - viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - ix. State Individual Consent to Disclosure of Tax Information;
 - x. Federal Internal Revenue Service Tax Clearance Certificate;
 - xi. Federal Individual Consent to Disclosure of Tax Information.
- g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Affidavit of Full Disclosure;
 - iv. Release of All Claims.
- h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
 - i. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.
 - j. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:
 - i. Application for Permit;
 - ii. Verification;
 - iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
 - k. Casino Gaming Permit Application, Manufacturer and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Instruction Page;
 - ii. Schedule of Fees;
 - iii. Application for Permit;

- iv. Statement of Assets;
- v. Statement of Liabilities;
- vi. Verification;
- vii. Affidavit of Full Disclosure;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request;
- x. Applicants Request to Release Information.
- l. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:
 - i. Personal Information;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individuals Request to Release Information;
 - viii. Release of All Claims;
 - x. Individual Tax Information Authorization Request.
- m. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:
 - i. Instructions;
 - ii. Schedule of Fees;
 - iii. Application for Permit;
 - vi. Application for Permit;
 - v. Vendor Reciprocity Affidavit.
- n. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including, but not limited to:
 - i. Instructions;
 - ii. Application for Permit;
 - iii. Vendor Reciprocity Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - v. Tax Clearance Request;
 - vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).
 - o. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
 - p. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - vi. Business Tax Information Authorization Request;

- v. Tax Clearance Request.
- q. Finger Print Cards
- 5. Reciprocity
 - a. Gaming Permit License Application for Manufactures, Suppliers/Distributors and Service Entities, DPSSP 6613, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit.
 - b. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Tax Clearance Request;
 - v. Business, Trusts, Estates, Etc.;
 - vi. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

B. All applicants, licensees, permittees and persons required to be found suitable shall fully comply with all instructions contained in the prescribed forms and shall provide all documentation and information requested therein.

C. Any revisions, additions, or other modifications to the prescribed forms shall be made upon recommendation of the respective division and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, L.R. 25:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.2. ...

3. a. Beginning with licenses renewed or issued after August 15, 1999, licenses to operate video draw poker devices shall expire as follows:

- i. Licenses with a last digit of 1 or 2 in the license number shall expire on June 30, 2005;
- ii. Licenses with a last digit of 3 or 4 in the license number shall expire on June 30, 2001;
- iii. Licenses with a last digit of 5 or 6 in the license number shall expire on June 30, 2002;
- iv. Licenses with a last digit of 7 or 8 in the license number shall expire on June 30, 2003;
- v. Licenses with a last digit of 9 or 0 in the license number shall expire on June 30, 2004.

b. Beginning on July 1, 2004, all licenses shall have a term of five (5) years from the date of issuance.

4. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

5. If an application for renewal has not been received by the division on or before close of business on the date of expiration, the license is expired, and a new application, along with all appropriate fees, shall be required to be filed.

B.6. - B.12.a. ...

b. If surrendered in accordance with §2405, no gaming activities may be conducted at the premises, however the license may be returned to the licensee upon continuance of business operations until the expiration date of the license or after one-hundred eighty (180) days has elapsed from the date business operations were continued, whichever occurs first.

c. Licenses surrendered in accordance with §2405.A to the prescribed forms shall not be subject to renewal unless returned to the licensee.

B.12.d. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 25:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed addition of LAC 42:III.119 and 120 and amendments to LAC 42:XI.2405.

It is accordingly concluded that the addition of LAC 42:III.119 and 120, and amendment to LAC 42:XI.2405 would appear to have no impact on any of the following.

1. The Effect On Stability Of The Family.
2. The Effect On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children.
3. The Effect On The Functioning Of The Family.
4. The Effect On Family Earnings And Family Budget.
5. The Effect On The Behavior And Personal Responsibility Of Children.
6. The Ability Of The Family Or A Local Government To Perform The Function As Contained In The Proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through November 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reciprocity, Application and Reporting
Forms, Application and License**

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

It is anticipated that there will be no direct implementation costs or savings to state or local government units. Act 490 of the 1999 Regular Session provided for extended terms for video poker licenses, to five (5) years by July 1, 2004. The rule changes to LAC XI.2405 as required by Act 490 will result in a workload reduction by fewer applications being processed each

year. However, the cost savings to the state cannot be estimated with any degree of certainty. Additionally, man hours saved from licensing will be expended in other areas: auditing, investigation and enforcement.

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

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

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

No significant costs and/or economic benefits are estimated to result from these rule changes. As a result of changes to LAC 42:XI.2405, it is anticipated that video poker licensees will benefit to the extent applications and/or renewal affidavits are no longer required to be submitted annually, but instead for longer periods, up to five (5) years, by July 1, 2004. The amount of cost savings to video poker licensees is inestimable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9909#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas—General Requirements
(LAC 55:IX.107, 109, 113, 125, 166, 172, 177, 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 proposes to amend its rules. The proposed rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule changes will do fourteen things:

1. will increase the penalty authority of the commission from a minimum of \$50 and a maximum of \$500 to a minimum of \$100 and a maximum of \$1000, as mandated by Act 584 of the 1999 Regular Session;
2. will increase truck registrations from \$25 to \$50, as mandated by Act 584 of the 1999 Regular Session;
3. will increase competency test fees from \$10 to \$20, as mandated by Act 584 of the 1999 Regular Session;
4. will increase competency card renewal fees from \$5 to \$10, as mandated by Act 584 of the 1999 Regular Session;
5. will decrease percentage based permit fees by the same dollar amount as the increases by rule changes 2, 3 and 4 above, as mandated by Act 584 of the 1999 Regular Session. Computations will be based on the fiscal year 1998-1999 actual numbers;
6. will extend to all classes of permits, where applicable the current requirement of Class 1 permits, that the name of the dealer must appear on all tank trucks and/or storage tank sites;

7. will clarify accident reporting requirements to the commission and include reporting to the commission accidental releases at or above the quantity required to be reported under the LA Right-To-Know Law;

8. will adopt the National Fire Protection Association Pamphlet 54-1996 edition by reference thereto;

9. will amend three paragraphs in the Louisiana rules to conform to the NFPA 54-1996 edition adopted in rule change 8 above;

10. will allow Class IV Resellers (Wholesalers) to sell liquefied petroleum gases to manufacturers of liquefied petroleum gases and manufacturers of products which liquefied petroleum gas form a component part as well as to dealers who hold permits with the commission;

11. will remove from the Louisiana rules, fire extinguisher requirements and supplant those with the NFPA 58-1995 edition and the Code of Federal Regulations (CFRs) requirements;

12. will require ASME and DOT containers, container appurtenances, piping and equipment connected thereto to be maintained in good operating and mechanical condition at all times;

13. will delete the requirement of Class I and Class IV dealers to report gallons on monthly purchases and sales reports;

14. will clarify transport/delivery truck registration decals and inspection procedures.

The proposed rule changes complies with the statutory authority granted the Commission under LRS 40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. - A.4.b. ...

5.a. Where applicable, applicant must provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck used in Louisiana shall be registered in Louisiana and shall be inspected annually by the commission or other qualified agency acceptable to the commission, however any transport and/or delivery truck registered and not being used in Louisiana must either have the inspection required of those used in Louisiana or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transports and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Each transport and/or delivery truck registered in Louisiana shall have an annual registration fee of \$50 paid and a valid registration decal affixed to the transport and/or delivery truck.

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 .1700 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 .1700 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.

a. ...

b. The reports of Class IV dealers shall contain the purchases and sales by total dollars and by company name. The reports of Class I dealers shall contain the purchases by total dollars and by company name and sales by total dollars only.

c. - 7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers must have a card of competency from the Office of the Director. All permit holders, except Class VI-X permit holders must have at least one card of competency issued to their permit. A card of competency will be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

a. All cards of competency must be renewed annually by the permit holder. There will be a charge of \$10 per card. After expiration, there will be a penalty of \$3 per card. There will be a charge of \$10 for replacing a lost card; a change of employer; or change of company name. A card with an improper employer or company name shall not be valid.

b. - 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), LR 25:

§109. Compliance With Rules

A. ...

B. The commission may assess a civil penalty of not less than \$100 nor more than \$1000 for each violation of the rules and regulations adopted by the commission. Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its ruling in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

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 25:

§113. Classes of Permits and Registrations

A. - A.3.b. ...

4. Class IV. Resellers (Wholesalers) Holders of these permits may deliver and transport liquefied petroleum gas over the highways of the state; may sell liquefied petroleum gases only to manufacturers of liquefied petroleum gases, or manufacturers of products which liquefied petroleum gases form a component part, or to dealers who hold a permit with this commission; utilize aboveground steel storage and/or approved salt dome, shale and other underground caverns for the storage of liquefied petroleum gases; do general maintenance work on their equipment, using qualified personnel; but may not sell or install systems and appliances.

a. - a.vi. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

5. - 6.a.ii. ...

b. The name of the dealer must appear on storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

7. - 8.c. ...

d. The name of the dealer must appear on all tank trucks which require registration with the commission.

e. Compliance with all other applicable rules and regulations is required.

9. - 9.a.ii. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission.

c. Compliance with all other applicable rules and regulations is required.

d. Check for emergency permit fee (valid for 90 days only) made payable to the Liquefied Petroleum Gas Commission in the amount of \$100 must be submitted. In the event the applicant desires to obtain a permanent Class VII permit, \$75 of the emergency permit fee will be applicable to that permit fee.

10. - 10.a.vi. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

11. - 13.c. ...

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 and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October

1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:464 (March 1998), LR 25:

Subchapter B. Dealers

§125. Report Accidents and Fires

A. Any accident involving liquefied petroleum gas or the transportation of liquefied petroleum gas which causes injury to employees, property damage, or injury to other persons or an accidental release of liquefied petroleum gas reportable under the Louisiana Right-To-Know Law shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours. The office of the director shall accept, in lieu of the required report in writing, data and information from the information system established under the Hazardous Materials Information Development, Preparedness and Response Act.

B. ...

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 24:465 (March 1998), LR 25:

Subchapter F. Tank Trucks, Semi-Trailer and Trailers

§166. Transport/Delivery Truck Registration Decals and Inspections

A. Dealers who operate transport and/or delivery trucks in the state of Louisiana shall file Form DPSLP 8045 (R/97) with the Office of the Director between the dates of February 1 and April 30 each year to register and pay the required registration fees on all transport and/or delivery trucks used in Louisiana. New equipment and equipment being used for the first time in Louisiana and not registered during the registration period shall be registered and inspected before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R/97) by the Office of the Director or a registration decal by a commission inspector to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport and/or delivery truck over the highways of the state without the registration decal affixed.

B. Safety inspections are required on all transport and/or delivery trucks requiring registration. The required safety inspection shall be performed on all transport and/or delivery trucks registered on Form 8045 (R/97) and used in Louisiana, within a 3 month period prior to or a 3 month period subsequent to their registration. Safety inspections on transport and/or delivery trucks registered on Form 8045 (R/97) and not being used currently in Louisiana shall either (1) be inspected the same as those being used or (2) apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transport and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Safety inspections shall be performed by: (1) a Liquefied Petroleum Gas Commission inspector; or (2) a qualified agency acceptable to the commission with acceptable documentation that a safety inspection has been

performed by that qualified agency. Safety inspections by the Liquefied Petroleum Gas Commission inspectors shall be free of charge.

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 24:467 (March 1998), LR 25:

Subchapter G. Systems Utilizing ASME and DOT Containers

§172. Maintenance

ASME and DOT containers, container appurtenances, piping, and equipment connected thereto shall be maintained in good mechanical condition at all times. No leaks or unsafe conditions shall exist.

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 25:

§177. Appliance Installation and Connections

A. - C.2. ...

a. A listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a one or two family, residential dwelling provided that the input rating shall not exceed 6,000 Btu per hour, and combustion and ventilation air is provided in accordance with paragraph 6.1(b) of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

b. A listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a one or two family, residential dwelling provided that the input rating shall not exceed 10,000 Btu per hour, and combustion and ventilation air is provided in accordance with paragraph 6.1.(b) of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

3. Liquefied petroleum gas room heaters may be installed in used manufactured homes as follows if they are:

a. Liquefied petroleum gas listed vented heaters equipped with a 100 percent safety pilot and vent spill switch; and

b. Liquefied petroleum gas listed unvented room heaters equipped with a factory oxygen depletion safety shut-off system; and

c. They are not installed in sleeping quarters or bathrooms; and

d. Their installation is not prohibited by the appliance manufacturer's instructions; and

e. The input rating of the heater(s) does not exceed 20 Btu per hour per cubic foot of space; and

f. Combustion and ventilation air is provided as specified in Part 5.3 of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

4. ...

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 20:1403 (December 1994), amended LR 24:469 (March 1998), LR 25:

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code*, 1996 edition. The National Fire Protection Association designation is *NFPA 54-1996*. The Liquefied Petroleum Gas Commission also adopts the *Standard for the Storage and Handling of Liquefied Petroleum Gases*, 1995 edition. The National Fire Protection Association designation is *NFPA 58-1995*.

B. - D. ...

E. The following are exceptions to the code and standard referenced in §181.A:

1. With regard to §2.6.6, *Protective Coatings*, in NFPA 54 galvanized pipe and fittings, copper pipe and fittings, and copper tubing and fittings may be used to meet this requirement;

2. With regard to §3.1.2, *Protection Against Damage*, in NFPA 54 pipe must be buried at a minimum to the depth of the frost line and shall be protected where there is heavy vehicular traffic and protected against physical damage where such damage is reasonably expected;

3. With regard to §3.1.3, *Protection Against Corrosion*, in NFPA 54 the provisions shall be considered met in Louisiana when galvanized pipe and fittings, copper pipe and fittings or copper tubing and fittings are used;

4. - 12. ...

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:

The commission will hold a public hearing October 28, 1999, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 20, 1999 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Liquefied Petroleum Gas—General Requirements

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

There will be a small implementation cost to the state governmental units estimated to be \$3,600 in FY 99-00 and no cost in future years. There will be no implementation costs to any local governmental unit.

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

There will be a loss in revenues to the state governmental unit in FY 99-00 calculated to be \$3,225 and succeeding fiscal

years a loss of \$6,450 per year as a result of the proposed actions. There will be no loss in revenues to any local governmental unit.

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

There will be a net decrease in costs to the liquefied petroleum gas permit holders calculated to be \$3,225 for FY 99-00 and \$6,450 for each future year. There will be no costs or economic benefit to any other group, person or non-governmental unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of the proposed actions.

Nancy Van Nortwick
Undersecretary
9909#025

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Requirements; Compliance with Rules; Classes of Permits; Report Accidents; Inspections and Transport/Delivery Truck Registration Decals (LAC 55:IX.1507, 1509, 1513, 1523, 1543)

In accordance with the provisions of R. S. 49:950 et seq., the Administrative Procedure Act, and R. S. 3:1354 relative to the authority of the Liquefied Petroleum Gas Commission to promulgate and enforce rules and regulations governing the storage, utilization, sale or transportation of anhydrous ammonia, the fabrication and installation of systems for the storage and utilization of anhydrous ammonia and installation of all other anhydrous ammonia equipment, notice is hereby given that the Commission proposes to amend its rules.

The proposed rule changes will do nine things:

1. will require the registration of all tanker trucks of one thousand gallons or more used to transport anhydrous ammonia in Louisiana and pay an annual registration fee of \$50, as mandated by Act 585 of the 1999 Regular Session;

2. will require all service and installation personnel, fuel transfer personnel, and tank truck drivers to successfully pass a personnel competency test and pay a fee of \$20 for administration of the test which will include the first year's competency card and will allow the commission to enter into reciprocal agreements with other states regarding examination requirements and accept as their own the results of the reciprocal state's examination, with each state retaining its own fee structure regarding examinations and other applicable fees, as mandated by Act 585 of the 1999 Regular Session;

3. will require personnel which have passed the competency test to renew their competency card annually and pay a fee of \$10 for renewal, as mandated by Act 585 of the 1999 Regular Session;

4. will increase the penalty authority of the commission from a minimum of \$50 and a maximum of

\$500 to a minimum of \$100 and a maximum of \$1000 for violation of its rules, as mandated by Act 585 of the 1999 Regular Session;

5. will require Class A-3 permit holder's name to appear on stationary storage tank sites;

6. will require Class A-4 permit holder's name to appear on tank trucks which require registration with the commission;

7. will require Class A-4E permit holder's name to appear on tank trucks which require registration with the commission;

8. will clarify accident reporting requirements to the commission and include reporting to the commission accidental releases at or above the quantity required to be reported under the Louisiana Right-To-Know Law.

9. will clarify inspections and transport/delivery truck registration decal procedures.

The proposed rule changes complies with the statutory authority granted the commission under LRS 3:1354.

Title 55

Part IX. Liquefied Petroleum Gas

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

Subchapter A. New Dealers

§1507. Requirements

A. - D.1. ...

E. Where applicable, applicant must provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck *used* in Louisiana shall be *registered* in Louisiana and shall be *inspected* annually by the commission or other qualified agency acceptable to the commission, however any transport and/or delivery truck registered and not being used in Louisiana must either have the inspection required of those used in Louisiana or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transports and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Each transport and/or delivery truck registered in Louisiana shall have an annual registration fee of \$50 paid and a valid registration decal affixed to the transport and/or delivery truck

H. All service and installation personnel, anhydrous ammonia transfer personnel and tank truck drivers must have a card of competency from the office of the director. All permit holders, except Class A-3 permit holders, must have at least one card of competency issued to their permit. A card of competency will be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

H.1. All cards of competency must be renewed annually by the permit holder. There will be a charge of \$10 per card for renewals. After expiration, there will be a penalty of \$3 per card. There will be a charge of \$10 for replacing a lost card, change of employer, or change of company name. A

card with an improper employer or company name shall not be valid.

H.2. - L. ...

AUTHORITY NOTE: Promulgate in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:

§1509. Compliance with Rules

A. ...

A.1. The commission may assess a civil penalty of not less than \$100 nor more than \$1000 for each violation of the rules and regulations adopted by the commission. Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its ruling in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:

§1513. Classes of Permits

A. - A.3.i. ...

j. The dealer's name shall appear on all stationary storage tank sites.

A.4. - A.5.i. ...

j. The dealer's name shall appear on all tank trucks which require registration with the commission.

A.6. - A.6.h. ...

i. Compliance with all other applicable rules and regulations will be required.

j. The dealer's name shall appear on all tank trucks which require registration with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:

Subchapter B. Dealers

§1523. Report Accidents

A. Any accident involving anhydrous ammonia or the transportation of anhydrous ammonia which causes injury to employees, property damage, injury to other persons, a fire or an accidental release of anhydrous ammonia that is reportable under the Louisiana Right-To-Know Law shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours. The office of the director shall accept, in lieu of the required report in writing, data and information from the information system established under the Hazardous Materials Information Development, Preparedness and Response Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:902 (July 1993), LR 25:

§1543. Inspections and Transport/Delivery Truck Registration Decals

A. - C. ...

D. Dealers who operate transport and/or delivery trucks in the state of Louisiana shall file Form DPSLP 8045 (R/97) with the Office of the Director between the dates of February 1 and April 30 each year to register and pay the required registration fees on all transport and/or delivery trucks *used* in Louisiana. New equipment and equipment being *used* for the first time in Louisiana and not registered during the registration period shall be registered and inspected before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R/97) by the Office of the Director or a registration decal by a commission inspector to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport and/or delivery truck over the highways of the state without the registration decal affixed.

E. Safety inspections are required on all transport and/or delivery trucks requiring registration. The required safety inspection shall be performed on all transport and/or delivery trucks registered on Form 8045 (R/97) and *used* in Louisiana, within a 3 month period prior to or a 3 month period subsequent to their registration. Safety inspections on transport and/or delivery trucks registered on Form 8045 (R/97) and not being *used* currently in Louisiana shall either be inspected the same as those being used or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transport and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Safety inspections shall be performed by a Liquefied Petroleum Gas Commission inspector or a qualified agency acceptable to the commission with acceptable documentation that a safety inspection has been performed by that qualified agency. Safety inspections by the Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:903 (July 1993), LR 25:

The commission will hold a public hearing October 28, 1999, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 20, 1999 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Requirements; Compliance With Rules;
Classes of Permits; Report Accidents; Inspections and
Transport/Delivery Truck Registration Decals**

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

There will be a small implementation cost to the state governmental units estimated to be \$3,810 in FY 99-00 and no cost in future years. There will be no implementation costs to any local governmental unit.

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

There will be an increase in revenues to the state governmental unit in FY 99-00 of \$2,248 and \$4,495 for succeeding fiscal years as a result of the proposed actions. There will be no increase or decrease in revenues to any local governmental unit.

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

There will be an increase in costs to the Anhydrous Ammonia permit holders calculated to be \$2,248 for FY 99-00 and \$4,495 for each future fiscal year. There will be no costs or economic benefit to any other group, person or non-governmental unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of the proposed actions.

Nancy Van Nortwick
Undersecretary
9909#017

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Services Provided by Persons and Business Entities
(LAC 55:III.1517, 1527, 1551-1571)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby gives notice of intent to adopt rules pertaining to public tag agents and related matters pursuant to R.S. 32:735(B) and R.S. 47:532.1, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The proposed rules address the application process and regulation of public tag agents who collect the vehicle registration license tax, collect the state and local sales taxes, and issuance of the permanent metal plate in connection with the initial registration of certain motor vehicles.

These rules also address the eligibility requirements for auto title companies, and the application of the federal Driver Privacy Protection Act to public tag agents.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

**Chapter 15. Services Provided by Persons and
Business Entities**

Subchapter A. Auto Title Companies

**§1517. License Suspension, Revocation, Cancellation,
Nonissuance, or Restrictions**

The following actions by a licensee or applicant or any of the licensee's or applicant's employees, managers, agents, representatives, officers, directors or owners may subject the licensee or applicant to suspension, revocation, or cancellation of the license by the department or the imposition of license restrictions by the department. Additionally, the department may deny an application and refuse to issue a license for any of the following actions by a licensee or applicant or any of the licensee's or applicant's employees, managers, agents, representatives, officers, directors or owners:

1. - 3. ...

4.a. the issuance of more than one temporary registration (T-marker) to a title applicant, or

b. the issuing of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law.

5. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 25:

**§1527. Name, Trade Name, Advertisements, and Other
Signage of Auto Title Companies**

A. Since auto title companies may charge convenience fees and may offer services not available at an Office of Motor Vehicles field office, no auto title companies shall display any sign which may mislead the public into believing that the auto title company's office or business establishment is a field office of the Office of Motor Vehicles except as otherwise provided in Chapter 15.

B. No auto title company shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement clearly and prominently includes a statement indicating the business's status as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Subchapter B. Public Tag Agents

§1551. Definitions

As used in Chapter 15, Subchapter B, the following terms have the meanings described below.

Commissioner—Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Driver Privacy Protection Act—the federal Driver Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L.

103-322), 18 U.S.C. §2721 et seq., as implemented by the Department in the *Louisiana Administrative Code*, Title 55, Part III, Chapter 5, Subchapter B.

Personal Information—information which includes the full name, complete physical address, and date of birth, driver's license number, and social security number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

**§1553. Authority; Businesses and Governmental
Entities**

A. R.S. 47:532.1 authorizes the Commissioner to establish a system of public tag agents authorized to collect the registration license taxes, as well as applicable sales and use taxes, and issue registration certificates and license plates to motor vehicles. An agent may be either a municipal or parish governing authority, a new motor vehicle dealer or his agent, or an auto title company. Public tag agents shall also be authorized to receive and process applications filed for certificates of title, duplicate certificates of titles, corrected certificates of title, recordation of liens, mortgages, or security interests against motor vehicles, conversions of plates, transfers of plates, replacements of lost or stolen plates and/or stickers, renewals of registration, duplicate registrations, and additional applications or transactions authorized by the commissioner.

B. The Commissioner and a public tag agent, other than municipal and parish governing authority, shall enter into a contract which shall state the required procedures for the implementation of authorized activities. See §1569 for a copy of the contract.

C. With the exception of the requirements for a surety bond, all rules and regulations as well as all contractual provisions shall apply to municipal and parish governing authorities acting as public tag agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1555. Convenience Fee

Public tag agents are authorized to collect a convenience fee in addition to the registration license tax. The convenience fee shall not exceed ten dollars (\$10.00) per license and may be retained by the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1557. Administrative Actions

A.1. The Deputy Secretary or his designee may suspend, revoke, cancel, or terminate the public tag agent's authority upon a violation by the agent or any agent's officers, directors, employees, owners, or other representatives of any responsibility or requirement established pursuant to the contractual agreement. LAC 55, Part III, Chapter 15, Subchapter B, or R.S. 47:532.1. In lieu of any of the previously listed actions, the Deputy Secretary may take other administrative action for such a violation including but not limited to the imposition of a fine or other sanction.

2. Additionally, the Deputy Secretary or his designee may suspend, revoke, cancel, or terminate the status of any person who is an employee, officer, director, or other

representative of the public tag agent upon a violation of any responsibility or requirement established pursuant to the contractual agreement. LAC 55, Part III, Chapter 15, Subchapter B, or R.S. 47:532.1. It shall be the responsibility of the public tag agent to insure that all employees, officers, directors, or other representatives of the public tag agent are familiar with these responsibilities and requirements.

B. Any request for an administrative hearing to review an action, order, or decision of the Department, relating to a public tag agent or any of the agent's officers, directors, employees, or other representatives, shall be made in writing and received by the Department no later than thirty days from the date the notice of the action, order, or decision was mailed or hand delivered, as the case may be. Any request for an administrative hearing shall be mailed to the Office of Motor Vehicles, Attention Hearing Request, P.O. Box 66614, Baton Rouge, Louisiana 70896 or hand delivered to the Office of Motor Vehicles Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1559. Applications

A. Those persons interested in becoming a public tag agent may inquire at the following address: Attention: Planning & Coordination, Office of Motor Vehicles, Post Office Box 64886, Baton Rouge, LA 70896.

B. No person shall act as a public tag agent until after submitting an application to the Department on the approved form, and after the application has been approved by the Department.

C. No person shall act as an employee, officer, director, or other representative of a public tag agent until after the person submits an application to the Department on the approved form, and after the application has been approved by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1561. Eligibility, Suspension, Revocation, or

Cancellation of Public Tag Agent's Authority

A. The following actions by a public tag agent, or by any of the public tag agent's employees, officer's, directors, managers, representatives, or owners, may subject the public tag agent to suspension, revocation, or cancellation of the public tag agent's authority by the Department. In the alternative, the Department may impose restriction on the public tag agent's authority as a result of any of the following actions by the public tag agent or applicant, or by any of the public tag agent's employees, officer's, directors, managers, representatives, or owners. The Department may also deny an application and refuse to grant the applicant authority to act as a public tag agent as a result of any of the following actions by the applicant, or by any of the applicant's employees, officer's, directors, managers, representatives, or owners:

1. Failure to remit taxes and fees collected from applicants for title transfers.

2. Repeated late filings.

3. Operating as an auto title company or public tag agent without a license or authorization for each location,

with an expired license or authorization, or without a valid surety bond on file with the Office of Motor Vehicles.

4.a. The issuance of more than one temporary registration (T-marker) to a title applicant, or

b. The issuance of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law.

5. Operating from an unlicensed or unauthorized location.

6. Changing the ownership of the public tag agent and not reporting in writing to the Office of Motor Vehicles within thirty (30) days from the date of such change.

7. Changing the officers or directors of the public tag agent and not reporting in writing to the Office of Motor Vehicles within thirty (30) days from the date of such change.

8. Being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a short fall in the collection of taxes owed.

9. The forwarding to the Office of Motor Vehicles by a public tag agent of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a short fall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles.

10. Conviction of, or an entry plea of guilty or nolo contendere to, any felony or conviction of, or an entry plea of guilty or nolo contendere to, any criminal charge, an element of which is fraud.

11. Fraud, deceit, or perjury in obtaining any license issued under this Chapter.

12. Failure to maintain at all times during the existence of the authorization, all qualifications required for issuance or renewal of the authorization.

13. Any material misstatement of fact or omission of fact in any application for the issuance or renewal of an authorization for a public tag agent.

14. The repeated submission of checks which have been dishonored by the bank on which the check was drawn.

B. The Department may revoke, suspend, or cancel any approval, license or permit of any employee, officer, director, manager, representative, or owner of a public tag agent who violates any provision of paragraph A of §1561. Any person subject to an order as provided in this paragraph shall not work for, or be associated with, the public tag agent in any manner unless approved by the Department in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1563. Name, Trade Name, Advertisements, and Other Signage of Public Tag Agents

No public tag agent shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement

clearly and prominently includes a statement indicating the business's status as a public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1565. Driver Privacy Protection Act

Every applicant for a driver's license, certificate of title, or for a new or renewed vehicle registration at a public tag agent's place of business shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting the form to the public tag agent. The public tag agent shall forward the properly completed form to the Department. The public tag agent shall advise the person submitting the form that any form which is incomplete or which is illegible shall not be processed and shall not be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1567. Bond Requirement

All public tag agents other than municipal and parish governing authorities shall furnish security for the faithful performance of their duties as follows:

1. Each public tag agent other than a municipal governing authority shall execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in a sum of not less than ten thousand dollars nor more than one hundred thousand dollars, if surety bond is available for purchase, which bond shall name the Department of Public Safety and Corrections, Office of Motor Vehicles as obligee and shall be subject to the condition that, if such public tag agent shall, throughout the entire term of the bond, timely file with the office of motor vehicles all applications delivered to such public tag agent for filing, and all fees and taxes collected by such public tag agent, the obligation shall be void. If the company does not do so, the obligation of the surety shall remain in full force and effect. A public tag agent having multiple locations need furnish only a single ten thousand dollar surety bond in addition to any other bonds required by law.

2. The surety bond furnished pursuant to §1567 shall be delivered to and filed with the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1569. Contracts

A. The commissioner and public tag agents other than municipal and parish governing authorities may enter into contracts which shall state the required procedures for the implementation of LAC 55, Part III, Chapter 15, Subchapter B. Such contracts may terminate upon violation of R.S. 47:532.1, LAC 55, Part III, Chapter 15, Subchapter B, or the provisions of the contract between the Department and the public tag agent foregoing provisions.

B. The contract between the Department and a public tag agent shall contain the following language and provisions subject to any revisions, additions, or deletions approved by the Deputy Secretary:

STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS
OFFICE OF MOTOR VEHICLES
ELECTRONIC PUBLIC LICENSE TAG AGENT'S CONTRACT

THIS AGREEMENT made and entered into on this date day of month, year, by and between the Deputy Secretary for the Department of Public Safety & Corrections, (hereafter referred to as Deputy Secretary), pursuant to authority vested in him by L.R.S. 47:532.1, wherein it is provided that the Deputy Secretary may establish a system of public tag agents. This contract is restricted to new motor vehicle dealers or their agents licensed pursuant to the provisions of L.R.S. 32:1254, and to auto title companies licensed pursuant to the provisions of L.R.S. 32:735.

WHEREAS, it is the intent of the Deputy Secretary to establish Agent(s) to make vehicle licensing services available directly to new motor vehicle dealers and auto title companies without requiring such dealer or title company representative(s) to visit a full-service branch office of the Office of Motor Vehicles (hereafter referred to as OMV) and

WHEREAS, it is the desire of the Deputy Secretary that an Agent or Agents be established and maintained at various locations within Louisiana for the purposes of receiving applications for the titling and registration of motor vehicles, issuing motor vehicle temporary registrations, license plates and/or decals and the collection of fees, taxes, penalties and other monies in connection therewith, and for the purposes incident to the duties of such Agent(s), the said Deputy Secretary hereby appoints as Agent, _____, subject to the conditions hereinafter set forth.

NOW, THEREFORE, WITNESSED THIS AGREEMENT;

1. THE TERM of this agreement shall be for the period beginning on the date day of month, year, and ending on the 31st day of May year, and this agreement shall thereafter continue from year-to-year, beginning on the first day of June and ending on the last day of May of the next succeeding year unless otherwise terminated by Agent upon thirty (30) days notice in writing to the Deputy Secretary, or by the Deputy Secretary for just cause at any time.

2. AGENT agrees to act as a public tag agent for the Deputy Secretary and to maintain, at Agent's expense, an Electronic Dealer License Agency of the Office of Motor Vehicles (OMV) at _____, Louisiana, or other such locations as Agent may establish and agree upon by the Deputy Secretary, and in accordance with the guidelines hereinafter established.

3. AGENT shall at its own expense cooperate with the OMV to establish electronic interface capability which will enable Agent to receive and transmit electronic information concerning the registration and titling of motor vehicles, to enable Agent to process files at its office, and to enable Agent to efficiently input and issue temporary vehicle registrations and license plates at no cost to OMV. The equipment and procedures used by Agent must meet the standards of compatibility established by Department of Public Safety and Corrections, Public Safety Services, Data Center.

4. AGENT shall designate at least one full-time employee as an authorized user of the OMV approved electronic network, and shall limit access to said network to those employees who have been so designated and who have also been appointed by the Agent and confirmed by the Deputy Secretary as authorized users of the network. Agent shall notify OMV of changes of authorized user personnel (as appointed) within forty-eight (48) hours, and confirmation or rejection by the Deputy Secretary of such changes shall be made within fourteen (14) days.

5. THE DEPUTY SECRETARY will make available to Agent, by way of the OMV approved electronic network, access to OMV vehicle record files, such access to be limited in scope to that information needed by Agent as an Electronic Dealer License Agent and in the conduct of the business of the Agent. The information obtained through such access is to be used exclusively for the conduct covered by this agreement and Agent is prohibited from disseminating the information received from OMV for any other purpose whatsoever.

6. THE DEPUTY SECRETARY may establish reasonable standards for the operation of participating Agents. The standards will be detailed in a publication entitled "Vehicle Registration Guidebook for Licensed Agents." These standards as established by the Deputy Secretary or the Director of the Data Center for Public Safety Services of the Department of Public Safety & Corrections shall become and are to be considered to be a part of this contract as such reasonable standards are developed, and Agent agrees to abide by them.

AGENT specifically agrees:

a. To attend, and to have all authorized users of the OMV approved electronic network attend, training workshops provided for agents;

b. To deliver all monies and documents collected as Agents to the Office of Motor Vehicles as under the same rules as branch OMV offices, or as directed by the Deputy Secretary by such means as the Deputy Secretary may direct;

c. To issue temporary registration plates, license plates, decals or any other OMV related materials to OMV customers only in accordance with the vehicle registration guidebook for Agents and other pertinent OMV procedures as promulgated from time to time;

d. To submit reports, including daily activity reports, inventories of temporary registration plates and decals, and such other reports as may be required by the Deputy Secretary, and in all other respects to comply with the laws of the State of Louisiana;

e. To receive, securely store, issue, account for, and be fully responsible for such temporary registrations, license plates or decals or other items of value as may be entrusted to Agent by the Deputy Secretary.

7. AGENT will receive no compensation from the Deputy Secretary in connection with this agreement. Agent will bear the cost of all physical equipment, i.e., telephone lines, computers, computer programming and other costs to be agreed upon.

8. FUNDS received by Agent from other business pursuits or activities not related to OMV license agency work shall not be commingled.

9. THE DEPUTY SECRETARY, or his designated representative, during normal working hours, shall have the right to inspect and audit such records and reports as Agent is required to maintain at reasonable times and places during the term of this agreement and for one year thereafter; likewise, the Legislative Auditor and the Secretary of the Department of Revenue would have the right to inspect the records of Agent.

10. AGENT shall safeguard the electronic equipment which provides access to OMV approved electronic network and limit access to said equipment and to the data and information from OMV files which are available through said equipment to those persons who are authorized users of the network (and who have been appointed by the Deputy Secretary and who have been properly instructed as to their duties and responsibilities as authorized users under this contract).

11. AGENT shall keep copies of registrations until written authorization is received from the Department approving destruction.

12. AGENT shall implement procedures to ensure that any other printed copy of a vehicle record obtained from OMV files shall be destroyed when its legitimate use is complete.

13. THE DEPUTY SECRETARY may suspend or terminate the access privileges of Agent upon the breach of or failure to fulfill any responsibility established pursuant to this agreement or for any conviction of a violation of Louisiana Statutes related to this agreement.

14. AGENT may only access OMV for computer files during the normal departmental office hours which excludes, for example, evening, weekend, and holiday access, unless prior permission is granted.

15. AGENT shall comply with all laws relating to privacy, shall not sell or disseminate information obtained from OMV computer files, nor compile any lists of individuals obtained by virtue of access to OMV files for purposes of soliciting business or advertisement.

16. AGENT shall be liable for and shall indemnify and hold harmless the Deputy Secretary and OMV for any misuse or misappropriation of any vehicle record or related information obtained from OMV in connection with this Contract. Agent likewise shall be liable and will hold OMV harmless for any damages resulting from the acts or omission of Agent or Agent's personnel relating to Agent's duties hereunder in registering or titling vehicles, issuing motor vehicle temporary plates, license plates, and/or decals, the collection and handling of taxes, fees and other monies collected in connection therewith, safeguarding OMV materials such as license plates and decals, or other activity undertaken by Agent under this contract, including, without limitation, reasonable attorney's fees, tax penalty: 5% of sales tax due for thirty (30) days or fraction thereof (not to exceed 25%), interest: 1.25% of sales tax due for thirty (30) days or fraction thereof (15% Annum with no maximum) on taxes collected but not paid to the state and other costs of defending any such action or claim.

17. AGENT shall be responsible for funds paid to Agent by dealer related to transactions processed by Agent. Under no circumstances shall the Agent be responsible for checks or money orders issued to OMV by dealer. Agent shall be able to attach "Dealer's Bond" in cases of dealer issuing agent a "bad check."

18. AGENT having a single location shall execute and furnish an acceptable surety bond in the minimum amount of twenty-five thousand dollars (\$25,000.00) with the Department of Public Safety & Corrections. Agent having multiple locations shall furnish an acceptable surety bond in

the amount of thirty-five thousand dollars (\$35,000.00) with the Department of Public Safety & Corrections.

19. AGENT is authorized to collect a convenience fee in addition to the registration license tax. The convenience fee shall not exceed ten dollars (\$10.00) per license. This fee may be retained by the public tag agent (R.S. 47:532.1(C)).

20. THIS AGREEMENT shall not be assigned.

21. THIS AGREEMENT shall not become effective until the agent has complied with all of the requirements of this contract.

22. THIS AGREEMENT is subject to revision and amendment if necessary to implement new law.

IN WITNESS WHEREOF, the said parties have hereunto set their hands the day and year first written above.

Office of Motor Vehicles	Agent, By:
Department of Public Safety and Corrections State of Louisiana	Signature _____
Deputy Secretary	Print Name _____
Approved as to form:	Name of Business or Company _____
Attorney for OMV	Physical Address _____
	Mailing Address _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1571. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule in LAC 55, Part III, Chapter 15, Subchapter B, regarding public tag agents, shall submit a written petition to the deputy secretary. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the deputy secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition includes reference to a specific transaction handled by the Department or a public tag agent, or if the petition relates to the issuance, revocation, cancellation, or denial of any license, permit or authorization, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, or denial of the license, permit or authorization by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

C. The deputy secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The deputy secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the deputy secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The deputy secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Friday, October 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, October 25, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*.

1. The Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules only provide an alternative means for individuals to title and register motor vehicles without appearing at a Motor Vehicles field office.

2. The Effect on the Authority and Right of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect on the Functioning of the Family. These rules should not impact the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Those persons who choose to use a public tag agent's office as opposed to a Motor Vehicle field office may pay a convenience fee up to \$10.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should not affect children as they cannot own property.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. There rules should make it easier for family members to title and register motor vehicles. These rules do not affect local governments as only the state titles and registers motor vehicles.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Services Provided by Persons and Business Entities**

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

There should be no cost to state government to implement these amended and proposed rules as the Department is already providing these services and regulating the involved entities. There should be no costs to local governments as only the state regulates these entities. Local governments do not issue motor vehicle titles or registrations.

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

There should be no change in revenue collections to either the state or local governments in connection with the implementation of these rules. As stated above, the Department is already providing these services and regulating the involved entities. There should be no change in revenue collections to local governments as only the state regulates these entities. Local governments do not issue motor vehicle titles or registrations.

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

The only costs to the regulated entities would be to those entities which use the following or similar phrases in their names, advertising, trade names, logos, etc.: office of motor vehicles, motor vehicles office, or motor vehicle office. These entities would incur the costs necessary to bring themselves into compliance with the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9909#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Safety Enforcement Section

Motor Vehicle Inspection Program
(LAC 55.III.801-835)

Under the authority of R.S. 32:1301 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section (Department), hereby gives notice of intent to repeal existing sections of the Vehicle Inspection Rules and Vehicle Emission Rules, and to adopt new rules regulating vehicle inspections and vehicle emissions.

The proposed new rules address the following five general areas: safety inspections, vehicle inspection and maintenance

programs, inspection procedures for school buses, federal motor carrier safety regulations, and general administrative matters. These rules shall govern the appointment, operation, and termination of inspection stations. The existing rule regarding out-of-state inspection stations, LAC 55:III.808 is retained.

The following is a list of sections in the *Louisiana Administrative Code* which the Department intends to repeal: LAC 55, Part III, Chapter 8, §§801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, and 847; LAC 55, Part III, Chapter 9, §§901, 903, 905, 907, and 909; LAC 55, Part III, Chapter, §808, adopted on December 20, 1997 in Volume 23, Number 12 of the Louisiana Register, which authorized out-of-state inspection stations is not repealed, but is retained in Chapter 8 along with the following proposed rules.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter A. General

§801. Definitions

As used in this chapter, the following terms have the meanings described below:

Department—Department of Public Safety & Corrections, Office of State Police, Safety Enforcement Section.

Deputy Secretary—Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services.

Person—an individual, partnership, corporation, limited liability company, or other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§803. Foreword

A. The inspection of vehicles as prescribed in the Louisiana Motor Vehicle Inspection Law is conducted in privately-owned and operated garages and repair shops which have been approved by the Louisiana Department of Public Safety and Corrections. Although these approved inspection stations are privately owned businesses, the inspection of vehicles in compliance with the law is not entirely a private matter. During the course of performing these inspections, the station and its personnel are acting as representatives of the State of Louisiana. The guiding principal of station personnel should be, and must be, providing honest and efficient service to the citizens of our state.

B. Official motor vehicle inspection station operators and employees should be courteous and patient when explaining that the requirements of the motor vehicle inspection laws are designed to promote safety. It should be clearly understood by all employees that the primary function of the inspection station is not an arbitrary enforcement of the law but rather the advancement of highway safety.

C. All inspection station personnel must adopt the attitude that they sell safety. They must also bear in mind that the placement of one inspection certificate on an unsafe

vehicle may be the cause of a serious crash. They owe a duty to themselves, their families, other vehicle owners and operators not to jeopardize lives through error, carelessness or indifference.

D. The Official Motor Vehicle Inspection Station License may be revoked if any station owner, operator or employee fails to achieve and maintain a priority standard of service to the motoring public.

E. Each official Motor Vehicle Inspection station shall give priority to customers seeking motor vehicle inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter B. Safety Inspections

§805. Requirements, Duties, Responsibilities

A. Classes of Inspection Stations. The classes of Official Motor Vehicle Inspection (MVI) Stations authorized in Louisiana are:

1. Public Station. Stations authorized by the Louisiana Department of Public Safety and Corrections to inspect any and every vehicle presented for inspection. When warranted and approved by the Department, certain stations may be designated to inspect only specific classes of vehicles. When authorizing a public station to inspect only a certain class vehicle, the class of vehicle to be inspected and justification for each authorization shall be noted in the remarks section of the station application form. Such stations will display a sign immediately adjacent to the official Motor Vehicle Inspection sign designating the classes of vehicles which can be inspected. The designation of a specific class of vehicle to be inspected by a station may be as follows:

- a. trucks and trailers only;
- b. passenger vehicles and light duty trucks only;
- c. boat trailers only;
- d. motorcycles only; and
- e. stations inspecting commercial vehicles and school buses are required to have special authorization from the Safety Enforcement Supervisor;

2. Dealer Station. Any person, association or corporation licensed as a dealer of vehicles which are subject to registration may be licensed as an official MVI dealer inspection station. These stations may only conduct inspections of both new and used vehicles owned by the dealer which are for sale or demonstration. A notation will be made in the remarks section of the application form indicating what type of vehicles are to be inspected. When a dealer is authorized to inspect, it is mandatory that all vehicles sold as new or used must be properly inspected and a valid inspection certificate affixed thereto as prescribed by the Motor Vehicle Inspection Regulation;

3. Fleet Station. Any motor vehicle repair or maintenance shop operated or maintained by a person, firm or corporation in whose name ten (10) or more vehicles are licensed under the provisions of L.R.S. 47:462, may be designated as an official fleet MVI station. Fleet stations may inspect only those vehicles registered to or under bona fide lease to the company designated as an official fleet inspection station;

4. Government Station. A town, municipality, city, parish or state agency to which the Department has granted authority to inspect vehicles owned and registered to these

government agencies. These stations will not be approved unless they have their own repair shop;

5. School Board Station. A school board may be granted authority to inspect and certify vehicles operated or contracted by that board;

6. Nonattainment area stations are inspection stations receiving specialized training and licensing. Only Nonattainment Area Stations are permitted to inspect vehicles registered within this area. The Nonattainment Area consists of five parishes. These parishes are designated by the four digit domicile code on the registration. Domicile codes beginning with 03 (Ascension Parish), 17 (East Baton Rouge), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge) are within the Nonattainment Area.

B. Request for Appointment as an Official Inspection Station

1. A written request must be submitted to the Safety Enforcement Sergeant in the District where the business is located in order to become an official MVI station. A Safety Enforcement Officer will be assigned to inspect the premises and interview the personnel to determine that all minimum requirements are met.

2. Should a person, firm or corporation currently operating a motor vehicle inspection station make application to add commercial inspections at their location, a thorough investigation and evaluation of the performance of the existing station will be conducted. Should the investigation show that the existing station has been operated within the rules and regulations of the motor vehicle inspection program, and the owner/operator has demonstrated a willingness and desire to fulfill all of the obligations and responsibilities as an MVI station operator, the application for the new station, if all other requirements are met, may be approved.

C. Minimum Requirements for a Motor Vehicle Inspection Station

1. The following minimum requirements must be met prior to approval as an official MVI station:

a. must be in business for ninety (90) days at the present location. However, if there is no other official MVI station within twenty-five (25) miles of the applicant location, the required operation period shall be thirty (30) days;

b. the prospective MVI station must project an image of a clean and orderly place of business;

c. MVI station location must comply with zoning codes.

D. Space Requirements

1. All motor vehicle inspections must be conducted on the premises licensed and must be conducted on a hard surface (concrete or asphalt). Notwithstanding any law, rule or administrative policy to the contrary, official MVI stations shall not be required to reserve a service bay or stall for the exclusive purpose of conducting motor vehicle inspections.

E. Equipment Required for Safety Inspections

1. The following required equipment will be readily accessible during inspection hours:

- a. windshield scraper for removing old certificates;
- b. numerical stamps (#1 through #12) one inch (1") in size, an X stamp, and a black indelible ink stamp pad;
- c. tire depth gauge;
- d. measuring tape at least six (6) feet in length;

e. flashlight;

f. tint meter (two-piece type);

g. adjustable mirror; and

h. a brake test area to accommodate a twenty mile per hour (20 mph) road test which has been approved by a Safety Enforcement Officer or a brake testing machine which has been approved and properly installed;

i. a telephone number listed in the telephone book under the name of the station as it appears on the station license, with a telephone located at the place of business;

j. evaporative system test equipment which includes fuel inlet pressure and gas cap pressure test equipments per the United States Environmental Protection Agency (US EPA) specifications. Stations must have approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of LAC 55, Part III, Chapter 8, §803(E)(1)(k) shall only apply to inspections stations located in the Non-attainment Area;

k. mechanic s creeper. The provisions of LAC 55:III.803.E.1.k shall only apply to commercial motor vehicle inspection stations;

l. soapstone marker. The provisions of LAC 55:III.803.E.1.k shall only apply to commercial motor vehicle inspection stations;

m. floor jack or lift. The provisions of LAC 55:III.803.E.1.k shall only apply to school bus inspection stations;

n. additional equipment may be required by the Department as it may be deemed necessary, for the proper operation of an inspection station. The Department shall give prior written notice of any additional equipment requirements. After such written notice is given, such additional equipment requirement shall be enforced as if included in these rules.

F. Responsibility of Station Owner or Operator Waiting on Response. Upon application for designation as an official MVI station, the owner/operator has pledged himself to:

1. act as directed by the Louisiana Department of Public Safety and Corrections when inspecting vehicles in accordance with the Official MVI Manual;

2. maintain a current, updated Official MVI Manual on the premises at all times. The manual will be furnished by the Safety Enforcement Section. The manual will be maintained in good condition and be readily available to the mechanic inspector. Any changes in the Official Motor Vehicle Inspection Manual received by the station operator must be placed immediately in the station s Official Motor Vehicle Inspection Manual. It is the owner/operator s responsibility to ensure all of his employees involved in the inspection program are aware of any changes;

3. use only employees authorized by the Louisiana Department of Public Safety and Corrections to perform the actual inspection of motor vehicles;

4. conduct honest, thorough and efficient inspections in accordance with motor vehicle inspection laws and the Department s regulations;

5. maintain in good working order all required tools and equipment described in the minimum requirements, and to cease operations immediately when this condition is not met;

6. maintain a clean and orderly place of business and shop. The owner/operator is responsible for his employees in this respect;

7. refrain from the use of alcohol or drugs while on duty;

8. keep an adequate supply of both inspection and rejection certificates and all necessary forms on hand at all times;

9. perform inspections and affix certificates of inspection only at the business location designated on the station license, affix valid certificates of inspection only to those vehicles which have been properly inspected and have passed the safety requirements, and submit the required inspection report to the local Safety Enforcement Office;

10. have at least one (1) approved mechanic inspector on duty to make inspections during the hours of business each normal working day. The Safety Enforcement Section requests that stations have at least two (2) mechanics certified for each business location;

11. be open for inspections at all times each day during normal business hours and to perform inspections throughout the year. Inspections shall be conducted a minimum of forty (40) hours per week;

12. ensure that all mechanic inspectors attend all meetings, training programs and various schools required by the Louisiana Department of Public Safety and Corrections;

13. be responsible for the actions of his mechanic inspectors in all matters relating to motor vehicle inspections. All civil penalties will be addressed to the station and the payment of penalties will be the responsibility of the owner/operator. The station owner/operator is responsible for all violations concerning the operation of his/her station including the actions of his/her mechanic inspectors;

14. immediately follow all directives and instructions issued by a Safety Enforcement Officer; and

15. properly inform all employees of the rules and regulations set forth herein. Continued supervision of all mechanics authorized to inspect motor vehicles must be maintained.

G. Requirements for Approval of Mechanic Inspectors. Before any mechanic can perform inspections, a Safety Enforcement Officer shall approve the mechanic's qualifications and authorize him to inspect. The following requirements shall be met by each applicant prior to being approved as a mechanic inspector:

1. shall be at least eighteen (18) years of age;

2. shall not have a felony conviction for related offenses within five (5) years of application;

3. shall be able to read and write the English language. They shall be able to complete MVI certificates and reports accurately and legibly;

4. shall possess a valid Louisiana operator's license. The operator's license shall not be subject to any order of suspension, revocation or cancellation or any other order or action which prevents the issuance of a duplicate or renewed operator's license. An approved mechanic inspector residing in a bordering state or those on active military duty shall furnish a valid operator's license from their resident state along with a copy of their driving record. The suspension, revocation, or cancellation of a mechanic inspector's operator's license shall be grounds to suspend his authority

to inspect vehicles. A mechanic inspector shall notify the Safety Enforcement Section immediately of such suspension, revocation, or cancellation of his operator's license;

5. shall successfully complete a training program conducted by the Safety Enforcement Section before being licensed to inspect vehicles. This training shall include all aspects of the Motor Vehicle Inspection program. Mechanic inspectors employed by stations approved to inspect school buses and commercial vehicles shall also be properly trained in those areas prior to being licensed. Mechanic inspectors who wish to be employed by a station within the five parish Nonattainment Area must attend special training and cannot transfer from a station outside this area without first successfully passing said training;

6. a mechanic may be approved to inspect at more than one location. A separate application and fee for each location must be submitted;

7. upon completion of the training program, the mechanic will be certified as a mechanic inspector. The Department will issue a license designating approval to that mechanic, authorizing him to conduct inspections of vehicles at a particular location. The license must be produced upon request by any law enforcement officer. This license is the responsibility of the mechanic inspector. If, for any reason, the license cannot be produced, the mechanic inspector may be required to attend a motor vehicle inspection training school to be re-licensed.

H. Duties and Responsibilities of Authorized Mechanic Inspectors

1. The authorized mechanic inspector shall:

a. always properly and thoroughly conduct an official inspection of vehicles presented for that purpose;

b. only affix inspection certificates to an approved vehicle. By doing this, he is placing a certificate of safety on the vehicle, indicating it is safe for operation on the highway;

c. be sure that no life may be jeopardized by his error, carelessness or indifference;

d. owe a duty to his employer, who has pledged to assist in safeguarding the lives of motorists, to ensure against the operation of unsafe vehicles;

e. inform the owner/operator of the actual condition of his vehicle after completion of an inspection;

f. verify that all equipment is of an approved type and is properly adjusted as prescribed. Evaporative System Test equipment must be properly calibrated as recommended by the manufacturer.

g. perform each inspection with the understanding that he assumes full responsibility for the quality of the inspection when he signs the inspection certificate and places his name on the station's weekly/monthly log report;

h. always remember that he has been authorized to inspect vehicles because he has demonstrated the knowledge to act as an agent of the State of Louisiana when inspecting vehicles;

i. abide by the inspection laws, rules, regulations and/or procedures. Failure to do so by an authorized mechanic inspector may result in a civil penalty being imposed and could result in the permanent revocation of his inspection privileges and may subject him to criminal prosecution;

j. when changing employment from one inspection station to another, the mechanic inspector shall return the old mechanic inspector license and be re-certified at the new place of employment by a Safety Enforcement Officer before performing any inspections at the new location. Failure to obtain certification at the new location may result in revocation of the inspector's license; and

k. determine whether the vehicle being presented for inspection should be inspected under the normal inspection procedures, school bus regulations or commercial criteria. The inspector shall not examine a vehicle he is not certified to inspect.

2. The Department reserves the right to withdraw for cause its authorization of any mechanic inspector or to re-examine a mechanic inspector at any time. If a mechanic inspector has been unlicensed for one year or more he must be re-trained before inspecting any vehicle.

I. Approval as an Inspection Station

1. No inspection station shall be appointed as an official Motor Vehicle Inspection station until all of the requirements have been met.

2. If the application is approved, the applicant will be notified. Once the applicant and a permit fee, a MVI station license will be issued to the applicant. The station will be required to pay an annual renewal fee. An applicant for a public Motor Vehicle Inspection station shall also provide a \$5,000.00 bond.

3. When all conditions have been met, the station license will be delivered to the station by a Safety Enforcement Officer appointed to supervise the station. The station license will be presented to any law enforcement officer upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§807. Operation as an Official Motor Vehicle Inspection Station

A. Change of Name, Location and/or Ownership

1. Persons operating under a Motor Vehicle Inspection station license contemplating a change of name, location and/or ownership must notify the local Safety Enforcement Office before a change is made. All changes must be approved by the Department prior to being made by the station.

2. Before a change can be made, the former Motor Vehicle Inspection station license and all mechanic license(s) must be returned to the local Safety Enforcement Office. New station and mechanic applications, along with the appropriate fees and a new bond, must be submitted to reflect the change. The Safety Enforcement Section will issue a new Motor Vehicle Inspection station license and mechanic license(s). On the effective date of the change, all inspections will cease under the former Motor Vehicle Inspection station license.

3. For a change of name, location and/or ownership, a public inspection station must submit a new bond or a change rider for the existing bond.

B. Going Out of Business or Discontinuance of Inspections

1. Prior to going out of business or discontinuing inspections, a Motor Vehicle Inspection station owner/operator must immediately notify the local Safety Enforcement Office. Either occurrence shall result in the cancellation of the Motor Vehicle Inspection station license. All unused inspection and rejection certificates, along with the Motor Vehicle Inspection station license and all mechanic licenses, must be returned to the local Safety Enforcement Office.

C. Official Motor Vehicle Inspection Sign (Public Stations Only)

1. All public Motor Vehicle Inspection stations will be required to display an official Motor Vehicle Inspection sign which must be purchased from the Safety Enforcement Section. The days and hours of operation must also be displayed. The sign must be displayed in such a manner as to be easily seen by the motoring public.

2. If the inspection station is restricted to a certain class of vehicle, another sign designating which vehicles are to be inspected must be placed immediately adjacent to the official Motor Vehicle Inspection sign. Stations authorized to inspect commercial vehicles and/or school buses must display a sign stating this. The lettering on this sign, as well as the days and hours of inspection, must be a minimum of three inches (3") in height.

D. Periods of Inspection

1. All vehicles inspected under the provisions of L.R.S. 32:1301 through L.R.S. 32:1310 (Motor Vehicle Inspection Law) are required to be inspected at least once annually.

2. The inspection period shall begin January 1st of each year.

3. The re-inspection month shall be determined by the month indicated on each particular vehicle's previous inspection certificate.

4. A vehicle presented for inspection in a month other than the expiration month noted on the previous inspection certificate shall be issued a certificate with the month the new inspection was performed.

5. Vehicles which have had windshields replaced and have a valid inspection certificate need not be re-inspected, but must carry the original certificate in the vehicle and produce it upon demand. The certificate must not be voided or mutilated and must be legible on both sides. This in no way prohibits the owner/operator from having the vehicle re-inspected after installation of the new windshield.

6. Vehicles which have had inspection certificates lost, stolen or damaged must be re-inspected. The fee may be charged for this inspection.

E. L.R.S. 32:1306(G) Place of Inspection

1. Inspection stations need not reserve a bay or stall exclusively for inspections. However, a station shall give priority to customers seeking motor vehicle inspections.

2. Inspection and rejection certificates shall be issued to a vehicle only by an authorized, licensed mechanic inspector within an area approved by the Safety Enforcement Supervisor and at the authorized inspection station.

F. Ordering Inspection/Rejection Certificates

1. All orders for inspection or rejection certificates should be directed to the local Safety Enforcement Office. Payment will be by money order or check made payable to the Department of Public Safety and Corrections.

2. Demands for inspection or rejection certificates should be anticipated before the station's supply is depleted. Every Motor Vehicle Inspection station will be required to have an adequate supply of certificates on hand at all times. Mail orders should allow ten (10) working days for delivery. Also, a note should be on the outside of the envelope indicating that a sticker order is enclosed.

3. Except as otherwise provided in LAC 55, Part III, Chapter 8, inspection and rejection certificates are not transferable from one Motor Vehicle Inspection station to another. However, report forms, requisition forms and stamps may be borrowed from another station.

4. Only authorized commercial Motor Vehicle Inspection stations will be permitted to purchase commercial inspection certificates.

5. Official Motor Vehicle Inspection signs, inspection and rejection certificates, requisitions forms, weekly/monthly log reports and all other documents may be obtained from the local Safety Enforcement Office.

G. Lost or Stolen Inspection/Rejection Certificates

1. All inspection and rejection certificates are the property of the Louisiana Department of Public Safety and Corrections and must be safeguarded against loss. They must be kept in a secure place under lock and key, available only to the mechanic inspector. (Inspection/rejection certificates can only be placed on an inspected vehicle.)

2. Each inspection station will be accountable for each inspection and rejection certificate it receives from the Department. Lost or stolen certificates must be accounted for on the weekly/monthly log report by numerical listing. In lieu of the inspection information, the word "lost" or stolen must be noted on the weekly/monthly report by that certificate number.

3. Should an inspection or rejection certificate be lost or stolen, the local Safety Enforcement Office must be notified immediately. If a theft is suspected, the local law enforcement agency shall be asked to investigate the theft and forward a copy of the police report to the local Safety Enforcement Office.

4. The loss of any certificates may be grounds for the imposition of a civil penalty or revocation of the station license. Theft of certificates or possession of stolen certificates may result in prosecution of the person(s) responsible.

H. Warning Notices. A written warning may be issued by a Safety Enforcement Officer for any infraction of the rules and regulations. This will become a permanent part of the station's file and will be a basis for determining the issuance of a civil penalty or revocation. A copy shall be given to the mechanic inspector and/or the station owner at the time of issuance.

I. Motor Vehicle Inspection Weekly/Monthly Log Report

1. All entries must be legible and made in black ink only. The audit number of the inspection or rejection certificates issued must be listed in numerical order and must be shown on the report. All other required information must be provided for the vehicle inspected. Vehicle information

will be obtained from the registration. The operator's license number must be taken from the driver's license and not from the registration.

2. Torn, voided or damaged inspection or rejection certificates must be recorded on the log report and attached to the report when it is submitted to the Safety Enforcement Office. Lost or stolen certificates must also be listed numerically on the report (see Lost or Stolen Inspection/Rejection Certificates)

3. Failure to submit all required information on the weekly/monthly report may result in the issuance of a civil penalty or revocation of the Motor Vehicle Inspection station license for that station. Falsifying information on any official document, including the inspection report, is a criminal offense. Felony charges may be brought against anyone providing fraudulent information on an inspection report or forging anyone's signature.

4. The public Motor Vehicle Inspection station's week will begin on Saturday and end at the close of business on the following Friday. These reports must be postmarked no later than Saturday, 12:00 noon.

5. Dealer, fleet, and government Motor Vehicle Inspection stations will be required to submit a report to the local Safety Enforcement Office once each month and must be received by the fifth (5th) of the following month.

6. A second copy of these reports shall be kept in the log book at the Motor Vehicle Inspection station for fourteen (14) months. These copies must be available for inspection by any law enforcement Officer.

7. If a station does not inspect any vehicles during a given week (public) or month (fleet, government or dealer), a log report shall be submitted as previously described with the word "none" written across the report.

8. Authorized commercial Motor Vehicle Inspection stations are also required to follow the above regulations.

9. The Louisiana Vehicle Inspection/Maintenance Parameter Form must be properly filled out by stations in the five parish Nonattainment Area for every vehicle which requires an emissions test. Parameter Forms should be mailed directly to the Department of Environmental Quality, 5222 Summa Court, Baton Rouge, LA 70809. In the Nonattainment Area there may be separate and additional reports required as mandated by the Department of Environmental Quality. Stations within this area are to properly complete all required reports and they must be postmarked no later than Saturday, 12:00 noon each week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§809. General Inspection Requirements

A. Fees for Inspection

1. The fee for safety and commercial inspections will be the current fee set by law for each inspection performed. Headlamp adjustments are included in this charge. No sales tax will be collected on inspections.

2. A fee may be charged by the inspection station for every inspection done whether approved or rejected.

3. A rejected vehicle is entitled to one (1) free re-inspection if returned to the same inspection station within the allowed period of time.

B. Repairs or Adjustments

1. Headlamp adjustments are included in the inspection of a vehicle as stated in L.R.S. 32:1306(C)(2). No other repairs or adjustments should be made without authorization by the owner or operator of the vehicle. Any unauthorized repairs or adjustments may result in a civil penalty being imposed or the revocation of the station's license and/or mechanic inspector's license.

2. The owner of a vehicle is under no obligation to have defects corrected by the inspection station. The owner may have the vehicle repaired where he chooses or may repair the vehicle himself. The inspection station is only required to perform a complete and proper inspection.

C. Issuance of Inspection Certificates

1. An inspection certificate will be issued for every vehicle inspected which passes the safety requirements. The month that a certificate is issued shall be indicated by an insert placed in the appropriate area of the certificate. The year the certificate expires will also be indicated by an insert placed in the appropriate block on the certificate. All of the information on the back of the sticker must be filled in with black indelible ink. The certificate will be firmly attached to the lower left-hand corner of the windshield as viewed from the driver's seated position. Under no circumstances will an inspection certificate be applied to the windshield without the month and year of expiration being noted in the appropriate blocks provided.

2. Mechanic inspectors shall fill in all requested information on the rear of the inspection sticker and sign in the appropriate space using a black ink pen.

3. When inspecting motorcycles, motor driven cycles, trailers and semi-trailers, an "X" will be stamped on the face of the inspection certificate. Under no circumstances will the stamp cover the month nor the year of expiration insert or the audit number of the inspection certificate. Inspection certificates of this type will be attached to the registration certificate for the vehicle.

4. All trailers will be considered a separate inspection and a certificate will be issued for each. A separate fee will be charged for each vehicle inspected. The inspection certificate for a trailer will never be placed on the windshield of the towing vehicle.

5. Each inspection shall be a complete inspection. All of the items noted within these rules and regulations shall be inspected.

6. Pre-inspections cause hardship for the customer and will not be allowed.

7. Use of the stamp kit in place of certificate inserts is prohibited unless authorized by the Safety Enforcement Office. Marking pens are not to be used in place of an insert.

D. Issuance of Rejection Certificates

1. When a vehicle is presented for inspection and fails to pass the safety standards, the current fee will be charged for the service of inspecting the vehicle. The owner or operator will be advised of the defects causing the vehicle to fail inspection.

2. A rejection certificate is valid for a time period of thirty (30) days from the date of issuance. The owner or operator of the rejected vehicle is allowed this thirty (30) day period to make the necessary repairs or replacements which will place the vehicle in compliance. If the vehicle presents no hazard to the public, it may be used for normal

activities. If the vehicle presents a definite hazard to the public, a restricted twenty (20) mile limitation on usage may be imposed (see Issuance of Restricted Rejection Certificate).

3. When a rejected vehicle is returned to the same inspection station within thirty (30) days of issuance, the inspector is required to check only the items previously found defective unless other obvious defects are noted. There is no charge for this re-inspection provided that the defects are corrected and the vehicle is returned to the same inspection station within the thirty (30) day time period. If the vehicle is taken to another inspection station, a complete inspection is to be performed and another fee is required.

4. Only one (1) rejection certificate may be issued to a vehicle. Under no circumstances shall any station issue a second rejection certificate to a vehicle.

5. An inspection station may not issue a rejection certificate solely because the station is out of inspection certificates. If the station's supply of inspection certificates becomes depleted, the station must completely cease inspecting until a new supply of certificates is obtained.

6. All rejection certificates must be entered in the weekly/monthly log report in numerical order and must be accounted for. The log report must indicate the items found defective by making a notation in the appropriate blocks provided. The reverse side of the rejection certificate must also indicate the defective items found.

7. Should the owner or operator of a rejected vehicle refuse to accept the rejection certificate, it will be noted as such on the log report. The completed rejection certificate will be attached to the log report and sent to the local Safety Enforcement Office at the end of the inspection week as required.

8. The rejection certificate must be filled out in black ink only. It will be noted on the reverse side of the rejection certificate, the date of inspection, a brief description of the vehicle and the expiration date of the rejection certificate. The face of the rejection certificate will be stamped with the number of the month in which the vehicle was inspected.

9. The rejection certificate will be affixed to the lower left-hand corner of the windshield as viewed from the driver's seated position. The owner or operator will be told by the mechanic inspector of the thirty (30) day expiration of the certificate and what items caused the vehicle to fail inspection. The owner or operator will be advised of the procedure for re-inspection.

10. If the vehicle is returned for re-inspection within the thirty (30) day limit and the defective items have been corrected, and for some reason the station cannot re-inspect the vehicle, the fee collected at the time of rejection must be returned to the owner or operator.

11. If the vehicle fails inspection due to an emission system defect, the reverse side of the rejection certificate will be marked to indicate which system failed.

E. Issuance of Restricted Rejection Certificates

1. If a rejected vehicle presents a definite hazard to the public, the vehicle's usage shall be restricted. A restricted rejection certificate shall be issued limiting the vehicle's usage to twenty (20) miles. The owner or operator still has thirty (30) days to repair the defective item(s). The vehicle should only be used to be repaired, inspected or returned to the owner or operator's residence. The face of the rejection

certificate will be marked with the number of the month it is issued along with an X stamped next to it. The mileage at which the rejection will expire will be placed on the face of the certificate. The date of expiration will also be noted on the certificate.

2. A vehicle would be classified as restricted when one (1) or more of the following items causes a rejection. This does not eliminate the fact that a combination of defects may also render the vehicle unsafe and, therefore, restricted.

- a. no liability insurance;
- b. steering;
- c. tires, wheels and rims;
- d. braking system;
- e. tail lights or stop lights; or
- f. exhaust systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§811. Inspection Procedures

A. The mechanic inspector shall record the expired sticker number on the log report then remove the expired sticker prior to continuing with the inspection.

B. The mechanic inspector will conduct a review of the documents for the vehicle ensuring that all documents are in agreement.

1. Certificate of Registration. Contains information which must be verified with the corresponding information on the vehicle. A photocopy or original registration is acceptable. In lieu of a registration certificate, a vehicle may be inspected with a valid temporary marker.

2. Vehicle Identification Number (VIN). The VIN must agree with Certificate of Registration and the insurance document. It must match the VIN displayed on the vehicle.

3. License Plate. The registration indicates a license plate number and expiration date of the plate. This information must correspond with the information displayed on the vehicle. The license plate cannot be expired.

a. Vehicles which display apportioned license plates for trucks which travel out of Louisiana are issued a Louisiana apportioned cab card in lieu of a registration. This cab card indicates the license plate expires at the end of December. However, a grace period exists which extends the expiration of the license plate until the end of February.

b. A temporary registration authorization indicating an apportioned plate has been applied for is also acceptable in lieu of a registration. When this condition exists, no license plate is present. The temporary registration allows the vehicle to be used until the apportioned plate and cab card are issued.

c. Vehicles which display either a dealer plate or a temporary cardboard plate with green lettering on a white background are exempt from presenting a registration certificate. The driver must provide proof of fleet liability insurance coverage. The insurance must be in the name of the dealership which carries the vehicle in its inventory.

d. Drivers of vehicles which display a valid sixty (60) day temporary marker must also present a bona fide bill of sale. The bill of sale must indicate the vehicle was purchased within sixty (60) days from the date the vehicle is presented for inspection.

e. All vehicles which display a public license plate are exempt from presenting a registration certificate and proof of insurance. City, parish or state-owned vehicles, if licensed with Louisiana license plates, are required to be inspected and must meet the same requirements of any other vehicle of that same size and weight.

4. Operator License: Must be valid and in the immediate possession of the vehicle operator. It must be presented to the mechanic inspector, and the license number must be taken from the driver's license and recorded in the appropriate block on the weekly/monthly log report.

a. A valid out-of-state driver's license is acceptable. The state in which it was issued must be noted on the log report.

b. A temporary driving permit issued in connection with a traffic violation when the operator's license is held may be accepted until the permit expires on the court date noted.

c. When inspecting motorcycles, the operator's license must have a motorcycle endorsement.

d. Operators of school buses and commercial motor vehicles must possess the appropriate type commercial driver's license.

5. Proof of Current Liability Insurance: Must be shown to the mechanic inspector. The vehicle operator must also sign the log report indicating the vehicle is covered by liability insurance. (Note: Government vehicles are exempt from furnishing proof of insurance.) One of the following must be presented as proof of insurance.

a. A current certificate of insurance, motor vehicle liability insurance policy (or duplicate of the original) or a binder for the same is acceptable. A vehicle's policy identification card or photocopy of the same may also be accepted. These documents shall designate the name of the insurance company affording coverage, the policy number, the effective dates of coverage (both the beginning and ending dates are required) and a description of the vehicle covered including the VIN. A binder must be an official accord binder form and can be handwritten.

b. A copy of a motor vehicle liability bond. This document may or may not describe the vehicle covered.

c. A certificate from the state treasurer indicating a deposit was made to the state. It will not have a description of the vehicle, but the vehicle must be registered under the same name as noted on the certificate.

d. A certificate of self-insurance issued by the Louisiana Department of Public Safety and Corrections. It is not required to describe the vehicle covered.

6. License Plate Mounting and Condition: In addition to being valid, the license plate will be inspected for the following:

a. Must be secured to their mounting brackets.

b. Must be clean, clearly visible and readable for a distance of fifty feet (50') to the rear of the vehicle. Plates shall not be obscured or damaged so that the numbers cannot be identified.

c. Must be mounted in the rear.

f. Truck-trailer, emergency fire fighting equipment, dump-body trucks, trucks over six thousand pounds (6,000 lbs) and forestry product licensed vehicles may display the plate on either the front or rear of the vehicle.

C. All vehicles presented for inspection will be inspected for all of the following items: vehicle registration, vehicle license plate, driver's license and proof of liability insurance.

D. Every motor vehicle, trailer, semi-trailer and pole trailer registered in this state shall bear a valid safety inspection certificate issued in the State of Louisiana.

E. The director may authorize the acceptance of out-of-state inspection certificates when the state's inspection laws are similar to those stated herein. The director may also extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was temporarily out of state during the time an inspection was required. However, once the vehicle is returned to Louisiana, a valid Louisiana inspection certificate must be obtained immediately.

F. State mechanic inspectors must check registrations prior to inspecting vehicles. Any vehicle registered in the municipalities of New Orleans, Kenner or Westwego must be inspected in those municipalities. In addition, inspectors must refer to the four digit domicile code on the registration. Effective January 2000, any vehicle registered with a domicile code beginning with 03 (Ascension Parish), 17 (East Baton Rouge Parish), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge Parish), the Nonattainment Area must be inspected within that five parish area. There is no longer an exception to this rule.

G. When a vehicle is presented for inspection, the mechanic inspector will collect the inspection fee and request that the driver present his operator's license, vehicle registration certificate and proof of liability insurance for the vehicle being inspected.

H. The vehicle registration must indicate an address other than in Kenner, Westwego or New Orleans. Residents of these areas are required to comply with the municipal ordinances of periodic inspections of the area in which they reside. Exception: In hardship cases approved by a Safety Enforcement Officer, vehicles from these areas with an expired inspection certificate may be inspected at state inspection stations which will be valid until the return of the vehicle to these municipal areas.

I. The mechanic inspector shall verify whether or not he is qualified to inspect and the station is approved for the vehicle type being inspected, such as a passenger vehicle, commercial vehicle, school bus, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§813. Required Equipment

A. Inspected items must be in proper condition and adjustment such that the item does not pose an unsafe condition as to endanger any person or property.

B. Speedometer/Odometer

1. The speedometer and odometer will be checked while road testing the vehicle.

2. Proper operation of the speedometer is required.

3. The speedometer shall indicate miles per hour (mph) traveling.

4. The odometer shall accurately calculate the mileage driven. The actual mileage must be recorded on the log report.

C. Horn

1. The horn shall be securely fastened.

2. The horn shall be an original type horn or an equivalent.

3. The horn shall be functional and audible for a distance of two hundred feet (200').

4. The horn button shall be readily accessible to the operator.

5. An auxiliary horn must be wired to a separate switch.

D. Brakes

1. Every vehicle required to be equipped with brakes must be tested and shall be capable of meeting the requirement as herein stated concerning performance ability.

2. The test for stopping distance shall be made on a substantially level, dry, smooth, hard surface that is free from loose material. It will be conducted at a rate of twenty miles per hour (20 mph) and must meet the minimum breaking distance as listed below. The vehicle shall not pull to the right or the left causing the vehicle to excessively alter its direction of travel.

3. A platform brake tester may be used instead of performing the road test. Before attempting to inspect a vehicle's brakes with a platform brake tester, the mechanic inspector shall be trained on and have experience in the use of the machine. The machine shall have adequate capacity. The mechanic inspector shall follow all tester manufacturer's directions.

4. Classifications for brake application

a. Passenger vehicles with a seating capacity of ten (10) people or less including driver and not having a manufacturer's gross vehicle weight rating shall have a braking distance of 25 feet.

b. Single unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds shall have a braking distance of 30 feet..

c. Motorcycles and motor-driven cycles shall have a braking distance of 30 feet.

d. Single unit vehicles with a manufacturer's gross weight rating of 10,000 pounds or more shall have a braking distance of 40 feet.

e. Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less shall have a braking distance of 40 feet.

f. Buses, regardless of the number of axles, not having a manufacturer's gross weight rating shall have a braking distance of 40 feet.

g. All combinations of vehicles in drive away, tow-away operations shall have a braking distance of 40 feet.

h. All other vehicles and combination of vehicles shall have a braking distance of 50 feet.

E. Brake Requirement

1. Any vehicle registered as a farm trailer, farm semi-trailer, rubber-tired farm wagon, drawn rubber-tired farm equipment or implements of husbandry manufactured or assembled prior to January 1, 1973, and operated or moved only incidentally on the highways of this state, shall be exempt from brake requirements provided that:

a. the gross weight does not exceed ten thousand pounds (10,000 lbs.);

b. the speed does not exceed thirty miles per hour (30 mph);

c. fertilizer distributors or spreaders are exempt from brake requirements. Commercially owned anhydrous ammonia nurse tank trailers used for the transportation and storage of fertilizer are exempt from the braking requirements.

2. Every registered vehicle when presented for inspection shall be equipped with brakes in accordance with the requirements herein stated.

a. Every motor vehicle, other than motorcycles or motor driven cycles, shall be equipped with brakes adequate to control movement of and to stop and hold movement of such vehicle. Two (2) separate means of applying brakes are required, each of which shall effectively apply brakes to at least two (2) wheels and shall be capable of complying with the brake performance shown in the classification table.

b. Every motorcycle and every motor driven cycle shall be equipped with at least one (1) brake which may be operated by hand or foot capable of complying with the performance requirements shown in state law.

c. Every motorcycle and every motor driven cycle manufactured with two (2) wheels shall be required to be equipped with brakes on both wheels.

d. Every 1963 or later model year motor vehicle shall be equipped with brakes on all wheels.

e. Every trailer or semi-trailer exceeding three thousand pounds (3,000 lbs) gross weight shall be equipped with brakes acting on all wheels.

3. The following exceptions exist.

a. Trailers and semi-trailers having a gross weight between three thousand pounds and five thousand pounds (3,000-5,000 lbs) need only be equipped with brakes on a single axle.

b. Trailers and semi-trailers manufactured or assembled prior to January 1, 1963, need only be equipped with brakes on a single axle provided the combination of vehicles, consisting of the towing vehicle and its total load, is capable of complying with the performance requirements.

c. Farm trailers and semi-trailers manufactured or assembled prior to January 1, 1973, need not be equipped with brakes. Every farm trailer and farm semi-trailer manufactured or assembled on or after January 1, 1973, and having a gross weight exceeding three thousand pounds (3,000 lbs) shall be equipped with brakes in accordance with the requirements set forth above.

d. Log trailers shall be exempt from brake requirements until January 1, 1973, after which time they shall be equipped with brakes in accordance with the requirements set forth above.

e. Trucks and truck-tractors, 1963 and older, which have had an additional axle and wheels (tag axle) added for the purpose of allowing a greater payload must be capable of complying with brake performance requirements for the additional weight or be equipped with brakes on the additional tag axle in order to meet the brake performance requirements.

f. Vehicles carrying forest products in their natural state shall not be required to have a brake on the drag axle if the wheels of the drag axle touch the ground only when the vehicle is loaded. However, this provision does not apply to trailers or trucks with more than two (2) axles.

F. Parking Brakes

1. The parking brake will be inspected for the proper operation of the alternative braking system. The parking brake shall operate as originally equipped. The brake must be inspected for proper setting and release functions.

G. Lighting System

1. All required bulbs or sealed beams must light when activated. All lamps must be of an approved type.

2. Auxiliary lighting equipment must not be placed on, in or in front of any lamp nor will auxiliary lighting interfere with the necessary visibility width of any lamp.

3. All lamp assemblies must be properly fastened.

4. No rear lamp is allowed with a broken, missing or defective lens which allows white light to be visible to the rear of the vehicle.

5. The use of tape on the surface of the rear lens or the use of any shield that covers any portion of the light will not be allowed unless originally factory equipped.

6. Any after market auxiliary lamp installed on a vehicle that is designed to emit white light or any auxiliary lamp mounted facing forward must be covered when used on public streets and highways. If auxiliary lamps are not properly covered, the inspector shall reject the vehicle.

H. Headlamps

1. All motor vehicles, except motorcycles, motor scooters and motor bikes shall be equipped with at least two (2) operable headlamps, emitting white light only. These headlamps may be the multiple beam type or the single beam type. The type headlamp with which the vehicle is equipped will determine what requirements must be met.

2. Motor vehicles must have at least two (2) headlamps, but not more than four (4) headlamps, half mounted on each side on the front of the vehicle.

3. The mounted height of headlamps, measured from the center of the lamp to the level ground, will not be more than fifty-four inches (54") nor less than twenty-four inches (24").

4. All vehicles must be equipped with an operable dimmer switch and beam indicator (high or low beam designation).

5. Headlamp concealment devices must remain fully open when the headlamp is illuminated. The concealment device must be opened automatically or manually without the use of any tools.

6. Aiming of Headlamps is as follows:

a. The inspection shall include the adjustment of headlights when needed and if mechanically practical. This service shall be performed at no additional cost to the operator of the motor vehicle.

b. Headlights shall be aimed using only approved equipment and following manufacturer's recommendations.

7. Any after market auxiliary lamp installed on a vehicle's roof or on a roll bar that is designed to emit white light must be covered when used on public streets and highways. If auxiliary lamps are not properly covered, the inspector shall reject the vehicle.

I. Parking Lamps on the front of the vehicle. When actuated, the front parking lamps must display either white or amber light. These lamps must operate as originally equipped.

J. Turn Indicator Lamps, Front and Rear

1. Any vehicle manufactured or assembled after December 31, 1962, must be equipped with lamps which indicate the direction of a turn displaying the signal to both the front and rear of the vehicle.

2. Front turn indicator lamps: Both front turn indicator lamps must be mounted on the same level and display an amber light, except those vehicles manufactured or assembled prior to January 1, 1969. Those vehicles may emit either a white or amber colored light.

3. Rear turn indicator lamps: Both rear turn indicator lamps must be mounted on the same level with one on each side of the vehicle. The lamps may emit either red or amber color light only. The lens covering the lamp may not be cracked, broken or missing causing white light to be emitted to the rear of the vehicle. The lens must be of an original type lens.

4. The signal cancellation must operate as originally equipped and cancel the signal when the turning maneuver is completed, except for truck-tractors, motorcycles or motor driven cycles.

K. Tail Lamps

1. Tail lamps must be covered with an original type lens. It cannot be cracked, broken or missing any of the lens which would emit white light to the rear of the vehicle.

2. Vehicles manufactured or assembled after December 31, 1962, must be equipped with two (2) tail lamps.

3. The tail lamp must emit red light only.

4. The maximum height of tail lights is seventy-two inches (72") and the minimum height allowed is fifteen inches (15").

L. Stop Lamps

1. Vehicles manufactured or assembled after December 31, 1962, are required to have two (2) operational stop lamps with the exception of motorcycles, motor driven cycles or truck tractors, which must have at least one.

2. The stop lamps must emit red light only visible at least three hundred feet (300') to the rear of the vehicle.

3. The stop lamps must operate as originally equipped.

4. The lens covering the stop lamp must be of an original type not broken, cracked or missing any portion which allows white light to be emitted to the rear of the vehicle.

M. High Mount Brake Lamp

1. All passenger vehicles manufactured September 1, 1985, and thereafter must be equipped with a third stop lamp. This lamp is to be mounted in the line of sight near the rear window with at least four and one-half inches (4 1/2") of exposed red area on the lens. Light duty trucks with the model year 1995 and later are required to have high mount lamps.

2. The high mount brake lamp must be present and operate as originally equipped.

3. The vehicle shall be rejected if the high mount brake lamp is obscured by any add on item such as ladder racks, luggage racks, etc. Light duty trucks that are equipped with high mount brake lamps and have had a camper top installed must have a similar high mount brake lamp installed on the camper top in a corresponding position in the rear. If the vehicle comes equipped with a high mount

brake lamp, it cannot be obscured by any after market item unless it is replaced with a comparable lamp as originally equipped and visible from the rear of the vehicle.

N. Back-Up Lamps

1. Vehicles manufactured or assembled after January 1, 1969, must be equipped with no more than two (2) back-up lamps.

2. The back-up lamp must emit a white light only.

3. The back-up lamps must be lighted only when the vehicle is in reverse gear and must not light when the vehicle is in any other gear.

O. License Plate Lamp

1. The license plate lamp must illuminate the license plate making it visible for fifty feet (50') to the rear.

2. The lamp is to be lighted with white light only when headlamps or auxiliary driving lamps are lighted. Except for antique vehicles, the use of neon lights or the use of any other lights which obscure the license plate is prohibited.

P. Outside/Inside Rearview Mirrors

1. From the driver's seated position, visually inspect the left outside rearview mirror and the interior mirror for clear and reasonably unobstructed view two hundred feet (200') to the rear.

2. The mirrors should not be cracked, pitted or clouded to the extent that the driver's vision would be obscured. Inspect mirrors for correct location and stable mounting.

3. Mirrors must maintain set adjustment so that the rear vision is not impaired.

4. All vehicles manufactured after December 31, 1972, must be equipped at the factory with a left-hand, outside rearview mirror. This includes motorcycles and motor driven cycles. If two (2) outside mirrors are utilized, no inside mirror is required.

Q. Windshield Wipers

1. U.S. vehicles produced after January 1, 1968, must be equipped with a wiper system capable of operating at two (2) or more speeds. Two (2) wipers are required if the vehicle was originally equipped with such. All motor vehicles equipped with windshields, except motorcycles and motor driven cycles, are required to have windshield wipers.

2. Windshield wipers must operate as originally equipped to operate. If vacuum operated, the engine must be idling and the control must be turned on to the maximum setting.

3. Windshield wipers shall not smear or severely streak the windshield.

4. Proper contact of the blades with the windshield is required. Inspect by raising the arm away from the windshield and then release it. The arm should return to the original position or should urge the wiper blade to contact the windshield firmly.

5. The condition of the blades and metal parts must be checked.

6. Metal parts and blades shall not be missing or damaged. Blades shall not show signs of physical breakdown of rubber wiping element. Rubber blades shall not be damaged, torn or hardened to the point that they do not clear the windshield.

7. The windshield wiper control shall be within reach of the driver.

R. Windshield Washers

1. Legislative Act 129, 1992, L.R.S. 32:356(B) states all vehicles six (6) years old or older are not required to have working windshield washers. All other vehicles are required to have operating windshield washers.

S. Windshields

1. Every passenger vehicle, other than a motorcycle, shall be equipped with an adequate windshield.

2. For inspection purposes, the windshield is composed of three (3) areas as follows.

a. Acute Area. The acute area is directly in the driver's line of vision in the center of the driver's critical area. It is 8" x 11", the size of a standard piece of paper. In this area no cracks are allowed. No more than two (2) stars, nicks, chips, bulls eyes or half moons in excess of one-half inch (1/2") will be allowed.

b. Critical Area. The critical area is the area other than the acute area which is cleaned by the normal sweep of the windshield wiper blades on the driver's side only. In this area, any star larger than two inches (2") in diameter; two (2) or more stars larger than one and one-half inches (1 1/2") in diameter and two (2) or more cracks which extend more than eight inches (8") in length will not be allowed.

c. Non-Critical Area. This area consists of all other windshield area other than the acute or critical area.

3. A windshield can be rejected at any time the condition creates a safety hazard. If a windshield is cracked in such a way as to jeopardize the integrity of the windshield, the vehicle is to be rejected.

T. Windows and Glass Sunscreening and Glass Coating

1. Windshields are allowed to have sunscreen extend down from the topmost portion of the windshield no more than five inches (5"). The sunscreen shall be transparent and not red or amber in color.

2. Vehicles being presented for inspection which have been issued a Sunscreen Certificate shall have only the front side windows inspected. These must have a reading of forty percent (40%) or higher light transmittal to pass inspection.

3. Vehicles being presented for inspection that do not have a sunscreen certificate shall be inspected as follows.

a. Windshield. As stated above, sunscreen may not extend more than five inches (5") from the top of the windshield and may not be red or amber in color.

b. Front Side Windows. Must have at least forty percent (40%) light transmission.

c. Side Windows Behind Driver Must have at least twenty-five percent (25%) light transmission.

d. Rearmost Glass. Must have at least twelve percent (12%) light transmission.

e. Label. There must be a label affixed to the lower right corner of the driver's side window. It must not exceed one and one-half inches (1 1/2") square in size. It must be installed between the glass and the sunscreen material and must contain the name and city of the installer.

4. Light transmission will be checked using only an approved tint meter and following manufacturer's directions.

5. Sunscreen shall not have a luminous reflectance of more than twenty percent (20%).

6. No tint material may be affixed to the front windshield or the front side windows if the material alters the color of the light transmission. No tint other than smoke shall be allowed.

7. Exceptions to the Sunscreen Rule

a. Sunscreen regulations do not apply to windows behind the driver of trucks, buses, trailers, motor homes, multi-purpose passenger vehicles and all windows of vehicles used for law enforcement purposes.

b. Vehicles with sunscreen certificates as stated above.

c. A person with a medical condition which makes that individual sensitive to sun exposure may obtain a waiver form provided by the Department of Public Safety and Corrections from the Safety Enforcement Office. The waiver must be completed by a licensed physician and must be signed by a Safety Enforcement Officer. This waiver exempts the vehicle identified on the form from all restrictions as provided in R.S. 32:361.1.

d. Special exemptions for security reasons will be approved only by the Section Commander.

U. Body and Sheet Metal. Exterior components of the body and sheet metal parts must not be damaged and/or dislocated so that they project from the vehicle and present a safety hazard to occupants, pedestrians or other vehicles.

V. Fenders

1. Fenders, covers or devices including splash aprons and mud flaps shall be required unless the body of the vehicle or attachments afford protection to effectively minimize the spray or splash of water, mud or loose material on the highway from the rear of the vehicle.

2. Tires shall not extend beyond fenders or attachments more than one inch (1") to provide a safe condition.

3. All vehicles with an unladen weight of under one thousand five hundred pounds (1,500 lbs) and trucks or farm vehicles handling or hauling agricultural or forestry products are exempt from fender requirements.

4. Front and rear fenders that have been removed because of being hazardous or unserviceable must be replaced. If replacement of the front or rear fender removes a required lighting device, the lighting device must be re-installed or replaced.

W. Bumpers

1. Bumpers removed from vehicles originally equipped with bumpers will not be permitted. However, rear bumpers are not required on pickup trucks.

2. Rebuilt or modified bumpers must be made of material equivalent to the original bumpers and must be equal in strength.

3. Bumpers must be securely attached and not broken or protruding.

X. Doors. The vehicle's doors will be inspected as follows.

1. All doors must be present and operational.

2. Doors must be secured in the closed position.

3. Doors must function as originally equipped by the factory.

Y. Hood Latch. The hood must be securely held in a closed position by an original type latch.

Z. Floor Pan. No holes or rusted areas are permitted in the occupant compartment or trunk. Inspectors may require that the trunk of a vehicle be opened on vehicles possessing serious body rust throughout.

AA. Wheels and Tires

1. Conduct a visual check of the wheels and tires to detect any condition that would create a hazard or an unsafe condition.

2. All tires must be for highway use. Tires marked Not For Highway Use, Farm Use Only or For Racing Purposes Only are not allowed.

3. Tires without tread wear indicators shall have two-thirty seconds inch (2/32") tread remaining when measured in any two (2) adjacent major grooves at a minimum of three (3) locations spaced approximately equal distance around the major tire groove.

4. Tires with tread wear indicators shall not allow the indicators to contact the road in any two (2) adjacent major grooves at three (3) locations spaced equally around the tire.

5. Cord shall not be exposed through the tread. Tread cuts, snags or sidewall cracks in excess of one inch (1") in any direction deep enough to expose cords, are not allowed.

6. Tires shall not have visible bumps, bulges or knots indicating partial failure or separation of the tire structure.

7. Tires shall not be re-grooved or re-cut below the original groove depth except tires which have undertread rubber for this purpose and are identified as such.

8. Tires on the same axle shall be of the same type construction.

9. Wheels shall not be bent, loose, cracked or damaged as to affect safe operation.

10. Rims or wheel flanges shall not be defective.

11. Wheels should be secure. Only one missing or defective bolt, nut or lug is allowed except on a four-hole pattern wheel. On a four hole pattern wheel no missing or defective lugs are allowed.

BB. Steering Mechanism

1. An original equipment type steering wheel is required.

a. The steering wheel shall be of the same diameter as originally equipped. Any modification that may affect the proper steering of the vehicle is prohibited.

b. Chain-type steering wheels shall not be allowed.

2. Excessive play, tightness, binding or jamming shall not be allowed.

a. With the front wheels in a straight ahead position, check steering for free play. More than two inches (2") of free play for power assisted steering and more than three inches (3") of free play for manual steering will not be permitted.

3. Excessively worn or broken parts in the steering components, any leakage of the power unit or excessive looseness of the power system fan belt shall not be permitted.

4. Modification of the front end and steering mechanism in any manner shall not be permitted.

CC. Suspension and Shock Absorbers

1. The vehicle must have operational shock absorbers and springs.

2. The vehicle must have at least three inches (3") of suspension travel.

3. The vehicle must have at least four inches (4") of ground clearance measured from the frame with the vehicle on a level surface.

DD. Seats and Seat Belts

1. Front seats shall be securely anchored to the floor pan. Missing anchor bolts are not permitted. The seat adjusting mechanism shall not slip out of the set position.

2. Seat belts shall operate and adjust as originally intended. Seat belt buckles shall operate properly.

3. Webbing shall not be split, frayed or torn.

4. Seat belts shall be securely mounted. Anchorages shall be secure.

5. Passenger cars, vans or trucks with a gross weight of six thousand pounds (6,000 lbs) or less, and manufactured after January 1, 1981, require front seat belts only.

EE. Exhaust System. The exhaust system includes the piping leading from the flange of the exhaust manifold to, and including, the mufflers, resonators, tail piping and emission control device. Visually inspect the exhaust system for rusted or corroded surfaces.

1. The vehicle must have a muffler.

2. No loose or leaking joints in the exhaust system are allowed. Also, no holes, leaking seams, loose interior baffles or patches on the muffler are allowed.

3. The tail pipe end can not be pinched.

4. Elements of the system must be fastened securely, including missing connections or missing or broken hangers.

5. A muffler cannot have a cut-out bypass, or similar device which allows fumes to escape.

6. The muffler cannot emit excessive smoke, fumes, or noise.

7. The tail pipe shall extend past the passenger compartment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§815. Miscellaneous Inspection Procedures

A. Trailers

1. Every trailer and semi-trailer with a loaded gross weight capacity of up to six thousand pounds (6,000 lbs) shall be equipped with safety chains. The safety chains shall be securely attached to the towing vehicle when the trailer or semi-trailer is in motion, and shall be of sufficient strength to hold the trailer behind the towing vehicle in case the connection between the two vehicles detaches.

2. Trailers shall be inspected for fenders, lights and brakes where applicable.

B. Antique Cars. Motor vehicles which are forty (40) years old or older and which are used primarily for exhibition in shows, parades, tours and other special uses and not for general transportation, and which are registered and licensed as antique as provided in L.R.S. 32:707(L) shall be exempt from the inspection requirements of this chapter.

C. Motorcycles. In addition to other items already stated, motorcycle handlebars will also be inspected as follows:

1. They must be constructed of tubing comparable to or exceeding the thickness of the original equipment.

2. No cracks, deformation or excessive flexure is allowed.

3. Handlebars shall not be more than fifteen inches (15") above the seat.

4. Handlebars shall be properly aligned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter C. Vehicle Emission Inspection And Maintenance Program

§817. General Information

A. Emission Control System Inspections. This section describes the general procedures to be used by certified inspectors when conducting anti-tampering and other emission control system inspections on 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled light- and heavy-duty trucks (10,000 pounds gvwr or less) registered and/or operated in the state of Louisiana. The purpose of the vehicle anti-tampering inspection is to detect physical damage to, or disablement or removal of, emission control system components, and to repair or replace defective or missing system components. The purpose of the evaporative system pressure tests is to ensure that the entire evaporative emission system is fully pressurized and functional. These emission control system inspections are designed to reduce both tailpipe and evaporative pollutant emissions from in-use vehicles operated in Louisiana.

B. General Inspection Procedures

1. The vehicle anti-tampering inspection is designed to identify any evidence of tampering or obvious need for repair or replacement of a vehicle's emissions control system components. Vehicles that initially fail the anti-tampering inspection are required to be repaired and re-inspected in order to comply with the inspection guidelines. The anti-tampering inspections also serve to discourage illegal tampering with the vehicle's emission control system, thereby resulting in additional reductions of vehicular emissions in Louisiana.

2. No attempt shall be made by the certified inspector to remove any engine components to perform the anti-tampering inspection. In instances where certain components are not visible, it will be assumed that the component is properly connected and operative. However, this assumes that a reasonable attempt was made by the certified inspector to identify and visually examine the component.

3. During the inspection, the certified inspector will either pass or fail the vehicle based on the criteria described herein. The vehicle will be rejected if any of the inspected parameters are found disconnected or tampered with. The certified inspector will then place a rejection certificate on the vehicle and inform the vehicle operator why the vehicle failed inspection and what corrective measures are required for the vehicle to pass inspection.

4. For the purpose of the vehicle anti-tampering and inspection and maintenance program, passenger car means every motor vehicle designed for carrying 10 passengers or less and used for the transportation of people.

5. For the purpose of the vehicle anti-tampering and inspection and maintenance program, light-duty truck and heavy-duty truck means a gasoline-fueled motor vehicle with a gross vehicle weight rating of 10,000 pounds or less. Light- and heavy-duty trucks shall include, but not be limited to, minivans, sport utility vehicles, pick-up trucks, panel delivery trucks, and carry-all trucks. Proof of repair or replacement of emission control components shall be provided by the vehicle owner at the time the vehicle is re-

inspected. This proof shall be in the form of a dated repair receipt or a sales invoice and must be presented to the inspection station when the vehicle is re-inspected.

C. Manufacturer's Emission Control Label

1. The manufacturer's emission control label located under the hood consists of a schematic diagram of the original emission control components installed on the vehicle. The certified inspector should refer to this label diagram when attempting to locate applicable emission control components. On vehicles equipped with a catalytic unit, a decal is required by federal regulation to have the word catalyst in legible letters.

2. Vehicles with catalytic converters should have unleaded fuel only decals near the filler pipe and fuel gauge. Missing labels will not be grounds for rejection.

D. Manufacturer's Information Plate. The gross vehicle weight rating (gvwr) of a vehicle is stamped on the federal safety sticker located inside the left door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§819. Anti-tampering and Inspection and Maintenance Parameters

A. The statewide vehicle anti-tampering program will include a visual inspection of the following emission control system components on all 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled light- and heavy-duty trucks (10,000 pounds gvwr or less) registered and/or operated in Louisiana:

1. catalytic converter system (catalyst);
2. air injection system (AIS including belts, hoses, and valves);
3. positive crankcase ventilation system (PCV system including hoses and valves);
4. evaporative emission control system (charcoal canister, hoses, wires, and control valves); and
5. exhaust gas recirculation system (EGR valve and hoses).

B. Effective January 1, 2000, and in addition to the anti-tampering parameter checks listed in Subsection A of this Section, a vehicle inspection and maintenance program consisting of evaporative system pressure checks is required on all subject vehicles registered within the five-parish nonattainment area. The nonattainment area is comprised of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes. The evaporative system pressure testing shall consist of the following two tests:

1. a gas cap pressure test; and
2. a fuel inlet pressure test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter D. Inspection Procedures For School Buses

§821. General Information

A. These standards are adopted from the Minimum Standards for School Buses in Louisiana as promulgated by authority of Louisiana Revised Statute 17:164 which reads: The Louisiana State Board of Education is authorized, directed and empowered to establish and adopt regulations

relating to the construction, design, equipment and operation of school buses used in transportation of students to and from school.

B. Any passenger carrying vehicle, regardless of its class, with a capacity of more than seven (7) passengers and used exclusively in the transportation of teachers and pupils to and from schools or their institution of learning under contract or other arrangement made by or with the constituted and authorized school personnel shall be considered a school bus. The school bus must be painted national school bus glossy yellow. The uppermost top section of the roof may be painted white to reduce heat inside of the bus.

C. All school buses presented for inspection must adhere to all safety requirements, where applicable, and must also conform to motor carrier safety regulations. The bus must comply with the following items and devices in addition to all other requirements.

D. Before being approved to inspect school buses, official Motor Vehicle Inspection stations must meet the following qualifications:

1. The station must have an area large enough to accommodate a bus. The inspection area will be approved by a local Safety Enforcement Officer.

2. Mechanic inspectors must possess a valid driver's license. The mechanic inspector must also meet the minimum experience qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§823. General Inspection Procedures

A. Documents. Mechanic inspectors shall check the following:

1. registration. Parish owned buses are exempt from presenting the registration certificate and proof of insurance. However, the operator must sign the log report confirming liability insurance coverage;

2. license plate;

3. operator's license (must be appropriate type of CDL); and

4. proof of insurance.

B. Brakes. All school buses shall be equipped with a hydraulic brake system or an air brake system. Mechanics shall check for all of the following.

1. Hydraulic Brake System

a. The brakes must be able to stop the bus within thirty feet (30') at a speed of twenty miles per hour (20mph) with no children on board.

b. The master cylinder must be inspected.

2. Air brake systems must be inspected for:

a. at least two (2) reservoirs;

b. a safety valve on the first reservoir;

c. an air gauge;

d. an audible low pressure indicator;

e. hoses, tubes or connections shall be inspected for crimps, abrasions or breaks exposing cord;

f. audible air leaks; and

g. air chamber;

h. if visible, check brake shoes and drums for excessive wear or damage;

i. The push rod travel must be measured (see motor carrier chart) in lieu of a road test.

C. Fluid Leaks. Vehicle fluids include gasoline, transmission fluid, engine oil, bearing grease, water or radiator coolant and power steering fluid. No fluid leaks of any kind are allowed.

D. Lighting Systems. The lighting system will be checked as follows.

1. Interior Lamps. Interior lamps shall be used to provide adequate illumination of the interior compartment.

2. Identification Lamps. A school bus is required to have three (3) amber identification lamps on the front and three (3) red identification lamps on the rear of the bus. They should be mounted at the upper most center of the body of the bus spaced in a horizontal line not more than twelve (12) inches apart.

3. Clearance Lamps. A school bus is required to have clearance lamps mounted as high as possible on the permanent structure of the bus. The lights mounted on the front of the bus must be amber in color and those on the rear must be red. These lights must be mounted on each side of the bus and positioned in such a manner as to indicate the extreme width of the body of the bus.

4. Side Marker Lamps. School buses are required to have amber side marker lamps mounted on the front of the bus and red lamps on the rear. These must be on each side of the bus.

5. Reflectors. The school bus must be equipped with reflectors as follows.

a. Two (2) red reflectors shall be installed on the rear of the bus.

b. Two (2) reflex reflectors shall be installed on the side of the bus.

i. One (1) must be mounted at or near the front of the bus and must be amber in color.

ii. One (1) must be mounted at or near the rear of the bus and must be red in color. Buses thirty feet (30') or longer in length require one (1) amber reflex reflector on each side of the bus.

6. School bus alternately flashing lamps: A school bus should have alternately flashing lamps mounted at the same horizontal level which identify the vehicle as a school bus. They also inform other vehicle operators that the bus is stopped or about to stop to take on or discharge students.

a. School buses are required to have four (4) alternating flashing red signal lamps mounted at the same level and as high and as widely spaced as practical. Two (2) lamps must be mounted on the front and two (2) lamps must be mounted on the rear. All lamps must alternately flash.

b. All buses manufactured after July 7, 1977, must be equipped with four (4) alternately flashing yellow lamps mounted on the same level as the alternately flashing red lamps, but closer to the vertical center line on the bus. These lamps must display two (2) alternately flashing yellow lights to the front of the bus and two (2) alternately flashing yellow lights to the rear of the bus. The alternately flashing yellow lights must not light when the alternately flashing red lights are activated (during a stop).

c. The alternately flashing lamps (both red and yellow) must function with a manually activated switch only. No brake operated switches are allowed.

d. The school bus must be equipped with an audible or visible means of indicating to the driver that the signaling system is activated.

E. Left Hand Stop Arm Lamps

1. All buses manufactured after July 7, 1977, must be equipped with two (2) flashing red lights on each of the left hand stop arms with the light visible from both sides of the stop arms.

a. These lamps must activate when the stop arm is extended and the lamps must flash alternately.

2. When two (2) stop signal arms are installed on a school bus, the rearmost stop arm shall not contain any lettering, symbols or markings on the forward side.

3. The entire surface of both sides of the stop signal arm shall be of reflectorized material with type III reflector material that meets the minimum specific intensity requirements of S6.1 table 1. When two (2) stop signal arms are installed on a bus, the forward side of the rearmost stop signal arm shall not be reflective.

F. Stop Lamps. If the bus was manufactured after December 31, 1962, two (2) seven inch (7") stop lamps emitting red light only must be mounted on the rear of the bus as high as possible, but below the window line.

G. Turn Indicator Lamps

1. Buses are required to have electric turn signal lamps that indicate the direction of a turn.

2. If the bus was manufactured after August, 1970, it is required to have four (4) seven inch (7") turn indicator lamps.

a. Two (2) seven inch (7") amber turn signal lamps must be mounted toward the front of the bus on the same level and as high as practical, but not less than three feet (3') above the ground.

b. Two (2) lamps, either red or amber in color, to the rear must be mounted on the same level as the front turn indicator lamps.

3. Buses manufactured after August, 1970, are required to have operational four-way hazard warning signals.

H. Fog Lamps. Fog lamps are permissible provided that the lamps are properly installed and operational.

I. Mirrors. School buses are required to have an interior mirror, an exterior mirror and an exterior cross view mirror:

1. Interior mirror. Type A bus shall have a minimum of 6"x16" mirror and type B, C and D buses shall have a minimum of 6"x3" mirror.

2. Exterior mirror. Must have one (1) left and one (1) right hand mirror with a minimum of fifty square inches (50" sq.) of reflecting glass.

3. Exterior cross view mirror. Buses manufactured after July 1, 1979, shall have a mirror system which will provide a clear, unobstructed view of the area in front of the bus; the area immediately adjacent to the left and right front wheels and the entrance door.

a. Buses which provide an adequate view directly in front of the bus are not required to have a cross view mirror system.

J. Interior Doors

1. Service door (front passenger pick up door). It may be controlled manually or by power. It must be controlled by the bus driver only.

a. The vertical closing edges of the service door must be equipped with a flexible material to protect passenger's fingers.

2. Emergency Exit Door

a. The passage way to the emergency door must not be restricted in any way to less than twelve inches (12") in width.

b. There must not be steps to the emergency door when the door is in the closed position.

c. It must be equipped with a proper gasket around the door and the glass which furnishes a proper seal.

d. It must be equipped with an audible warning buzzer which notifies the driver's compartment that the door is open.

e. The emergency door mechanism shall function from the inside and outside.

f. The words Emergency Exit or Emergency Door shall be marked directly above the door on both the inside and outside in letters at least two inches (2") high.

g. There must be no manual locking of any doors while the bus is in operation. No pad locks can be used on any door while the bus is in operation.

K. Bumpers

1. Bumpers on a school bus must be painted glossy black.

2. The rear bumper must not have a trailer hitch or other device designed to aid in towing another vehicle.

L. School Bus Identification (Signs)

1. The words School Bus must be on the front and rear of the vehicle in plain, black letters at least eight inches (8") in height.

2. The stop arms shall be painted red with the word Stop in white letters.

M. Tires

1. The steering axle must have four thirty-seconds inch (4/32") tread.

2. The rear axle must have two thirty-seconds inch (2/32") tread. No re-grooved or re-capped tires are allowed on the steering axle.

N. Mud Flaps. All school buses manufactured on or after July 1, 1979, shall be equipped with mud flaps on the rear of the vehicle.

O. Front and Rear Suspension and Steering. The front of the bus must be lifted and the following items checked:

1. wheel bearings for excessive looseness and play;
2. king pins and bushings for excessive looseness;
3. drive shaft and universal joints for excessive wear;

and

4. ball joints for excessive wear.

P. Windshield, Windows, and Glass

1. The left front driver's window must readily open and close.

2. No cracks, discoloration or scratches to the front, rear, right or left of the driver which would interfere with his vision are allowed.

3. No window may be broken or have any exposed sharp edges. No window may have any cracked or separated glass allowing one piece of glass to move independently of another.

4. The windshield, not including a two inch (2") border at the top and a one inch (1") border at each side of the windshield or each panel thereof, may:

- a. have any crack not over one quarter inch (1/4") wide, if not intersected by any other crack; or
- b. have any damaged area which can be covered by a disc three-quarters of an inch (3/4") in diameter, if not closer than three inches (3") to any other such damaged area (Federal Motor Carrier Safety Regulation, 393.60).

5. Side windows must open and close properly.
6. Windows must have exposed edge of glass banded.

Q. Stepwell and Floor Covering

1. The stepwell and the aisle on buses manufactured after July 1, 1966, must be covered with a rubber, non-skid, wear resistant, ribbed material.
2. All openings in the floor board, such as the gear shift lever and auxiliary brakes, shall be sealed.
3. The stepwell must not be rusted in any area and must have sufficient strength to support passengers.
4. The aisle must not be restricted in any way to less than twelve inches (12") in width.
5. There must be no looseness in the stanchions, guard rails or grab rails.

R. First Aid Kit. The bus shall have a removable, moisture-proof and dust-proof first aid kit mounted in an accessible place within the driver's compartment. The first aid kit must contain the supplies necessary to administer first aid in an emergency situation.

S. Fire Extinguisher. The bus will be equipped with at least one ABC type of fire extinguisher. It must have a gauge of at least a five pound (5 lb) capacity. It must be mounted in the manufacturer's bracket of an automotive type. It must be located in the driver's compartment in a clearly marked location or in full view of and readily accessible to the driver. Fire extinguishers must have a valid and up-to-date certification.

T. Defrosters. The school bus will be equipped with defrosters which shall be capable of keeping the windshield, driver's left window and glass entrance door clear of fog, frost and snow. In addition, buses manufactured on or after July 7, 1979, shall be equipped with an auxiliary fan at least six inches (6") in diameter. The fan must be located in the center of the windshield to provide maximum effectiveness to the right side of the windshield and the service door.

U. Sun Shield. An interior adjustable, transparent sun shield, not less than six inches by thirty inches (6"x30"), supported by two (2) brackets shall be installed so that it can be turned up when not in use.

V. Instrument Panel

1. The instrument panel must have a lamp which effectively illuminates all instruments and gauges.
2. The school bus must be equipped with an operational beam indicator to indicate the bright/dim setting on headlamps.
3. All wiring under the instrument panel must not be hanging. Wiring must be tucked under the panel.

W. Seat Belts, Seats, and Guard Rails

1. The driver's compartment must be equipped with an approved seat belt for the driver.
2. No exposed padding, springs or wires will be allowed on the seats or guard rails.
3. If a rip or tear is not more than three inches (3") long, the seats may be taped. However, no more than three (3) pieces of tape may be used per seat.

4. No overhead storage compartments or racks shall be permitted inside the bus.

X. Battery. The battery for the school bus must be secured with some type of tie-down device. Bungee cords and bailing wire are not allowed.

Y. Exhaust

1. Inspect the exhaust system for leaks, rusted areas, broken hanger, etc.
2. The end of the exhaust system may turn and exit at the rear, side edge of the bus or it may go past the rear bumper no more than two inches (2"). In any case, the exhaust system must extend past the passenger compartment of the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter D. Federal Motor Carrier Safety Regulations §825. General Information

A. Certain types of vehicles are subject to federal regulations in connection with Louisiana's Motor Vehicle Inspection Program. A commercial vehicle is defined as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or property when:

1. the vehicle has a gross vehicle weight rating or gross combination weight rating as follows.
 - a. Interstate Commerce. The vehicle travels from this state to another state and has a weight rating of 10,001 pounds or more.
 - b. Intrastate Commerce. The vehicle travels only in Louisiana and has a weight rating of 20,001 pounds or more;
2. the vehicle is designed to transport more than fifteen (15) passengers, including the driver;
3. the vehicle is used in the transportation of hazardous material in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Material Transportation Act.

B. Under L.R.S. 32:1304.1, farm vehicles which are not registered and do not have a license plate are exempt from the inspection requirements. However, if the farm vehicle is registered and does display a license plate and it qualifies as a commercial motor vehicle as defined above, it must meet the requirements for the Federal Motor Carrier Safety Program.

C. The federal regulations mandate that this motor carrier safety inspection will be conducted on an annual basis, with the commercial vehicle inspection report completed with each yearly inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§827. Code of Federal Regulations (C.F.R.) §390.15 Motor Carrier Safety Regulations

A. The term motor carrier includes a common carrier by motor vehicle, a contract carrier by motor vehicle and a private carrier of property by motor vehicle.

B. Code of Federal Regulations (C.F.R.) §396.15 Driveaway-Towaway Operations and Inspections. Effective July 1, 1990, every motor carrier, with respect to motor

vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part. Exceptions: maintenance records required by 396.3; the vehicle inspection report required by 396.11; and the periodic inspection required by 396.17 of this part shall not be required for any vehicle which is part of the shipment being delivered.

C. C.F.R. 396.17 Periodic Inspection

1. Every commercial motor vehicle shall be inspected as required by this section. The inspection shall include, at a minimum, the parts and accessories set forth in LAC 55:III.829. The term commercial motor vehicle includes each vehicle in a combination vehicle. For example, for a tractor semitrailer, full trailer combination, the tractor, semi-trailer and the full trailer (including the converter dolly if so equipped) shall be inspected.

2. Except as provided in C.F.R. 396.23, a motor carrier shall inspect or cause to be inspected all motor vehicles subject to its control.

3. A motor carrier shall not use a commercial motor vehicle unless each component identified in LAC 55:III.829 has passed an inspection in accordance with the terms of this section at least once during the preceding twelve (12) months. The commercial inspection certificate conforms with C.F.R. 396.17-C-2, which waives the requirement that a copy of the commercial annual inspection form be carried in the vehicle.

4. It shall be the responsibility of the motor carrier to ensure that all parts and accessories not meeting the minimum standards set forth in LAC 55:III.829 are repaired promptly.

5. Failure to perform properly the annual inspection set forth in this section shall cause the motor carrier to be subject to the penalty provisions provided by 49 U.S.C. 521(B).

D. C.F.R. 396.21 Periodic Inspection/Record-Keeping Requirements

1. The qualified inspector performing the inspection shall complete the Record of Annual Commercial Inspection form (DPSMV-4206) in its entirety.

2. The original or a copy of the inspection report shall also be retained by the motor carrier under whose control the vehicle operates for thirty (30) consecutive days or more, for a period of one (1) year. The inspection report shall be retained where the vehicle is either housed or maintained. The original or a copy of the inspection report shall be available for inspection upon demand of an authorized federal, state or local official.

a. The second copy must be mailed to the local Safety Enforcement Office. These reports shall be mailed at the same time as the regular safety inspection reports.

b. The third copy shall be kept in the commercial log book at the station for fourteen (14) months. If a station inspects no vehicles during a given week/month, one report shall be submitted as previously described, with the word none written across the face of the report.

3. A Record of Annual Commercial Inspection form will be completed for each unit inspected, i.e. tractor, trailer, converter dolly, etc. When a Record of Annual Commercial Inspection form is completed, the regular weekly/monthly log report need not be filled out.

4. A rejected vehicle is entitled to one free re-inspection if returned to the same inspection station within the allowed period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§829. Minimum Periodic Inspection Standards

A. As per minimum periodic inspection standards, a vehicle does not pass inspection if it has any one of the following defects or deficiencies and the vehicle shall be issued a restricted rejection certificate.

B. Brake System

1. Service Brakes

a. Absence of braking action on any axle required to have brakes upon application of the service brakes (such as missing brakes or brakes shoe(s) failing to move upon application of a wedge, s-cam or disc brake).

b. Missing or broken mechanical components, including shoes, lining, pads, springs, anchor pins, spiders and cam shaft support brackets.

c. Audible air leak at brake chamber (ex. ruptured diaphragm, loose chamber clamp, etc.).

d. Readjustment limits. The maximum stroke at which brakes should be readjusted is shown in the columns below. Any brake one-fourth inch (1/4") or more past the readjustment limit or any two (2) brakes less than one-fourth inch (1/4") beyond the readjustment limit shall be cause for rejection. Stroke shall be measured with the engine off and reservoir pressure of 80 to 90 psi with brakes fully applied. Wedge Brake Data: Movement of the scribe mark on the lining shall not exceed one-sixteenth inch (1/16").

The Maximum Stroke At Which Brakes Should Be Readjusted

Type	Effective Area (Square Inch)	Outside Diameter (Inches)	Maximum Stroke at Which Brakes Should Be Readjusted
BOLT TYPE BRAKES CHAMBER DATA			
A	12	6 15/16	1 3/8
B	24	9 3/16	1 3/4
C	16	8 1/16	1 3/4
D	6	5 1/4	1 1/4
E	9	6 3/16	1 3/8
F	36	11	2 1/4
G	30	9 7/8	2
ROTOCHAMBER DATA			
9	9	4 9/32	1 1/2
12	12	4 13/16	1 1/2
16	16	5 13/32	2
20	20	5 15/16	2
24	24	6 13/32	2
30	30	7 1/16	2 1/4
36	36	7 5/8	2 3/4
50	50	8 7/8	3
CLAMP TYPE BRAKE CHAMBER DATA			
6	6	4 1/2	1 1/4
9	9	5 1/4	1 3/8
12	12	5 11/16	1 3/8
16	16	6 3/8	1 3/4
20	20	6 25/32	1 3/4
24	24	7 7/32	1 3/4**
30	30	8 3/32	2
36	36	9	2 1/4

**2" for long stroke design

- e. Brake Lining or Pads
 - i. Lining or pad is not firmly attached to the shoe.
 - ii. Saturated with oil, grease or brake fluid.
 - iii. Non-steering axles. Lining with a thickness less than one-fourth inch (1/4") at the shoe center for air drum brakes, one-sixteenth inch (1/16") or less at the shoe center for hydraulic and electric drum brakes, and less than one-eighth inch (1/8") for air disc brakes.
 - iv. Steering brakes. Lining with a thickness less than one-fourth inch (1/4") at the shoe center from drum brakes, less than one-eighth inch (1/8") for air disc brakes and one-sixteenth inch (1/16") or less for hydraulic disc and electric brakes.
 - f. Missing brakes on axle required to have brakes
 - g. Mismatch across any power unit steering axle of:
 - i. air chamber size
 - ii. slack adjuster length
- 2. Parking Brake System. No brakes on the vehicle or combination are applied upon actuation of the parking brake control, including drive line hand controlled parking brakes.
- 3. Brake Drums or Rotors
 - a. With any external crack or cracks that open upon brake application. (Do not confuse short hairline heat check cracks with flexural cracks.)
 - b. Any portion of the drum or rotor missing or in danger of falling away.
- 4. Brake Hose
 - a. Hose with any damage extending through the outer reinforcement ply. (Rubber impregnated fabric cover is not a reinforcement ply.) (Thermoplastic nylon may have braid reinforcement or color difference between cover and inner tube. Exposure of second color is cause for rejection.)
 - b. Bulge or swelling when air pressure is applied.
 - c. Any audible leaks.
 - d. Two hoses improperly joined (such as a splice made by slicing the hose ends over a piece of tubing and clamping the hose to the tube). (Exception: A splice utilizing a reverse claw connector is acceptable.)
 - e. Air hose cracked, damaged by heat, broken or crimped.
- 5. Brake Tubing
 - a. Any audible leaks.
 - b. Tubing cracked, damaged by heat, broken or crimped.
- 6. Low Pressure Warning Device. Missing, inoperative or does not operate at fifty-five (55) psi and below, or one-half the governor cut-out pressure, whichever is less.
- 7. Tractor Protection Valve. Inoperable or missing tractor protection valve(s) on power unit.
- 8. Air Compressor
 - a. Compressor drive belts in condition of impending or probable failure.
 - b. Loose compressor mounting bolts.
 - c. Cracked, broken or loose pulley.
 - d. Cracked or broken mounting brackets, braces or adapters.
- 9. Electric Brakes
 - a. Absence of braking action on any wheel required to have brakes.
 - b. Missing or inoperable breakaway braking device.

- 10. Hydraulic Brakes (including power assist over hydraulic and engine drive hydraulic booster)
 - a. Master cylinder less than one-fourth (1/4) full.
 - b. No pedal reserve with engine running except by pumping pedal.
 - c. Power assist unit fails to operate.
 - d. Seeping or swelling brake hose(s) under application of pressure.
 - e. Missing or inoperable check valve.
 - f. Has any visually observed leaking hydraulic fluid in the brake system.
 - g. Has hydraulic hose(s) abraded (chafed) through outer cover to fabric layer.
 - h. Fluid lines or connections leaking, restricted, crimped or broken.
 - i. Brake failure or low fluid warning light on and/or inoperable.
- 11. Vacuum System
 - a. Has insufficient vacuum reserve to permit one full brake application after engine is shut off.
 - b. Has vacuum hose(s) or line(s) restricted, abraded (chafed) through outer cover to cord ply, crimped, cracked, broken or has collapse of vacuum hose(s) when vacuum is applied.
 - c. Lacks an operable low-vacuum warning device as required.
- B. Coupling Devices
 - 1. Fifth Wheels
 - a. Mounting to frame
 - i. Any fasteners missing or ineffective.
 - ii. Any movements between mounting components.
 - iii. Any mounting angle iron cracked or broken.
 - b. Mounting plates and pivot brackets
 - i. Any fasteners missing or ineffective.
 - ii. Any welds or parent metal cracked.
 - iii. More than three-eighth inch (3/8") horizontal movement between pivot bracket pin and bracket.
 - iv. Pivot bracket pin missing or not secured.
 - c. Sliders
 - i. Any latching fasteners missing or ineffective.
 - ii. Any fore or aft stop missing or not securely attached.
 - iii. Movement more than three-eighth inch (3/8") between slider bracket and slider base.
 - iv. Any slider component cracked in parent metal or weld.
 - d. Lower Coupler
 - i. Horizontal movement between the upper and lower fifth wheel halves exceeds one-half inch (").
 - ii. Operating handle not in closed or locked position.
 - iii. Kingpin not properly engaged.
 - iv. Separation between upper and lower coupler allowing light to show through from side to side.
 - v. Crack in the fifth wheel plate. Exceptions: Cracks in the fifth wheel approach ramps and casting shrinkage cracks in the ribs of the body or a cast fifth wheel.
 - vi. Locking mechanism parts missing, broken or deformed to the extent the kingpin is not securely held.

2. Pintle Hooks
 - a. Mounting to frame
 - i. Any missing or ineffective fasteners (a fastener is not considered missing if there is an empty hole in the device, but no corresponding hole in the frame or vice versa).
 - ii. Mounting surface cracks extending from point of attachment (e.g. cracks in the frame at mount bolt holes).
 - iii. Loose mounting.
 - iv. Frame cross member providing pintle hook attachment cracked.
 - b. Integrity
 - i. Cracks anywhere in pintle hook assembly.
 - ii. Any welded repairs to the pintle hook.
 - iii. Any part of the horn section reduced by more than twenty percent (20%).
 - iv. Latch insecure.
 3. Drawbar/Towbar Eye
 - a. Mounting
 - i. Any cracks in attachment welds.
 - ii. Any missing or ineffective fasteners.
 - b. Integrity
 - i. Any cracks.
 - ii. Any part of the eye reduced by more than twenty percent (20%).
 4. Drawbar/Towbar Tongue
 - a. Slider (power or manual)
 - i. Ineffective latching mechanism.
 - ii. Missing or ineffective stop.
 - iii. Movement of more than one-fourth inch (1/4") between slider and housing.
 - iv. Any leaking, air or hydraulic cylinders, hoses or chambers (other than slight oil weeping normal with hydraulic seals).
 - b. Integrity
 - i. Any cracks.
 - ii. Movement of one-fourth inch (1/4") between subframe and drawbar at point of attachment.
 5. Safety Devices
 - a. Safety devices missing
 - b. Unattached or incapable of secure attachment
 - c. Chains and hooks
 - i. Worn to the extent of a measurable reduction in link cross section.
 - ii. Improper repairs including welding, wire or small bolts, rope and tape.
 - d. Cable
 - i. Kinked or broken cable stands.
 - ii. Improper clamps or clamping.
 6. Saddle-Mounts
 - a. Method of attachment
 - i. Any missing or ineffective fasteners.
 - ii. Loose mountings.
 - iii. Any cracks or breaks in a stress or load bearing member.
 - iv. Horizontal movement between upper and lower saddle-mount halves exceeds one-fourth inch (1/4").
- C. Exhaust System
1. Any exhaust system determined to be leaking at a point forward of or directly below the driver/sleeper compartment.

2. A bus exhaust system leaking or discharging to the atmosphere.
 - a. Gasoline powered - excess of six (6) inches forward of the rearmost part of the bus.
 - b. Other than gasoline powered - in excess of fifteen inches (15") forward of the rear most part of the bus.
 - c. Other than gasoline powered - forward of the door or window designed to be opened. (Exception: Emergency exits).
3. No part of the exhaust system of any motor vehicle shall be so located as would be likely to result in burning, charring, damaging the electrical wiring, the fuel supply or any combustible part of the motor vehicle.

D. Fuel System

1. A fuel system with a visible leak at any point.
2. A fuel tank filler cap missing.
3. A fuel tank not securely attached to the motor vehicle by reason of loose, broken or missing mounting bolts or brackets (some fuel tanks use springs or rubber bushing to permit movement).

E. Lighting Devices. All lighting devices and reflectors required by Section 393 shall be operable.

F. Safe Loading

1. Part(s) of the vehicle or condition of loading such that the spare tire or any part of the load or dunnage can fall onto the roadway.
2. Protection against shifting cargo. Any vehicle without a front-end structure or equivalent device as required.

G. Steering Mechanism

1. Steering Wheel Free Play
 - a. On vehicles equipped with power steering the engine must be running.

Steering Wheel Diameter	Manual Steering System	Power Steering System
6"	2"	4 "
18"	2 1/4"	4 3/4"
20"	2 "	5 1/4"
22"	2 3/4"	5 3/4"

2. Steering Column
 - a. Any absence or looseness of u-bolt(s) or positioning part(s).
 - b. Worn, faulty or obviously repair welded universal joints.
 - c. Steering wheel not properly secured.
3. Front Axle Beam and all Steering Components other than Steering Column
 - a. Any crack(s).
 - b. Any obvious welded repair(s).
4. Steering Gear Box
 - a. Any mounting bolt(s) loose or missing.
 - b. Any crack(s) in gear box or mounting brackets.
5. Pitman Arm. Any looseness of the pitman arm on the steering gear output shaft.
6. Power Steering. Auxiliary power assist cylinder loose.

7. Ball and Socket Joints
 - a. Any movement under steering load of a stud nut.
 - b. Any motion, other than rotational, between any linkage member and its attachment point of more than one-fourth inch (1/4).

8. Tie Rods and Drag Links

- a. Loose clamp(s) or clamp bolt(s) on tie rods or drag links
- b. Any looseness in any threaded joint.
9. Nuts. Nut(s) loose or missing on tie rods, pitman arm, drag link, steering arm or tie rod arm.

10. Steering System. Any modification or other condition that interferes with free movement of any steering component.

- H. Suspension

1. Any u-bolt(s), spring hanger(s) or other axle positioning part(s) cracked, broken, loose or missing resulting in shifting of an axle from its normal position (after a turn, lateral axle displacement is normal with some suspensions. Forward or rearward operation in a straight line will cause the axle to return to alignment).

2. Spring Assembly

- a. Any leaves in a leaf spring assembly broken or missing.
- b. Any broken main leaf in a leaf spring assembly. (Includes assembly with more than one main spring.)
- c. Coil spring broken.
- d. Rubber spring missing.
- e. One or more leaves displaced in a manner that could result in contact with a tire, rim, brake drum or frame.
- f. Broken torsion bar spring in a torsion bar suspension.
- g. Deflated air suspension, i.e. system failure, leak, etc.

3. Torque, Radius, or Tracking Components

- a. Any part of a torque, radius or tracking component assembly or any part used for attaching the same to the vehicle frame or axle that is cracked, loose, broken or missing. (Does not apply to loose bushing in torque or track rods.)

- I. Frame

1. Frame Member

- a. Any cracked, broken loose or sagging frame member.
- b. Any loose or missing fasteners including fasteners attaching functional components such as engine, transmission, steering gear suspension, body parts and fifth wheel.

2. Tire and Wheel Clearance. Any condition, including loading, that causes the body or frame to be in contact with a tire or any part of the wheel assembly.

3. Adjustable axle assemblies. Adjusting axle assembly with locking pins missing or not engaged.

- J. Tires

1. Any Tire on any Steering Axle of a Power Unit
 - a. With less than four-thirty seconds inch (4/32") tread when measured at any point on a major tread groove.
 - b. Has body ply or belt material exposed through the tread or sidewall.
 - c. Has any tread or sidewall separation.
 - d. Has a cut where the ply or belt material is exposed.

- e. Labeled Not for Highway Use or displaying other markings which would exclude use on steering axle.

- f. A tube-type radial tire without radial tube stem markings. These markings include a red band around the tube stem or the word Radial embossed in metal stems, or the word Radial molded in rubber stems.

- g. Mixing bias and radial tires on the same axle.

- h. Tire flap protrudes through valve slot in rim and touches stem.

- i. Re-grooved tire except motor vehicles used solely in urban or suburban service (see exception in 393.76(E)).

- j. Boot, blowout patch or other ply repairs.

- k. Weight carried exceeds tire load limit. This includes overloaded tire resulting from low air pressure.

1. Tire is flat or has noticeable (e.g. can be heard or felt) leak.

- m. Any bus equipped with recapped or retreaded tire(s).

- n. So mounted or inflated that it comes in contact with any part of the vehicle.

2. All tires other than those found on the steering axle of a power unit

- a. Weight carried exceeds tire load limit. This includes overloaded tire(s) resulting from low air pressure.

- b. Tire is flat or has noticeable (e.g. can be heard or felt) leak.

- c. Has body ply or belt material exposed through the tread or sidewall.

- d. Has any tread or sidewall separation.

- e. Has a cut where ply or belt material is exposed.

- f. So mounted or inflated that it comes in contact with any part of the vehicle. (This includes a tire that contacts its mate.)

- g. Is marked Not for Highway Use or otherwise marked and having like meaning.

- h. With less than two-thirty seconds inch (2/32") tread when measured at any point on a major tread groove.

- K. Wheels and Rims

1. Lock or Side Ring. Bent, broken, cracked, improperly seated, sprung or mismatched ring(s).

2. Wheels and Rims. Cracked or broken or has elongated bolt holes.

3. Fasteners (both spoke and disc wheels). Any loose, missing, broken, cracked, stripped or otherwise ineffective fasteners.

4. Welds

- a. Any cracks in welds attaching disc wheel disc to rim.

- b. Any cracks in welds attaching tubeless demountable rim to adapter.

- c. Any welded repair on aluminum wheel(s) on steering axle.

- d. Any welded repair other than disc to rim attachment on steel disc wheel(s) mounted on the steering axle.

- L. Windshield Glazing

1. Any crack, discoloration or vision reducing matter except:

- a. Coloring or tinting applied at the time of manufacture.

b. Any crack not over one-fourth inch (1/4") wide if not intersected by any other crack.

c. Any damage area not more than three-fourths inch (3/4") in diameter, if not closer than three inches (3") to any other such damaged area.

d. Labels, stickers, decals, etc. (see C.F.R. 393.60 for exceptions).

2. These prohibitions shall not apply to the area consisting of a two inch (2") border at the top, a one inch (1") border at each side and the area below the topmost portion of the steering wheel.

M. Windshield Wiper. Any power unit that has an inoperable wiper, or missing or damaged parts that render it ineffective.

N. Fire Extinguisher. Fire extinguisher must be properly filled and securely fastened in an approved type mount in a readily accessible location on the power unit.

O. Bi-Directional Triangles. Three bi-directional emergency reflective triangles that conform to the requirements of Federal Motor Safety Standard No. 125, 571.125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

831. Additional Requirements

All vehicles presented for inspection for motor carrier shall also comply to all safety requirements where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter E. Administrative and Audit Procedures

833. Investigations; Administrative Actions; Sanctions

A. The Motor Vehicle Inspection station owner/operator may be investigated for violating any requirement imposed by any inspection law, or any rule or regulation set forth by this Department. The Department may initiate an administrative proceeding to require the Motor Vehicle Inspection station owner/operator to comply with any requirement contained in any statute or any rule or regulation. The Department may also issue an action or order in connection with a violation of any statute or rule to impose an administrative sanction including a suspension, revocation or cancellation of any license, permit, certificate or authorization issued pursuant to LAC 55, Part III, Chapter 8 or to impose a civil administrative fine.

B. A person who has been denied any license, permit, certification or authorization provided by LAC 55, Part III, Chapter 8, as well as any person who has been subject to any action, order or decision of the Department pursuant to LAC 55, Part III, Chapter 8, may make a written request for an administrative hearing to review such action, order, decision, or denial within thirty days of the date of such action, order, decision, or denial. The failure to make a timely written request as provided in LAC 55, Part III, Chapter 8, 805 shall result in such action, order, decision, or denial becoming final and no longer subject to review. The thirty day period provided in LAC 55, Part III, Chapter 8, 805(B)

shall commence on the date the action, order, decision, or denial is mailed or hand delivered to the person, as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:0000 (September 1999).

835. Declaratory Orders and Rulings

A.1. Any person desiring a ruling on the applicability of R.S. 32:1301 et seq., or any other statute, or the applicability or validity of any rule, regarding the inspection of motor vehicles as provided in Louisiana Motor Vehicle Inspection Law shall submit a written petition to the Deputy Secretary for the Department.

2. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on any action, order or decision of the Department, including the issuance or denial of any license, permit, certification, authorization or approval, the person submitting the petition shall notify all persons specifically named in the action, order or decision, if the person submitting the petition is not one of the named persons. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person required to receive notice cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the Deputy Secretary.

C. The Deputy Secretary, or his designee, may request the submission of legal memoranda to be considered in rendering any order or ruling. The Deputy Secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the Deputy Secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as all other persons provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The Deputy Secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq. and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules should have no effect on the stability of the family. There should be an insignificant impact on families

with motor vehicles registered in the five parish nonattainment area of an additional three dollars a year for a motor vehicle inspection.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect of these Rules on the Functioning of the Family. These rules should not impact the functioning of the family. The additional three dollar fee should not be significant.

4. The Effect of these Rules on Family Earnings and Family Budget. The increased fee of three dollars in the five parish nonattainment area is the only effect of these rules.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules should not affect children as they cannot own property.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. The function required by these rules is to be performed by the inspection stations. As a result, there should be no requirement on the family or local governments to perform these functions.

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of State Police by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Wednesday, October 20, 1999. A public hearing on these rules is tentatively scheduled for Wednesday, October 27, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Nancy Von Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Vehicle Inspection Program**

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

The cost to the Department of printing manuals is \$1,081.00. There will be no costs to local governments. Pursuant to an existing contract, the Department is currently receiving \$80,000 from the Department of Environmental Quality (DEQ) in connection with the current emission testing. This funding will continue and will be used in connection with both the state wide vehicle emission inspection and maintenance program and the new inspection program in the five parish nonattainment area. At present, there are on going negotiations between the Department and the DEQ to increase the money received from DEQ by \$20,000 to fund additional expenses which may be incurred because of the new emissions inspections in the five parish nonattainment area.

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

There will be no effect on revenue collection by the Department of Public Safety and Corrections except as

indicated in the previous response to item I in connection with the contract renegotiations. The rules are simply an updating of an existing program. These rules do not address any increase in fees. Act No. 576 of the 1999 Regular Legislative Session required a fee increase of three dollars for inspections conducted for vehicles registered in the nonattainment area. This fee increase took effect on July 1, 1999, as provided in the legislation, and is to be retained by the inspection station to cover the cost of obtaining the equipment necessary to do the inspections in the nonattainment area. Effective January 1, 2000, the fees collected will be deposited into the Environmental Trust Fund unless DEQ adopts a rule reducing the three dollar fee increase. DEQ is also authorized to adopt a rule to permit the inspection stations to retain up to two dollars of the three dollar fee after January 1, 2000 to cover the costs of additional labor and equipment.

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

There will be no cost and/or economic benefit to the inspection stations other than the acquisition of equipment funded through fees retained by the inspection stations in the nonattainment area which are intended for costs associated with additional inspection requirements. The manuals will be given to MVI stations at no cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9909#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Public Safety Services
Office of Management and Finance**

Drug Testing Policy (LAC 55:XI.301-317)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Executive Order MJF 98-38 and R.S. 49:1001 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, proposes to adopt LAC 55:XI.301-317 to provide for the implementation of a drug-testing program for new and existing employees. This policy shall apply to all employees of Public Safety Services.

Title 55

PUBLIC SAFETY

Part XI. Office of Management and Finance

Chapter 3. Drug Testing Policy

§301. Introduction and Purpose

A. The employees of Public Safety Services are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.

B. The State of Louisiana and Public Safety Services have a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by

employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§303. Applicability

Public Safety Services fully supports these efforts and is committed to a drug-free workplace. This policy shall apply to all employees of Public Safety Services including appointees and all other persons having an employment relationship with this agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§305. Definitions

Controlled Substances—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g., full-time, part-time, temporary, restricted, detail, job appointment, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position—a position determined to contain duties of such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. At varying degrees, all Public Safety Services employees, regardless of rank or classification, have access to records that directly or indirectly affect the safety and security of residents of the State of Louisiana (i.e., Criminal Records, Drivers License Records, etc.). For this reason, all positions of Public Safety Services are considered to be "safety-sensitive" or "security-sensitive".

Under the Influence—for the purposes of this policy—a drug, chemical substance, or the combination of a drug

and/or chemical substance that affects an employee in any detectable manner. The symptoms of influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, and facilities (including all vehicles and equipment) whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§307. Policy

A. It shall be the policy of Public Safety Services to maintain a drug-free workplace and workforce free of substance abuse. Employees are prohibited from reporting to work or performing work for Public Safety Services with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs, at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workplace, it shall be the policy of Public Safety Services to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§309. Conditions Requiring Drug Tests

Reasonable Suspicion: Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.

1. Post Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident: a) involves circumstances leading to a reasonable suspicion of the employee's drug use, or, b) results in a fatality.

2. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

3. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the Human Resource Director following a job offer contingent upon a negative drug-testing result.

Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration of employment.

4. **Safety-Sensitive or Security-Sensitive Positions—Random Testing.** As every Public Safety Services position is considered to be "safety-sensitive" or "security-sensitive", every employee shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically (quarterly) call for a sample of such employees, selected at random by a computer generated random selection process, and require them to report for testing. All such testing shall, if applicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§311. Procedure

A. Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et. seq. Public Safety Services reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

B. The Human Resource Director and the Deputy Undersecretary shall be involved in any determination that one of the above-named conditions requiring drug testing exists. All recommendations for drug testing must be approved by Public Safety Services. Upon such final determination by the responsible officials, the Human Resource Director shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Human Resource Director shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a same gender collection site person.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. A Substance Abuse and Mental Health Services Administration (SAMSHA)—certified laboratory shall perform testing.

4. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

5. All positives reported by the laboratory must be confirmed by Gas Chromatography/Mass Spectrometry.

D. All positive results of a drug-testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§313. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by Public Safety Services through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained to discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§315. Responsibility

A. The Deputy Secretary of Public Safety Services is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by November 1 of each year.

B. The Human Resource Director is responsible for administering the drug testing program; recommending to the Deputy Secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the Deputy Secretary with the data necessary to submit a detail report to the Office of the Governor as described above.

C. All supervisory personnel are responsible for reporting to the Human Resource Director any employee they suspect may be under the influence of any illegal drug and/or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its contents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§317. Violation of the Policy

Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Nancy Dewitt, by writing to P.O.

Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-6067. These comments and inquiries should be received by Monday, October 25, 1999.

Family Impact Statement

1. The Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulating drug testing of Department employees in the work place.

2. The Effect of the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. The Effect on Family Earnings and Family Budget. These rules should have no effect on family earnings.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should have no effect on the behavior and personal responsibility of children as the rules only apply to Department employees.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to Department employees.

Nancy Van Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Drug Testing Policy**

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

In order to provide drug testing for 66 percent of the Department's employees, an estimated implementation cost of \$29,502 would be incurred. The estimated implementation costs for each agency is as follows:

Management & Finance	\$1,725
State Police	\$19,593
Motor Vehicles	\$6,525
Fire Marshal	\$1,366
LP Gas	\$165
Highway Safety	\$128

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

The implementation of a Drug Testing Policy within the Department will have no effect on revenues.

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

The implementation of a Drug Testing Policy within the Department will not require the Department's employees to incur any costs nor will the implementation provide an economic benefit to the Department's employees. Presumably this rule will result in a more productive workforce since this rule will decrease likelihood that an employee will report for work under the influence of drugs.

There may be a cost to an employee who has tested positive for drugs on more than one occasion. This employee may be subject to disciplinary action which could range from a reprimand to termination.

The Department is unable to determine the costs and/or economic benefits of the vendor who will be awarded the contract for the drug testing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no significant effect on competition and employment as a result of the implementation of this internal Department policy. There may be some benefit to the vendor who is awarded the state contract to analyze the samples for drugs.

Nancy Van Nortwick
Undersecretary
9909#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of the Secretary**

Electronic Funds Transfer (LAC 61:I.4910)

Under the authority of R.S. 47:1519 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue proposes to amend LAC 61:I.4910 pertaining to the electronic funds transfer of tax payments.

These proposed amendments are to reflect statutory changes enacted by Act 204 of the 1999 Regular Session of the Louisiana Legislature, which amended R.S. 47:1519(B) to require electronic funds transfer of tax payments if a taxpayer files tax returns more frequently than monthly and during the preceding 12-month period the average total payments exceed \$20,000 per month or if a company files withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Requirements

1. Taxpayers whose payments in connection with the filing of any business tax return or report, including declaration payments, during the prior 12-month period average \$20,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds.

2. Taxpayers that file tax returns more frequently than monthly and, during the preceding 12-month period, the average payment exceeds \$20,000 per month will be required to remit tax payments electronically or by other immediately investible funds.

3. Companies that file withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month will be required to remit the respective tax or taxes electronically or by other immediately investible funds.

4. Any taxpayer whose tax payments for a particular tax averages less than \$20,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:672 (June 1994), LR 23:448 (April 1997), amended by the Department of Revenue, Office of the Secretary, LR 25:

Interested persons may submit data, views, arguments, information, or comments on these proposed amendments in writing to Mike Pearson, Director, Corporation Income and Franchise Taxes Division, Department of Revenue, P.O. Box 201, Baton Rouge LA 70821 or by fax to (225) 922-0456. All written comments must be submitted by Tuesday, October 26, 1999.

A public hearing will be held on Wednesday, October 27, 1999, at 10:00 a.m. in the Department of Revenue Secretary's Conference Room, 330 North Ardenwood, Baton Rouge, Louisiana.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Brett Crawford
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Funds Transfer

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

Implementation of these proposed amendments, would require electronic funds transfer if a taxpayer files tax returns more frequently than monthly and during the preceding 12-month period the average total payments exceed \$20,000 per month or a company files withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month, should have a minimal impact on the Department's costs.

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

Implementation of these amendments will result in \$86 million in withholding tax payments available to the state at least four days sooner. Assuming that the state will earn interest for four additional days at an annual rate of 4.92 percent (last year's average rate paid to agencies by the Treasurer's Office for funds on deposit based on the earnings rate for certificates of deposit), it is estimated that the state should earn \$46,000 in additional interest annually.

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

These amendments will affect withholding taxpayers and companies that file withholding tax returns on behalf of taxpayers. Depending on the taxpayer's or company's banking arrangements, electronic funds transfer payments may result in a small per transaction charge.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of these proposed amendments should have no effect on competition or employment.

Brett Crawford
Secretary
9909#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of the Secretary

Signature Alternatives; Electronic Filings
(LAC 61:I.4905)

Under the authority of R.S. 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, proposes to amend LAC 61:I.4905 pertaining to tax return signature alternatives.

The Department administers several electronic filing programs for the purpose of reducing the number of paper return filings. Amendments are being proposed pertaining to the individual income tax telefile and online filing programs to allow the taxpayer's Personal Identification Number (PIN) to serve as an alternative to the signature requirement

for tax returns filed via the telephone and to provide for taxpayers who file their tax return online using a personal computer and a software provider/transmitter to sign and maintain the signature document for three years from December 31 of the year in which the taxes were due rather than to file it with the Department. In addition, in preparation for the beer tax return Internet filing program, provisions for signature alternatives for business tax returns filed using personal computers and software or an Internet provider/transmitter are being added.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4905. Signature Alternatives; Electronic Filings

A. As authorized by R.S. 47:1520, the following alternate methods for signing, subscribing, or verifying tax returns, statements, or other documents filed by electronic means are allowed and shall have the same validity and consequence as the actual signature and/or written declaration.

B. Electronic Filing. The following alternatives, as determined by the secretary, are allowed in lieu of submitting a written signature/declaration for tax returns transmitted electronically by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secured for a period of three years from December 31 of the year in which the taxes were due;
2. the taxpayer's signature on a trading partner agreement with the department; or
3. an electronic signature as determined by the secretary.

C. Telefiling

1. Individual Income Tax Returns. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a Personal Identification Number (PIN) will serve as the signature alternative.

2. Sales Tax Returns. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a Personal Identification Number (PIN) will serve as the signature alternative.

D. On-Line Filing.

1. Individual Income Tax Returns. For tax returns filed by the taxpayer using a personal computer and software provider/transmitter, the signature document must be completed and maintained by the taxpayer as an alternative to the signed tax return. The signed form and state supporting documents must be maintained by the taxpayer for three years from December 31 of the year in which the taxes were due.

2. Business Tax Returns. For tax returns filed by the taxpayer using a personal computer and software or an Internet provider/transmitter, a signature alternative as determined by the secretary will serve in lieu of a written signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 22:35 (January 1996), amended by the Department of Revenue, Office of the Secretary, LR 23:1167 (September 1997), LR 25:

Interested persons may submit data, views, or arguments, in writing to Joy Mullins, Director of the Personal Income Tax Division, Department of Revenue, P.O. Box 3863, Baton Rouge, LA 70821 or by fax to (225) 925-3853. All comments must be submitted by 4:30 p.m., Tuesday, October 26, 1999. A public hearing will be held on Wednesday, October 27, 1999, at 1:30 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Brett Crawford
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Signature Alternatives; Electronic Filing

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

The Department administers several electronic filing programs for the purpose of reducing the number of paper return filings. These proposed amendments pertaining to individual income tax returns filed via telephone or online using a personal computer and business tax returns filed online using a personal computer will result in an indeterminable cost savings to the Department based on the reduced paper

processing, handling, and storage of documents and elimination of the requirements to maintain voice recordings for telefiled tax returns.

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

There should be no effect on revenue collections of state or local governmental units as a result of these proposed amendments.

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

Taxpayers who file their tax returns electronically via on-line transmission using a personal computer should save the cost of mailing a signature document to the Department. There should be no effect on the costs for taxpayers who telefile their tax returns.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Brett Crawford
Secretary
9908#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Class A Day Care Centers—Reimbursement Rates
(LAC 67:V.2301)**

The Department of Social Services, Office of Community Services, proposes to increase the rate paid to Class A day care centers.

**Title 67
SOCIAL SERVICES**

**Part V. Office of Community Services
Subpart 4. Family Services**

Chapter 23. Daycare

§2301. Vendor Daycare Program

A. The Department of Social Services, Office of Community Services will only provide day care services to children who are at risk of abuse and/or neglect and for foster care reasons.

B. Class A Day Care Centers will be reimbursed for services at a rate of \$15.00 per day for full-time and \$1.87 per hour for part-time.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended by the Department of Social Services, Office of Community Services, LR 18:868 (August 1992), LR 25:

All interested persons may submit written comments through October 27, 1999 to: Shirley Goodwin, P.O. Box 3318, Baton Rouge, LA, 70821.

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Class A Daycare
Centers—Reimbursement Rates**

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

The estimated increased cost in FY 99-00 is \$237,600 in FY 00/01 and FY 01/02 the increase is \$316,800.

The funding is from federal funds in the Social Services Block Grant (SSBG) and the Child Care Developmental Block Grant.

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

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

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

There are no costs to directly affected persons or non-governmental groups. There is a benefit to day care providers as they will receive an increased payment which is equal to the payment they will receive from the Office of Family Support and that is more equitable to the current market rate for day care services. There is no impact on workload or paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue competition and employment.

Shirley B. Goodwin
Assistant Secretary
9909#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Child Care Assistance—Eligibility, Providers, and Payments
(LAC 67:III.5103, 5107, and 5109)**

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 12, the Child Care Assistance Program (CCAP). Pursuant to 45 CFR, Part 98, the rule proposes to increase payable child care provider rates based on the most current market rate survey. Since the established state median income levels have also increased, the agency proposes the following changes to allow more persons to qualify for assistance during the funding period, including a 10 percent decrease in the maximum income standard for program eligibility, a decrease in the percentage of child care costs paid with Child Care Development Funds by the State, a requirement regarding the customary residence of the child, and the temporary absence of the child from the home/day care facility.

To better meet the child care needs of the participants, the agency proposes revisions to the income eligibility standard (sliding fee scale) based on the state median income and poverty levels which are adjusted annually.

The agency also proposes to strengthen the eligibility requirements of the program by revising the definition of employment and setting a minimum number of activity hours to better serve those who seek financial self-sufficiency and independence from public assistance.

Additionally, Act 1144 of the 1999 Regular Session of the Louisiana Legislature requires criminal background checks for all adult household members living in family child day care homes registered for participation in CCAP. It prohibits persons convicted of certain crimes from working or living in registered family child day care homes. It also requires all registered family child day care home providers to maintain current certification either in Infant/Child or Infant/Child/Adult Cardiopulmonary Resuscitation (CPR). The agency proposes, therefore, to include these requirements in its administrative code.

For management purposes, the agency proposes that the Child Care Assistance Program assume responsibility for the registration of all family child day care home providers previously registered by the DSS Bureau of Licensing

The full text of this notice of intent can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

All interested persons may submit written comments through October 27, 1999 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999 at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? These changes will enhance the quality of child care available to those families who are seeking financial self-sufficiency and independence from public assistance, empowering the family to remain a cohesive family unit.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The family is assured freedom in selecting the child care provider of their choice, from a variety of child care provider types.

3. What effect will this have on the functioning of the family? The proposed rule change will have little impact on the functioning of the family, as Child Care Assistance will continue to provide quality child care at reduced rates to qualifying households.

4. What effect will this have on family earnings and family budget? The family budget will not be adversely

affected due to the continued affordability of child care provided by Child Care Assistance. 71percent of all participants pay no portion of their child care expense.

5. What effect will this have on the behavior and personal responsibility of children? As families are given freedom of choice in selecting a child care provider, they will be able to select a provider who most closely exhibits the traits the parents wish to be instilled in their children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Child Care Assistance Program foresees no impact on the family due to the proposed rule change.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance—Eligibility, Providers, and Payments

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

The proposed rule results in an increase in state expenditures of \$1,902,152 for the federal Child Care and Development Fund for FY 99/00 and \$3,804,305 in subsequent years. The cost of rulemaking and policy revisions will be minimal to state government. There will be no cost to local governmental units.

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

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

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

The action proposes a 10 percent decrease in the maximum income standard for program eligibility. The agency currently offers assistance to low income families with countable income at or below 85 percent of the state median income. It is proposed that this be reduced to 75 percent. These changes will allow more persons to qualify for assistance throughout the funding period.

Family Child Day Care Home providers may incur additional expenses due to the implementation of Act 1144 of the 1999 Regular Session of the Louisiana Legislature which requires criminal background checks for all adult household members living in CCAP-registered Family Child Day Care Homes and requires current certification in child CPR.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Availability of federal funds will allow the agency to continue to accept more quality child care provider services which will increase employment and competition in the child care industry.

Vera W. Blakes
Assistant Secretary
9909#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Support Enforcement—Interstate Income Assignment;
Collection of Unpaid Child Support
(LAC 67:III.2523 and 2543)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Act 1003 of the 1999 Regular Session of the Louisiana Legislature which enacted R.S. 46:237 and to further facilitate the collection of child support, the agency proposes to implement regulations which authorize SES to enter into a cooperative endeavor with a private attorney retained by the custodial parent.

Act 561 of this legislative session repealed LA R.S. 46:236.4 regarding Interstate Income Assignment; therefore, §2523 will be repealed. (SES now utilizes the interstate income assignment provisions in the Uniform Interstate Family Support Act [UIFSA].)

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter F. Cooperation with Other States

§2523. Interstate Income Assignment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.4 and 45 CFR 303.100.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), repealed by the Department of Social Services, Office of Family Support, LR 25:

Subchapter L. Enforcement of Support Obligations

§2543. Cooperative Endeavor in the Collection of Unpaid Child Support

A. In cases in which SES is providing services and the client hires a private attorney, SES may enter into a cooperative agreement with the attorney. The purpose of the agreement is to provide the private attorney with information on the payor so that the attorney can assist the client in collecting child support. Information to be released is as follows:

1. social security number;
2. address;
3. driver's license number;
4. information from hunting licenses;
5. tax records; and
6. information from professional licenses.

B. SES may provide the private attorney a certification that the obligor is in arrears at least six months or that the whereabouts of the obligor have been unknown for longer than six months. Upon review by the court, the court may authorize DSS to enter into a cooperative agreement with the attorney for collecting unpaid child support.

C. Before SES enters into an agreement with the private attorney, the obligee must sign a statement that the attorney is providing services and that he/she wishes the agency to enter into a cooperative agreement. The client may also request that child support payments collected by SES be sent directly to the private attorney.

D. The agreement between SES and the attorney shall be in writing and shall provide for the following:

1. that information concerning the obligor shall be provided to the attorney to the extent allowed by state and federal laws and regulations;

2. that all child support payments collected on behalf of the client shall be sent directly to SES and not to the attorney; and

3. that information furnished to the attorney must be safeguarded and used exclusively for IV-D child support purposes.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

All interested persons may submit written comments through October 27, 1999, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999, at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rule will not directly affect the stability of the family but may enhance the collection of child support. An improved financial situation should have a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? A cooperative endeavor among SES and a private attorney could result in an increase in child support collections. If a significant increase occurs for a family, it could relieve financial stress and enhance that family's quality of life.

4. What effect will this have on family earnings and family budget? This rule will not directly affect the family earnings but could improve a family's financial situation if the rule results in the collection of child support.

5. What effect will this have on the behavior and personal responsibility of children? This rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No. It is the function of SES and the legal community to act where individuals cannot.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Support Enforcement—Interstate Income
Assignment; Collection of Unpaid Child Support**

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

The proposed rule involves administrative procedures. The only cost of implementation is the minimal cost of printing policy revisions and publishing the rulemaking. Programming changes to automated systems will be required. These costs result in no additional expenditures for the state. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

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

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

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

If private attorneys are successful in obtaining child support payments, there would be costs to the obligor and benefits to the obligee, but no projection of amounts is possible. There is no cost or benefit to any nongovernmental groups.

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

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9909#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Support Enforcement—Publication of Names
(LAC 67:III.2579 and 2580)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Act 519 of the 1999 Regular Session of the Louisiana Legislature which amended R.S. 46:236.6(F), the agency proposes to adopt rules governing the publication of the names of persons who are delinquent in the payment of child support orders.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter N. Publication of Names of Delinquent

Payors

§2579. Publication of Names

A. SES will periodically provide a listing of noncustodial parents who are delinquent in child support payments for publication by the media. Publication may be at the expense of DSS or on a public service basis. The information will also be included on the DSS Homepage on the Internet. The entire list, or segments thereof, may be provided to the media or placed on the DSS Homepage.

B. Information to be released includes the name, date of birth, last known address, and the total amount of past-due support owed by the noncustodial parent. Persons to be listed are those who have made no payments within the last twelve months, excluding payments received through IRS, State tax, or lottery intercepts. Noncustodial parents who are incarcerated or who cannot pay because of a proven disability, will not be listed. If a noncustodial parent is listed on the DSS Homepage, the name will be removed only upon written request of the noncustodial parent, and proof that the arrears have been reduced to less than twelve months support.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§2580. Publication of the "Most Wanted" Poster

A. SES will periodically publish a "Most Wanted" poster featuring ten or more noncustodial parents each of whom meets the following criteria:

1. owes a total of \$5,000 or more in past due support;
2. has not been making regular payments; and
3. his/her whereabouts are unknown or unverified.

B. Each Regional Office and Orleans and Jefferson District Attorney Offices will submit a list of possible noncustodial parents to be listed on the Most Wanted poster. SES State Office will review the submittals and will select those cases which are determined to be most appropriate for the Most Wanted poster. The selection process will consider the total amount of support owed, the payment history of each person, and the person's history of evading location and service of process.

C. Information to be provided in the "Most Wanted" poster will include the following:

1. the name, age, date of birth, occupation, and last known address(es) of the noncustodial parent;
2. a photograph of the noncustodial parent;
3. the total amount of support owed as calculated by Support Enforcement; and
4. the number of children to whom support is owed.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? The proposed rule will not directly affect the stability of the family but may enhance the collection of child support. An improved financial situation should have a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The publication of names could result in an increase in child support collections for some families. If a significant increase occurs for a family, it could relieve financial stress and enhance that family's quality of life.

4. What effect will this have on family earnings and family budget? This rule will not directly affect the family earnings but could improve a family's financial situation if the rule results in the collection of child support.

5. What effect will this have on the behavior and personal responsibility of children? This rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Based on state law, this rule allows state government to publish delinquent child support payor's names; neither the family nor local government could perform these actions.

All interested persons may submit written comments through October 27, 1999, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Support Enforcement—Publication of
Names**

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

This estimated state cost is \$15,421 in FY 99-00 and \$30,842 per subsequent fiscal years. Additionally, there will be

implementation costs for policy changes and publication of the rule but these are minimal and are routinely included in the agency's annual budget.

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

Although advertising could result in increased child support payments (agency self-generated funds), no estimate of this increase can be projected.

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

The publication may result in increased child support collections for the custodial parent. There will be no cost to any persons or nongovernmental groups.

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

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9909#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Personal Care Attendant Services
(LAC 48:I.7715)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fee for personal care attendant service agencies to \$200.00. This change will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 7715, pertaining to fees for the licensure of personal care attendant services, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 77. Personal Care Attendant Services

§7715. Licensure Fees

An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 for each personal care attendant service agency, which must be paid before a license is issued or renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of

Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of personal care attendant providers will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? No affect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Personal Care Attendant Services

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

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of personal care attendant service agencies. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amount of \$200.00.

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

In accordance with the authority granted by Act 1135, licensing fees for personal care attendant service agencies will be increased to \$200.00. There will be an estimated increase of \$28,950 in Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$65,550 is projected for FY 2000/01, and an increase of \$72,950 is projected for FY 2001/02.

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

Licensure fees charged of personal care attendant service agencies will be increased from \$50.00 to \$200.00. Providers that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the licensing fee of \$200.00 each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of personal care attendant providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Respite Care (LAC 48:I.8107)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fees for respite care services agencies and facilities. The increased fees will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 8107, pertaining to fees for the licensure of respite care services, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 81. Respite Care

8107. Licensure Fees

An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 dollars for each agency providing in-home respite care; \$400 for each out-of-home respite care facility with no fewer than four nor more than six beds; \$600 for each out-of-home respite care facility with no fewer than seven nor more than 15 beds; and \$800 for each out-of-home respite care facility with 16 or more beds. Separate fees shall be paid by those providers that operate both in-home and out-of-home respite care services programs. All fees must be paid before a license is issued or renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of respite care providers will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on behavior and personal responsibility of children? No affect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Respite Care

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

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of respite care agencies and facilities. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amounts.

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

In accordance with the authority granted by Act 1135, licensing fees will be increased to: \$200 for in-home respite care agencies; \$400 for out-of-home respite care facilities with 4-6 beds; \$600 for out-of-home respite care facilities with 7-15 beds; \$800 for out-of-home respite care facilities with 16 or more beds. There will be an estimated increase of \$25,050 in

Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of in-home respite care agencies, a revenue increase of \$51,600 is projected for FY 2000/01, and an increase of \$57,600 is projected for FY 2001/02.

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

Licensure fees charged of respite care agencies and facilities will be increased as follows: fees for in-home respite care programs will increase \$50.00 to \$200.00; fees for out-of-home respite care facilities with 4-6 beds will increase from \$100.00 to \$400.00; fees for out-of-home respite care facilities with 7-15 beds will increase from \$200.00 to \$600.00; fees for out-of-home respite care facilities with 16 or more beds will increase from \$300.00 to \$800.00. Providers that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the appropriate licensing fee each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of respite care providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Supervised Independent Living
(LAC 48:I.8301)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fee for supervised independent living programs to \$200.00. This change will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 8301, pertaining to the application procedure, licensure fees, reapplication, refusal, revocation and fair hearing, and licensing inspections for supervised independent living programs, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 83. Supervised Independent Living

§8301. Application Procedure, Licensure Fees,

Reapplication, Refusal, Revocation and Fair

Hearing, and Licensing Inspections

A. The applicant shall submit an application for licensure on a form supplied by the Bureau of Licensing, to the Department of Social Services, Bureau of Licensing. Applicants will not receive a license until all applicable

requirements have been met. A provider may not begin operation until a license has been issued.

B. An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 for each supervised independent living program. All fees must be paid before a license is issued or renewed.

C. A provider with a change in ownership or any substantial changes in the services offered must reapply for a license. In the event of a change of ownership or location, the old license is voided automatically. A license may not be transferred to any location or person other than that specified in the license application.

D. A license may be revoked or refused if applicable licensing requirements, as determined by the Bureau of Licensing, have not been met. Licensing decisions are subject to appeal and fair hearing, in accordance with state law.

E. Licensing inspections are usually conducted annually, but may be conducted at any time. No advance notice is given. Licensing staff must be given access to all areas in the facility and all relevant records, including staff and client records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said public hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of supervised independent living providers will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? No effect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or

local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supervised Independent Living

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

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of supervised independent living programs. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amount of \$200.00.

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

In accordance with the authority granted by Act 1135, licensing fees for supervised independent living programs will be increased to \$200.00. There will be an estimated increase of \$20,700 in Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$46,200 is projected for FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$46,200 is projected for FY 2000/01, and an increase of \$51,000 is projected for FY 2001/02.

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

Licensure fees charged of supervised independent living programs will be increased from \$50.00 to \$200.00. Programs that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the licensing fee of \$200.00 each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of supervised independent living providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary Crescent City Connection Division

Bridge Toll—Crescent City Connection
Exemptions—Law Enforcement Personnel
(LAC 70:I.513)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 70:I.513 to include enforcement division agents of the Louisiana Department of Wildlife and Fisheries within

the definition of law enforcement personnel for purposes of toll exemptions. This proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§513. Crescent City Connection Exemptions—Law Enforcement Personnel

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency for purposes of R.S. 40:1392 shall mean any agency of the State or its political subdivisions and the Federal Government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this State or similar federal laws and who are employed in this State. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 40:1392.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 23:84 (January 1997), amended LR 25:

Interested persons may comment on this proposed Rule Amendment to Mr. Alan J. LeVasseur, P.O. Box 6297, New Orleans, Louisiana, 70174.

Alan J. LeVasseur
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bridge Toll—Crescent City Connection Exemptions—Law Enforcement Personnel

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

There will not be any implementation costs to the State. Toll tags will be issued to eligible enforcement division agents of the Department of Wildlife and Fisheries for free passage and the Crescent City Connection Division currently budgets the costs of toll tags from self-generated agency funds.

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

The Crescent City Connection currently provides for free passage by eligible law enforcement personnel, and the proposed Rule Amendment would extend free passage to the enforcement division agents of the Department of Wildlife and Fisheries. To the extent that enforcement division agents of the Department of Wildlife and Fisheries utilize the right of free passage extended by the proposed Rule Amendment, toll

revenues to the Crescent City Connection will decrease. However, it is not anticipated that any such decrease in toll revenue would be material.

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

The expanded eligibility requirements for free passage could result in cost savings to the enforcement division agents of the Department of Wildlife and Fisheries who utilize the facilities of the Crescent City Connection Division.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Kenneth E. Pickering
General Counsel
9909#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Measures**

**Minimum Standards for Reflective Sign Sheeting
(LAC 73:III.301)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Section 301 of the rule entitled Minimum Standards for Reflectivity of Work-Site Materials, in accordance with R. S. 48:35. This proposed rule has no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Title 73

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part III. Weights and Measures

Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

§301. Minimum Standards for Reflective Sign Sheeting

A. Reflective sheeting shall be one of the following types as specified on the plans and conforming to ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I - A medium-intensity retroreflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II - A medium-high-intensity retroreflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III - A high intensity retroreflective sheeting, that is typically encapsulated glass-bead retroreflective material.

4. Type VI - An elastomeric-high-intensity retroreflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retroreflective material.

5. DOTD Type VII - A super-intensity retroreflective sheeting having high retroreflectivity values at wide entrance angles of +45° and +60°. This sheeting is typically an unmetallized microprismatic retroreflective element material.

6. DOTD Type VIII - A super-intensity retroreflective sheeting having optimized performance over a broad range of observation angles. This sheeting is typically an unmetallized microprismatic retroreflective element material.

B. Adhesive Classes. The adhesive required for retroreflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch centers and shall be visible from a distance of not more than 3 feet.

D. Alternate Sheeting Types

1. DOTD Type VII - Minimum Coefficient of Retroreflection shall be as specified in Table 1015-1. Luminance Factor shall be as specified in Table 1015-2.

Table 1015-1 DOTD Type VII Sheeting^a

Observation Angle	Entrance Angle	White	Yellow	Red	Blue	Green	Orange	Flour Orange
0.2°	-4°	800	660	21	43	80	300	200
				5				
0.2°	+30°	400	340	10	20	35	150	120
				0				
0.2°	+45°	145	85	25	7.6	12	50	50
0.2°	+60°	35	23	6.6	1.0	2.0	10	10
0.5°	-4°	200	160	45	9.8	20	100	80
0.5°	+30°	100	85	26	5.0	10	50	50
0.5°	+45°	75	60	18	2.8	6.0	20	20
0.5°	+60°	30	20	6.4	2.0	2.0	10	6.0

^aMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

TABLE 1015-2 LUMINANCE FACTOR (Y%) (DAYTIME LUMINANCE)

Color	Minimum	Maximum
White	40	--
Yellow	24	45
Red	3.0	15
Blue	1.0	10
Green	3.0	9.0
Orange	12	30
Florescent Orange	30	--

2. DOTD Type VIII - Minimum Coefficient of Retroreflection shall be as specified in Table 1015-3. Luminance Factor shall be as specified in Table 1015-2.

TABLE 1015-3 DOTD TYPE VIII SHEETING^A

Observation Angle	Entrance Angle	Rotation Angle	White	Yellow	Red	Blue	Green
0.20°	-4°	0°	430	350	70	20	45
0.33°	-4°	0°	300	250	53	15	33
0.50°	-4°	0°	250	200	46	10	25
1.00°	-4°	0°	80	65	14	4.0	10
0.20°	30°	0°	235	190	39	11	24
0.33°	30°	0°	150	130	25	7.0	18
0.50°	30°	0°	170	140	25	7.0	19
1.00°	30°	0°	50	40	11	2.5	5.0
0.20°	40°	90°	150	125	25	6.0	15
0.33°	40°	90°	85	75	14	4.0	8.0
0.50°	40°	90°	35	30	4.0	1.5	3.5
1.00°	40°	90°	20	13	5.0	0.7	2.0

^AMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

E. Accelerated Weathering. Reflective sheeting, when processed, applied and cleaned in accordance with the

manufacturer's recommendations shall perform in accordance with the accelerated weathering standards in Table 1015-4a.

TABLE 1015-4a Accelerated Weathering Standards

Type	Retroreflectivity ¹				Colorfastness ³	
	Orange		All colors, except orange		Orange	All colors, except orange
I	Not used		2 years	50 ⁴	Not used	2 Years
II	1 Year	70 ⁵	Not used		1 Year	3 Years
III	1 Year	70 ⁶	3 Years	80 ⁶	1 Year	3 Years
III (for drums)	1 Year	70 ⁶	1 Year	80 ⁶	1 Year	1 Year
VI	1/2 Year	50	1/2 Year	50	1/2 Year	1/2 Year
DOTD Type VII	1 Year	50 ⁷	Not Used		1 Year	Not used
DOTD Type VIII	Not used		3 Years	80 ⁸	Not used	3 Years

¹Percent retained retroreflectivity of referenced table after the outdoor test exposure time specified.

² At an angle of 45° from the horizontal and facing south in accordance with ASTM G7.

³ Colors shall conform to the color specification limits of ASTM D4956 after the outdoor test exposure time specified.

⁴ ASTM D4956, Table 1.

⁵ ASTM D4956, Table 3.

⁶ ASTM D4956, Table 4.

⁷ DOTD Table 1015-1.

⁸ DOTD Table 1015-3.

F. Performance. Reflective sheeting for signs, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform outdoors in accordance with the performance standards in Table 1015-4b.

TABLE 1015-4b Performance Standards of Installed Sign Sheeting

Type	Retroreflectivity ¹ - Durability ²			Colorfastness ³	
	Orange		All colors, except orange		
I	Not used		7 years	40 ⁴	3 Years
II	3 Years	70 ⁵	Not used		3 Years
III	3 Years	70 ⁶	10 Years	70 ⁶	3 Years
DOTD Type VII	3 Years	50 ⁷	Not Used		3 Years
DOTD Type VIII	Not used		7 Years	50 ⁸	3 Years

¹Percent retained retroreflectivity of referenced table after installation and the field exposure time specified.

²All sheeting shall maintain its structural integrity, adhesion and functionality after installation and the field exposure time specified.

³All colors shall conform to the color specification limits of ASTM D4956 after installation and the field exposure time specified.

⁴ ASTM D4956, Table 1.

⁵ ASTM D4956, Table 3.

⁶ ASTM D4956, Table 4.

⁷ DOTD Table 1015-1.

⁸ DOTD Table 1015-3.

G. Sheeting Guaranty. The contractor shall provide the Department with a guaranty from the sheeting manufacturer stating that if the retroreflective sheeting fails to conform to

the performance requirements of this subsection, the sheeting manufacturer shall do the following:

TABLE 1015-4c Manufacturer's Guaranty

Type	Manufacturer shall restore the sign face in field location to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.		Manufacturer shall furnish the sheeting required to restore the sign face to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.
	Orange	All colors, except orange	All colors, except orange
I	Not used	<5 years	5-7 years
II	<3 years	<5 years	5-10 years
III	<3 years	<7 years	7-10 years
DOTD Type VII	<3 years	Not used	Not used
DOTD Type VIII	Not used	<5 years	5-7 years

¹From the date of sign installation.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures LR 24:703(April 1998), amended LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of the Notice of Intent to: Henry G. Reed, P.E., Specifications and Standards Engineer, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804, Telephone (225)379-1439.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

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

**RULE TITLE: Minimum Standards for Reflective
Sign Sheeting**

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

There will be no implementation costs to State or local governmental units. These reflectivity standards have been in effect for many years. This amendment to existing rules updates the standards required by the Department to reflect current industry standards.

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

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

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

There will be no cost or economic benefit to directly affected persons or nongovernmental groups.

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

There will be no effect on competition and employment.

Kam K. Movassaghi, Ph.D., P.E.
Secretary
9909#077

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the State
Employees' Retirement System**

Minimum Distributions from DROP (LAC 58:I.2713)

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") advertises its intent to amend LAC 58:I.2711 and 2713. The proposed amendment to the rules changes the minimum distribution requirements from the Deferred Retirement Option Plan to comply with the Internal Revenue Code. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

Part I. State Employees' Retirement

Chapter 27. DROP Program

Subchapter C. Withdrawal

§2711. Method of Withdrawal

A. When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the participant's DROP account may be withdrawn in any of the following methods:

1. Lump Sum Withdrawal:

c. if a participant dies and the designated beneficiary is not entitled to a monthly retirement benefit, the DROP account must be withdrawn within ninety (90) days after notification of the death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

§2713. Time for Disbursement

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the following schedule:

Age at Termination	Minimum Number of Years for Payout or Recovery
55 or under	30
55 and one day to 60	25.833
60 and one day to 65	21.667
65 and one day to 70	17.5
70 and one day and older	13.3

NOTICE OF INTENT
Department of Treasury
Board of Trustees of the State
Employees' Retirement System

Purchases of Service Credit
(LAC 58:I.1701, 1703, 1707 and 1709)

B. Disbursements from the DROP accounts shall be made on the sixth day of each month; if the sixth is a weekend or holiday, the disbursement shall be made on the following workday.

C. When a retiree reaches age 70½, mandatory monthly distributions shall begin in accordance with IRS regulations. The amount of the monthly distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 through October 30, 1999.

Glenda Chambers
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Distributions from DROP**

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

No implementation cost to the state or local governmental units are anticipated because of the proposed rules.

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

These regulations will have no impact on revenue collections of state or local governmental units.

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

There will be no economic impact on those persons who are required to withdraw their DROP funds in accordance with the Internal Revenue Code, and it will save them a 50% excise tax penalty for not making the withdrawal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

Glenda Chambers
Executive Director
9909#002

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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") advertises its intent to amend LAC 58:I.1701, 1703, and to adopt LAC 58:I.1707 and 1709. The proposed amendments to the rules change the provisions for the purchase of service credit by reinstated employees, and add provisions for partial purchase of service credit. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 17. Purchases of Service Credit**

§1701. Purchases of Service by Reinstated Employees

A. When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions, plus interest, is made to the retirement system within sixty (60) days of the reinstatement.

B. If reinstated, the employee shall pay an amount equal to the current employee's contributions based on the earned compensation for the period of time that was reinstated. The employing agency shall pay the employer contributions that would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

C. When a reinstated employee is entitled to back pay from the employing agency, the agency shall remit the employer and employee's contributions that would have been due if the employee had been employed during that time, plus interest. The agency shall also provide LASERS with a report of earnings on a monthly basis for the period for which the individual was reinstated.

D. If a member has received a refund of contributions after termination, he must repay the refund prior to having the service credit reinstated. The repayment of the refund must be made within sixty (60) days of reinstatement. Failure to timely pay the refund by the employee shall result in appropriate action being taken by the system to recoup these funds. However, any funds recouped after sixty (60) days of reinstatement shall be treated as a purchase of service credit and not a reinstatement of employment.

E. Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

AUTHORITY NOTE: Promulgated in accordance with 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 25:

§1703. Effect of Reinstatement

A. Employees reinstated into state government shall be entitled to purchase service credit as provided in this Chapter, and the employee shall be treated as if he was a member during this period of purchased service credit, except that the reinstated employee will not be entitled to partial repurchase provisions for the service credit that is reinstated through legal action.

B. The reinstated employee's original hire date shall be used for retirement purposes, and not the date of reinstatement, to the extent that the employee has repurchased the necessary service credit if the employee had received a refund of contributions. If the refund is received after sixty (60) days of reinstatement, the payment shall be treated as a payment of a refund and the date of hire shall be the date of reinstatement.

AUTHORITY NOTE: Promulgated in accordance with 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 25:

§1707. Repayment of Refund of Contributions

A. A member who received a refund or employee contributions may repay the refund after the member has returned to state service and contributed to the system for a minimum of eighteen months, by paying to the system the employee contribution refund plus interest compounded annually at the actuarial valuation rate for all contributions payable from the date the refund was issued until paid in one lump sum, or by partial repayment in accordance with the following section.

B. Repayment of refunds must be completed prior to retirement or beginning participation in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:

§1709. Partial Repayment of Refund of Contributions

A. If a member elects to repay part of a refund, he must repay the contributions for the most recent service credit first. For example, if a member received a refund for service from January 1, 1991, through December 31, 1993, and elects to repay one year of service, he/she must repay the contributions for 1993 first.

B. Partial payments must be made in increments based on service within a calendar year with the most recent year(s) repaid first. Example: A member worked from June 1, 1990 through April 30, 1993 then received a refund. The refund may be repaid in the following order:

1. January 1, 1993 through April 30, 1993;
2. January 1 through December 31, 1992;
3. January 1 through December 31, 1991; then
4. June 1 through December 31, 1990.

C. If a member has both full time and part time service credit that was refunded, the years of full time service must be repaid first. When there is both full time and part time

service within the calendar year(s), LASERS shall have the authority to determine the calendar year of service credit that must be repaid first. As a general rule, the year(s) with the most full time service must be repaid before the year(s) with more part time service.

D. Upon receipt of the partial payment, the service credit for the calendar year repaid will be restored to the member.

E. A member may receive three invoices in a 12-month period at no cost. Each additional invoice within the 12-month period will cost \$75 each.

F. Interest at the actuarial rate will be calculated from the date of the refund was issued to the date of the repayment. Interest will be compounded on an annual basis.

G. The partial repayment must be made in a single payment.

H. For the purposes of R.S. 11:144.1 or 444, partial repayment of refunds is prohibited.

I. Partial repayments will be allowed until July 1, 2003, unless R.S. 11:537(F) is amended to provide otherwise. If a partial payment was made prior to July 1, 2003, and the authority for partial repayment is not continued by statute, the member can only repay the remaining portion of any refund in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 through October 30, 1999.

Glenda Chambers
Executive Director

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

RULE TITLE: Purchases of Service Credit

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

No implementation cost to the state or local governmental units are anticipated because of the proposed rules.

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

These regulations will have no impact on revenue collections of state or local governmental units.

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

The only economic impact would be on those persons who are eligible to purchase service credit. These people will be able to purchase refunded service credit in smaller increments, as opposed to a lump sum.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected impact on competition and employment by the enactment of these rules.

Glenda Chambers
Executive Director
9909#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Regulations—Lake Bartholomew (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) on Lake Bartholomew, located in Morehouse and Ouachita Parishes, Louisiana.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations-Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the Commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Concordia Lake (Concordia Parish), and Caney Creek Reservoir (Jackson Parish):

a. Size limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: eight fish of which no more than two fish may exceed 19 inches maximum total length.*

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

3. False River (Pointe Coupee Parish)

a. Size limit: 14 inch minimum size limit.

b. Daily Take: 5 fish.

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

*Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Mike Wood, Biologist Supervisor, Inland Fisheries Division, Department of Wildlife and Fisheries, 368 Century Drive, Monroe, LA 71211, no later than 4:30 p.m., Monday, November 8, 1999.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Black Bass Regulations—Lake Bartholomew

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Ouachita and Morehouse Parish Enforcement Agents are presently employed to patrol Lake Bartholomew as part of their duties.

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

The proposed rule will have no effect on revenue collections of State and Local governmental units.

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

Sport fishermen who fish in Lake Bartholomew will be affected by the proposed action. They will not have to release black bass between 14 and 17 inches in total length. The proposed rule will have no effect on costs to sport fishermen at Lake Bartholomew.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sector.

James L. Patton
Undersecretary
9909#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Freshwater Mullet Harvest
(LAC 76:VII.193)

The Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule on the harvest of mullet.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§193. Freshwater Harvest of Mullet

A. Recreational Limits. The daily take and possession limit for the recreational harvest of mullet shall be 100 pounds per person per day. No person shall take or possess mullet in excess of 100 pounds per day, except for legally licensed commercial fishermen. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange mullet taken or possessed recreationally.

B. Commercial; freshwater areas. The following provisions govern the commercial taking of mullet with hoop nets in the freshwater areas of the state.

1. Mullet caught in the freshwater areas of the state shall not be possessed by commercial fishermen in the saltwater areas of the state.

2. There shall be no lead nets on hoop nets used for the fishing of mullet.

3. No person shall take or possess mullet from hoop nets between the hours of official sunset and official sunrise.

4. No mullet shall be possessed on the water in the freshwater areas of the state between the hours of official sunset and official sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1.A(1) and R.S. 56:333.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the

preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments of the proposed rule to Mr. Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898, no later than 4:30 p.m., Monday, November 8, 1999.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Freshwater Harvest of Mullet**

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Enforcement agents presently enforce commercial fishing regulations as part of their duties.

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

The proposed rule should have no effect on revenue collections of State and Local governmental units.

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

The 1999 Legislature legalized the commercial taking of mullet in freshwater areas with hoop nets. This action should benefit commercial hoop net fishers since they will be able to sell the mullet they catch. The proposed rule establishes regulations that commercial fishers will have to follow, but should have no affect on costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sector.

James L. Patton
Undersecretary
9909#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office