

Rules

RULE

Department of Agriculture and Forestry Office of the Commissioner

Brucellosis Vaccination and Fee (LAC 7:XXI.305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board adopts regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§305. Brucellosis Vaccination and Fee

A. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Livestock Sanitary Board program and are anticipated to generate \$146,000 annually in revenues. The kinds and anticipated amounts or costs, which will be offset by this fee, include but are not limited to: other charges/professional services - \$127,750; indirect costs - \$18,250. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

B. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are to be sold through an approved livestock auction market must be vaccinated with USDA approved brucellosis vaccine prior to being sold. There shall be a fee to be paid by the seller of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the seller by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), amended by the Department of Agriculture and Forestry, LR 25:2396 (December 1999).

Bob Odom
Commissioner

9912#056

RULE

Department of Economic Development Office of the Secretary

Repeal of Rules for Watchmaking
(LAC 46:LXXXVII)

In accordance with LA R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development hereby repeals, in its entirety, Louisiana Administrative Code Title 46, Professional and Occupational Standards, Part LXXXVII, Watchmakers.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVII. Watchmakers

Chapters 1-13. Repealed

Kevin P. Reilly, Sr.
Secretary

9912#021

RULE

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) hereby revises the provisions of the Tuition Opportunity Program for Students (TOPS).

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 25:2396 (December 1999).

Jack L. Guinn
Executive Director

9912#005

RULE

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

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.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 Ponchatrain 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 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 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 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; Ponchatrain 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 25:2397 (December 1999).

James H. Brent, Ph.D.
Assistant Secretary

9912#075

RULE

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

(Editor's Note: Sections 3703 and 3711 are being reprinted to correct typographical errors. This rule originally ran in the November 20, 1999 *Louisiana Register* on pages 2196 through 2199.)

**Louisiana Environmental Regulatory Innovations Program
(LERIP) (LAC 33:I.3703 and 3711)(OS032)**

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

secretary has adopted the Office of the Secretary regulations, LAC 33:I.Chapter 37 (Log No. OS032).

The rule will establish the procedures for participation in the Louisiana Environmental Regulatory Innovations Program (LERIP), as well as an Excellence and Leadership Program. The rule contains application requirements, department review conditions, a priority system for ranking demonstration projects, project amendment and renewal procedures, and project termination. Facility owners and operators, in conjunction with stakeholders, are encouraged to develop and implement effective pollution prevention and/or pollution reduction strategies to achieve levels below required regulation levels. R.S. 30:2566 requires the department to promulgate regulations for the administration of the Louisiana Environmental Regulatory Innovations Programs, including the Excellence and Leadership Program. The basis and rationale for this rule are to promulgate regulations to consider regulatory flexibility as an incentive to superior environmental performance.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 37. Regulatory Innovations Programs

§3703. Definitions

Administrative Authority☞ the secretary of the Department of Environmental Quality or the secretary's designee.

Demonstration Project (DP)☞ a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

Final Project Agreement (FPA)☞ the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

Regulatory Flexibility☞ a qualified participant in a regulatory innovations program may be exempted by the secretary from regulations promulgated by the department under this Chapter consistent with federal law and regulation.

Stakeholders☞ citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

Superior Environmental Performance☞

1. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

2. improved social or economic benefits, as determined by the secretary, to the state, while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements

under current applicable law and regulation are being achieved by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999), repromulgated LR 25:2399 (December 1999).

§3711. Public Notice

A. An applicant whose DP has been approved shall publish notice of the FPA in the official journal of the parish governing authority where the project will be implemented. Notice under this Section shall, at a minimum, include:

1. a brief description of the FPA and of the business conducted at the facility;

2. the name and address of the applicant and, if different, the location of the facility for which regulatory flexibility is sought, and a brief description of the regulatory relief that has been granted; and

3. the name, address, and telephone number of a department contact person from whom interested persons may obtain further information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999), repromulgated LR 25:2399 (December 1999).

Dale Givens
Secretary

9912#103

RULE

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 has amended the Office of the Secretary regulations, LAC 33:I.705 (Log #OS033).

This 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 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.

Table 1. 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 25:2400 (December 1999).

James H. Brent, Ph.D.
Assistant Secretary

9912#077

RULE

**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 has amended 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 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 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 25:2400 (December 1999).

James H. Brent, Ph.D.
Assistant Secretary

9912#078

RULE

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

1998 Revisions to Surface Water Quality Sandards
(LAC 33:IX.1105, 1111, 1113,
1115, 1117, 1121, and 1123)(WP033)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1105, 1111, 1113, 1115, 1117, 1121, and 1123 (Log #WP033).

The water quality standards establish provisions for the protection of instream water quality and consist of policy statements, designated water uses, and numerical and narrative criteria, which sets limits for various water quality parameters. This revision to the current water quality standards includes: addition of new language that states the use of clean or ultra clean techniques may be necessary in some situations; revision of several numerical criteria with current data; addition of updated and new references for biomonitoring; revision of numerical criteria and designated uses table; and addition of language to clarify the links between dissolved oxygen and the designated uses for fish and wildlife propagation. The water quality standards are applicable to the ambient surface waters of streams and other waterbodies of the state and do not apply to groundwater. The basis and rationale for this proposed rule are to comply with federal law governing water quality standards that requires states to review and revise, as appropriate, their water quality standards every three years [Water Quality Act of 1987 PL 100-4 Section 303(c)].

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

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

[See prior text]

Clean Techniques those requirements (or practices for sample collection and handling) necessary to produce reliable analytical data in the microgram per liter (µg/L) or part per billion (ppb) range.

* * *

[See prior text]

Ultra-Clean Techniques those requirements or practices necessary to produce reliable analytical data in the nanogram per liter (ng/L) or part per trillion (ppt) range.

* * *

[See prior text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999).

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3 (LAC 33:IX.1123) and not to any tributaries and distributaries to such water body which are typically contained in separate subsegments. A description of each designated use follows.

* * *

[See prior text in A-B]

C. Fish and Wildlife Propagation. Fish and wildlife propagation includes the use of water for aquatic habitat, food, resting, reproduction, cover, and/or travel corridors for any indigenous wildlife and aquatic life species associated with the aquatic environment. This use also includes the maintenance of water quality at a level that prevents damage to indigenous wildlife and aquatic life species associated with the aquatic environment and contamination of aquatic biota consumed by humans. The subcategory of "limited aquatic life and wildlife use" recognizes the natural variability of aquatic habitats, community requirements, and local environmental conditions. Limited aquatic life and wildlife use may be designated for water bodies having habitat that is uniform in structure and morphology with most of the regionally expected aquatic species absent, low species diversity and richness, and/or a severely imbalanced trophic structure. Aquatic life able to survive and/or propagate in such water bodies include species tolerant of severe or variable environmental conditions. Water bodies that might qualify for the limited aquatic life and wildlife use subcategory include intermittent streams and man-made water bodies with characteristics including, but not limited to, irreversible hydrologic modification, anthropogenically and irreversibly degraded water quality, uniform channel morphology, lack of channel structure, uniform substrate, lack of riparian structure, and similar characteristics making the available habitat for aquatic life and wildlife suboptimal. Limited aquatic life and wildlife use will be denoted in Table 3 (LAC 33:IX.1123) as an "L."

* * *

[See prior text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883

(August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999).

§1113. Criteria

* * *

[See prior text in A-C.2]

3. Dissolved Oxygen. The following dissolved oxygen (DO) values represent minimum criteria for the type of water specified. Naturally occurring variations below the criterion specified may occur for short periods. These variations reflect such natural phenomena as the reduction in photosynthetic activity and oxygen production by plants during hours of darkness. However, no waste discharge or human activity shall lower the DO concentration below the specified minimum. These DO criteria are designed to protect indigenous wildlife and aquatic life species associated with the aquatic environment and shall apply except in those water bodies that qualify for an excepted

water use as specified in LAC 33:IX.1109.C or where exempted or excluded elsewhere in these standards. DO criteria for specific state water bodies are contained in LAC 33:IX.1123.

a. Fresh Water. For a diversified population of fresh warmwater biota including sport fish, the DO concentration shall be at or above 5 mg/L. Fresh warmwater biota is defined in LAC 33:IX.1105.

* * *

[See prior text in C.3.b - 6.e]

f. The use of clean or ultra-clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA method 1669 for metals) or to assess such pollutants when numeric or narrative water quality standards are not being attained. Clean and ultra-clean techniques are defined in LAC 33:IX.1105.

Table 1 Numerical Criteria for Specific Toxic Substances (In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)						
Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Freshwater		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
Pesticides and PCB's						
* * *						
[See prior text in Aldrin - DDE]						
Dieldrin	0.2374	0.0557	0.710	0.0019	0.05 ng/l	0.05 ng/l
Endosulfan	0.22	0.0560	0.034	0.0087	0.47	0.64
Endrin	0.0864	0.0375	0.037	0.0023	0.26	0.26
* * *						
[See prior text in Heptachlor - 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) ⁹]						
Metals and Inorganics						
Arsenic	339.8	150	69.00	36.00	50.0	--
Chromium III (Tri) ^{7,8}	310	103	515.00	103.00	50.0	--
	537	181				
	980	318				
Chromium VI (Hex)	16	11	1.10 mg/L	50.00	50.0	--
Zinc ^{7,8}	64	58	90	81	5.0 mg/L	--
	117	108				
	205	187				
Cadmium ^{7,8}	15	0.62	45.35	10.00	10.0	--
	32	1.03				
	67	1.76				
Copper ^{7,8}	10	7	3.63	3.63	1.0 mg/L	--
	18	12				
	35	22				
Lead ^{7,8}	30	1.2	209	8.08	50.0	--
	65	2.5				
	138	5.31				
Mercury ⁸	2.04	0.012 ¹¹	2	0.025 ¹¹	2.0	--
Nickel ^{7,8}	788	88	74	8.2	--	--
	1397	160				
	2,495	279				
* * *						
[See prior text in Cyanide]						

* * *

[See prior text in Notes 1 - 6]

⁷ Hardness-dependent criteria for freshwater are based on the following natural logarithm formulas multiplied by conversion factors (CF) for acute and chronic protection (in descending order, numbers represent criteria in Fg/L at

hardness values of 50, 100, and 200 mg/L CaCO₃, respectively):

$$\begin{aligned} \text{Chromium III: acute} &= e^{(0.8190[\ln(\text{hardness}) + 3.6880]} \times \text{CF} \\ \text{chronic} &= e^{(0.8190[\ln(\text{hardness}) + 1.5610]} \times \text{CF} \\ \text{Zinc: acute} &= e^{(0.8473[\ln(\text{hardness}) + 0.8604]} \times \text{CF} \\ \text{chronic} &= e^{(0.8473[\ln(\text{hardness}) + 0.7614]} \times \text{CF} \end{aligned}$$

Cadmium: acute = $e^{(1.1280[\ln(\text{hardness})] - 1.6774)} \times \text{CF}$
 chronic = $e^{(0.7852[\ln(\text{hardness})] - 3.4900)} \times \text{CF}$
 Copper: acute = $e^{(0.9422[\ln(\text{hardness})] - 1.3844)} \times \text{CF}$
 chronic = $e^{(0.8545[\ln(\text{hardness})] - 1.3860)} \times \text{CF}$
 Lead: acute = $e^{(1.2730[\ln(\text{hardness})] - 1.4600)} \times \text{CF}$
 chronic = $e^{(1.2730[\ln(\text{hardness})] - 4.7050)} \times \text{CF}$
 Nickel: acute = $e^{(0.8460[\ln(\text{hardness})] + 3.3612)} \times \text{CF}$
 chronic = $e^{(0.8460[\ln(\text{hardness})] + 1.1645)} \times \text{CF}$

⁸ Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor (CF). The CF represents the EPA-recommended conversion factors found in 60 FR 68354-68364 (December 10, 1998) and shown in Table 1A.

⁹ ppq = parts per quadrillion

¹⁰ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways

of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

¹¹ If the four-day average concentration for total mercury exceeds 0.012 Fg/L in freshwater or 0.025 Fg/L in saltwater more than once in a three-year period, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the state must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

Table 1A. Conversion Factors for Dissolved Metals^a

Metal	Conversion Factor Freshwater Acute Criteria	Conversion Factor Freshwater Chronic Criteria	Conversion Factor Marine Water Acute Criteria	Conversion Factor Marine Water Chronic Criteria
Arsenic	1.00	1.00	1.00	1.00
Chromium III (Tri)	0.316	0.86	NA	NA
Chromium VI (Hex)	0.982	0.962	0.993	0.993
Zinc	0.978	0.986	0.946	0.946
Cadmium ^b	0.973	0.938	0.994	0.994
Copper	0.960	0.960	0.830	0.830
Lead ^b	0.892	0.892	0.951	0.951
Mercury	0.85 ^c	N/A ^d	0.85 ^c	N/A ^d
Nickel	0.998	0.997	0.990	0.990

^aThe conversion factors are given to three decimal places because they are intermediate values in the calculation of dissolved criteria. Conversion factors derived for the marine water chronic criteria are not yet available. Conversion factors derived for marine water acute criteria have been used for both marine water chronic and acute criteria.

^bConversion factors are hardness dependent. The values shown are with a hardness of 50 mg/L as CaCO₃. Conversion factors for any hardness can be calculated using the following equations:

Cadmium Acute CF = 1.136672 - [(ln hardness)(0.041838)]
 Cadmium Chronic CF = 1.101672 - [(ln hardness)(0.041838)]

Lead Acute and Chronic CF = 1.46203 - [(ln hardness)(0.145712)]

^cConversion factor from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

^dNot appropriate to apply CF to chronic value for mercury because it is based on mercury residues in aquatic organisms rather than toxicity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999).

§1115. Application Of Standards

[See prior text in A-C.3]

4. A mixing zone shall not be allowed to adversely impact a nursery area for aquatic life species, habitat for waterfowl or indigenous wildlife associated with the aquatic environment except as provided in Subsection C.2 and 3 of this Section, or any area approved by the state for oyster propagation. Mixing and mixing zones shall not include an existing drinking water supply intake if they would significantly impair the drinking water intake.

[See prior text in C.5-13.a]

b. the diffused discharge must not adversely impact nursery areas for aquatic life species or indigenous wildlife associated with the aquatic environment except as provided in Subsection C.2 and 3 of this Section, propagation areas, zones of passage for aquatic life (see Subsection C.10 of this

Section), wildlife uses, recreational uses, or drinking water supply intakes;

* * *

[See prior text in C.13.c-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November, 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999).

§1117. References

A. The following references were used in developing LAC 33:IX.1101-1115 or are referred to in those Sections:

1. Chabreck, R.H., and R.G. Linscombe. 1978. Vegetative Type Map of the Louisiana Coastal Marshes. New Orleans: Louisiana Department of Wildlife and Fisheries.

2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Assessment, Environmental Evaluation Division.

3. National Academy of Sciences, National Academy of Engineering. 1974. Water Quality Criteria, 1972. Environmental Protection Agency, Ecological Research Series, EPA R3.73:033. Washington, D.C.: U.S. Government Printing Office.

4. U.S. Environmental Protection Agency. 1976. Quality Criteria for Water. Washington, D.C.: EPA.

5. U.S. Environmental Protection Agency. 1983. Water Quality Standards Handbook. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

6. U.S. Environmental Protection Agency. 1983. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

7. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA Series No. 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

8. U.S. Environmental Protection Agency. 1989. Establishment of Ambient Criteria to Limit Human Exposure to Contaminants in Fish and Shellfish. Guidance Document. Washington, D.C.: Office of Water Regulations and Standards, EPA.

9. U.S. Environmental Protection Agency. (continuous). Ambient Water Quality Criteria. EPA Series No. 440/5-80-84-85, 86. Washington, D.C.: EPA.

10. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

11. U.S. Environmental Protection Agency. December 22, 1992. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance. Federal Register: Vol. 57, No. 246. WH-FRL-4543-9. Washington, D.C.: Office of Science and Technology, EPA.

12. U.S. Environmental Protection Agency. April, 1995. Method 1669: Sampling Ambient Water for Trace

Metals At EPA Water Quality Criteria Levels. EPA 821-R-95-034.

13. Webster's II New Riverside University Dictionary, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company. Boston, MA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999).

§1121. Regulation of Toxic Substances Based on the General Criteria

* * *

[See prior text in A - B.3.a]

b. Both acute toxicity and chronic toxicity tests may be required. Test methods found in the following sources or their updated versions should be followed: "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," 4th Edition, EPA/600/4-90/027F, EPA, 1993; "Short-Term Methods for Estimating the Chronic Toxicity of Effluents And Receiving Waters To Freshwater Organisms," 3rd Edition, EPA/600/4-91/002, EPA, 1994; and "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," 2nd Edition, EPA/600/4-91/003, EPA.

* * *

[See prior text in B.3.b.i - iii]

(a) for receiving water bodies with salinities less than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (a)(i) - (vi)]

(b) for receiving water bodies with salinities equal to or greater than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (b)(i) - C.5]

D. References. The following references were used in developing or were cited in this Section:

1. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

2. U.S. Environmental Protection Agency. 1991. Methods for Aquatic Toxicity Identification Evaluations: Phase I, Toxicity Characterization Procedures. EPA/600/6-91/003. Washington, D.C.: EPA.

3. U.S. Environmental Protection Agency. 1991. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. 2nd Edition. EPA/600/4-91/003.

4. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

5. U.S. Environmental Protection Agency. 1993. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. 4th Edition. EPA/600/4-90/027F.

6. U.S. Environmental Protection Agency. 1994. Short-Term Methods for Estimating the Chronic Toxicity of

Effluents and Receiving Waters to Freshwater Organisms. 3rd Edition. EPA/600/4-91/002.

E. Additional Toxicity Testing Guidance. The following references are cited as guidance documents that are used for biomonitoring:

1. U.S. Environmental Protection Agency. 1994. Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates. EPA/600/R-94/024.

2. U.S. Environmental Protection Agency. 1994. Methods for Assessing the Toxicity of Sediment Associated Contaminants with Estuarine and Marine Amphipods. EPA/600/R-94/025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 25:2404 (December 1999).

§1123. Numerical Criteria and Designated Uses

[See prior text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

- A- Primary Contact Recreation
- B- Secondary Contact Recreation
- C- Propagation of Fish and Wildlife
- L- Limited Aquatic Life and Wildlife Use
- D- Drinking Water Supply
- E- Oyster Propagation
- F- Agriculture
- G- Outstanding Natural Resource Waters

Numbers in brackets (e.g. [1])—refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	C	TDS
Atchafalaya River Basin (01)									
*** [See prior text in 010101-040910]									
040911	Grand Lagoon - Grand Lagoon and Associated Canals (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
*** [See prior text in 041001 - 041302]									
041401	New Orleans East Leveed Waterbodies (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
*** [See prior text in 041501 - 041807]									
041808	New Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
*** [See prior text in 041901 - 050101]									
050102	Bayou Joe Marcel - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
050103	Bayou Mallet - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
*** [See prior text in 050201 - 050302]									
050303	Castor Creek - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
050304	Bayou Blue - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
*** [See prior text in 050401 - 050501]									
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	10	[16]	6.0 - 8.5	1	32	400
*** [See prior text 050602 - 060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	40	30	5.0	6.0 - 8.5	1	32	220
060206	Indian Creek and Indian Creek Reservoir	A B C D	10	5	5.0	6.0 - 8.5	1	32	100
*** [See prior text in 060207 - 060212]									
060301	Bayou Teche - Headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	40	30	5.0	6.0 - 8.5	1	32	220
*** [See prior text in 060401 - 060903]									

Table 3. Numerical Criteria and Designated Uses									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	C	TDS
060904	New Iberia Southern Drainage Canal - origin to Weeks Bay (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
060906	Intracoastal Waterway - New Iberia Southern Drainage Canal to Bayou Sale (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
*** [See prior text in 060907 - 061104]									
061105	Marsh Island (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	4	35	N/A
*** [See prior text in 061201 - 080911]									
080912	Tisdale Brake/Staulkinghead Creek - from origin to Little Bayou Boeuf	B L	500	200	[13]	6.0 - 8.5	2	32	1,500
*** [See prior text in 081001 - 081002]									
081003	Deer Creek - Headwaters to confluence with Boeuf River	B L	105	45	[13]	6.0 - 8.5	2	32	430
*** [See prior text in 081101 - 081301]									
081401	Dugdemona River - Headwaters to junction with Big Creek	A B C	250	750	[14]	6.0 - 8.5	1	32	2,000
*** [See prior text in 081501 - 100304]									
100305	Mahlin Bayou/McCain Creek - origin to confluence with Twelve Mile Bayou	B L	175	75	[14]	6.0 - 8.5	2	32	500
*** [See prior text in 100306 - 100401]									
100402	Red Chute Bayou - from Cypress Bayou junction to Flat River	A B C	250	75	[14]	6.0 - 8.5	1	32	800
*** [See prior text in 100403 - 101606]									
101607	Bayou Cocodrie - Highway 15 to Little Cross Bayou	B L	250	75	[13]	6.0 - 8.5	2	32	500
*** [See prior text in 110101 - 120102]									
120103	Bayou Choctaw	A B C	250	75	5.0	6.0 - 8.5	1	32	500
*** [See prior text in 120104 - 120509]									
120601	Bayou Terrebonne - Houma to Company Canal (Estuarine)	A B C	445	105	4.0	6.0 - 9.0	1	32	1,230
*** [See prior text in 120602 - 120806]									

ENDNOTES:

[See prior text in Notes 1 - 2]

[3] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5.0 mg/L December - February, 3.0 mg/L March - November

[See prior text in Notes 4 - 16]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999).

James H. Brent, Ph.D.
Assistant Secretary

9912#079

RULE
Office of the Governor
Office of Elderly Affairs

GOEA Policy Manual (LAC 4:VII.1155)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends the GOEA Policy Manual effective January 1, 2000. The purpose of this rule change is to correct a typographical error in the final rule published August 20, 1999. Parish council on aging governing bodies are subject to the Open Meetings Law. This rule complies with R.S. 46:932(8) and R.S. 46:1605(A).

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 11. Elderly Affairs
§1155. Council on Aging Board of Directors

- A. - C. ...
D. Meetings of the Board of Directors
 1. - 3. ...
 4. Open Meetings Law. Meetings of the Board Shall be conducted in accordance with R.S. 42:1 et seq., the Open Meetings Law.

D.5. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1469 (August 1999), repromulgated LR 25:2407 (December 1999).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9912#091

RULE
Office of the Governor
Office of Elderly Affairs

GOEA Policy Manual Revision
(LAC 4:VII.1107)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends the GOEA Policy Manual effective January 1, 2000. The purpose of the rule change is to correct a typographical error in the final rule published November 20, 1999. GOEA will begin accepting applications for planning and service area designation in the state plan period beginning October 1, 2000. This rule complies with R.S. 46:931 to R.S. 46:935, Public Law 89-730 the Older Americans Act of 1965 as amended, and 45 CFR 1321.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
§1107. Planning and Service Area Designation

- A. - A.1. ...

2. Starting with the state plan on aging beginning October 1, 2000, GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.

A.3. - E.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999), LR 25:2407 (December 1999).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9912#094

RULE

Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators

Registration of Licenses and Certificates
(LAC 46:XLIX.1103)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators has amended the rules pertaining to annual registration and registration fees. The board found it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 11. Licenses
§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:2407 (December 1999).

Kemp Wright
Executive Director

9912#080

RULE

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

**Fees and License Renewal Late Fee
(LAC 46:LXXXV.501 and 505)**

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.501 and 505 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.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. Fees

The board hereby adopts and establishes the following fees:

Licenses:	
Annual renewal-active license	\$175
Annual renewal-inactive license	\$75
Duplicate license	\$25
Original license fee	\$150
Temporary license	\$100
Exams:	
Clinical Competency Test (CCT)	\$190
National Board Exam (NBE)	\$215
State Board Examination	\$175
Exam and/or License Applications:	
Application Fee	\$50

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71

(February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:2408 (December 1999).

§ 505. License Renewal Late Fee

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of \$125 as a late fee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), amended LR 25:2408 (December 1999).

Dick C. Walther
President

9912#025

RULE

**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 amends 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.

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 25:2408 (December 1999).

David W. Hood
Secretary

9912#073

RULE

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

Licensing Standards for Hospices (LAC 48:I.Chapter 82)

The Department of Health and Hospitals, Bureau of Health Services Financing is amending the following rule governing the licensure and regulation of Hospice Agencies as authorized by R.S. 40:2181-2191 and in accordance with R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensing of Hospice Agencies

§8203. Licensing

A. Except to the extent required by §8205A(1), it shall be unlawful to operate or maintain a hospice without first obtaining a license from the department. The Department of Health and Hospitals is the only licensing authority for hospice in the State of Louisiana.

B. - D. ...

E. Initial Licensure. All requirements of the application process must be completed by the applicant before the application will be processed by DHH.

1. No application will be reviewed until payment of the application fee.

E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:2409 (December 1999).

§8205. Survey

A. Initial Survey. An initial on-site survey will be conducted to assure compliance with all hospice minimum standards.

1. Within 90 days after submitting its application and fee, the hospice must complete the application process, must become operational to the extent of providing care to two and only two patients, must be in substantial compliance with applicable federal, state, and local laws, and must be prepared for the initial survey. If the applicant fails to meet this deadline, the application shall be considered closed and the agency shall be required to submit a new application packet including the license application fee.

2. The initial survey will be scheduled after the agency notifies the department that the agency has become operational and is ready for the survey as provided in §8205A(1). In cases of a vast number of requests for surveys by different applicants, agencies will be surveyed according to the date the request is received by DHH.

3. If, at the initial licensure survey, the agency is in substantial compliance with all regulations, a Full license will be issued.

4. If, at the initial licensure survey, an agency has five or fewer violations of hospice minimum standards in an area

other than personnel qualifications and/or patient care, the agency shall submit an acceptable plan of correction within ten (10) days from receipt of the Statement of Deficiencies. A follow-up survey may be conducted to assure compliance.

5. If, at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, DHH shall deny licensure and the agency may not re-apply for a period of two years from the date of the survey.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:2409 (December 1999).

§8217. Personnel Qualifications/Responsibilities

A. ...

1. Qualifications. The administrator must be a licensed physician, a licensed registered nurse, a social worker with a masters degree, or a college graduate with a bachelor's degree, and must have at least three years of documented management experience in health care service delivery. However, a person who was employed by a licensed Louisiana hospice as the administrator as of December 20, 1998 shall be exempt from these requirements as long as he/she remains employed by that hospice as the administrator. If the hospice is sold to, acquired by, or merged into another legal entity, such transaction shall have no effect on the exemption provided in the preceding sentence.

A.2. - N.2.c. ...

O. Registered Nurse (RN). The hospice must designate a registered nurse to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed registered nurse must:

a. be currently licensed to practice in the State of Louisiana with no restrictions;

b. have at least two years' full time experience as a registered nurse (however, a person who was employed by a hospice as a registered nurse as of December 20, 1998 shall be exempt from this requirement as long as he/she remains employed by a hospice as a registered nurse); and

c. be an employee of the hospice. If the registered nurse is employed by more than one agency, he or she must inform all employers and coordinate duties to assure quality service provision.

O.2. - Q.3.p. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:2409 (December 1999).

§8241. Branch Offices

A. ...

B. No branch office may be opened unless the parent office has had full licensure for at least the immediately preceding 12 months and has a current census of at least 10 active patients.

C. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2257 (December 1998), LR 25:2409 (December 1999).

David W. Hood
Secretary

9912#071

RULE

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 amends 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 25:2410 (December 1999).

Richard L. Stalder
Secretary

9912#074

RULE

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 amends its rules. The rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The effective date of these rule changes is January 1, 2000.

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 25:2410 (December 1999).

§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 25:2411 (December 1999).

§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 25:2411 (December 1999).

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 25:2412 (December 1999).

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:

a. a Liquefied Petroleum Gas Commission inspector; or

b. 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 25:2412 (December 1999).

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 25:2412 (December 1999).

§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 25:2412 (December 1999).

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 54B 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 54B 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 54B 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 25:2412 (December 1999).

Charles M. Fuller
Director

9912#020

RULE

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 amends its rules. The effective date for these rule changes is January 1, 2000.

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.

F. - G. ...

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 25:2413 (December 1999).

§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 25:2413 (December 1999).

§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 25:2413 (December 1999).

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 25:2414 (December 1999).

§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 25:2414 (December 1999).

Charles M. Fuller
Director

9912#019

RULE

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 adopts 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. These 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 25:2414 (December 1999).

§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 25:2415 (December 1999).

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 25:2415 (December 1999).

§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 25:2415 (December 1999).

§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 25:2415 (December 1999).

§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 25:2415 (December 1999).

§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 25:2416 (December 1999).

§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 25:2416 (December 1999).

§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 25:2416 (December 1999).

§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 25:2416 (December 1999).

§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 25:2417 (December 1999).

§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 percent of sales tax due for thirty (30) days or fraction thereof (not to exceed 25 percent), interest: 1.25 percent of sales tax due for thirty (30) days or fraction thereof (15 percent 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 25:2417 (December 1999).

§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 25:2418 (December 1999).

Nancy Van Nortwick
Undersecretary

9912#069

RULE

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., the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, adopts 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 25:2419 (December 1999).

§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 25:2419 (December 1999).

§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 25:2419 (December 1999).

§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 25:2419 (December 1999).

§309. Conditions Requiring Drug Tests

A. 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 25:2420 (December 1999).

§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 25:2420 (December 1999).

§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 25:2420 (December 1999).

§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 25:2420 (December 1999).

§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 25:2421 (December 1999).

Nancy Van Nortwick
Undersecretary

9912#072

RULE

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 repeals existing sections of the Vehicle Inspection Rules and Vehicle Emission Rules, and adopts new rules regulating vehicle inspections and vehicle emissions.

The 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 repeals: 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 25:2421 (December 1999).

§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 25:2421 (December 1999).

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 equipment as 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)(j) shall only apply to inspections stations located in the Non-attainment Area;
- k. mechanic's creeper. The provisions of LAC 55:III.805.E.1.k shall only apply to commercial motor vehicle inspection stations;
- l. soapstone marker. The provisions of LAC 55:III.805.E.1.k shall only apply to commercial motor vehicle inspection stations;
- m. floor jack or lift. The provisions of LAC 55:III.805.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 provides 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 25:2422 (December 1999).

§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 25:2424 (December 1999).

§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 back 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 25:2426 (December 1999).

§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.

d. 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 25:2427 (December 1999).

§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 ½") 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 2" 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 (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 25:2428 (December 1999).

§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 25:2433 (December 1999).

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 test 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.

6. 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 25:2433 (December 1999).

§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 25:2434 (December 1999).

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 25:2434 (December 1999).

§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 25:2434 (December 1999).

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 25:2437 (December 1999).

§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 (DPSSE 1019) 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 25:2437 (December 1999).

§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. Inoperative 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 inoperative 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 (2").
 - 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 1/2"	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.
 - l. 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 25:2438 (December 1999).

§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 25:2441 (December 1999).

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 25:2441 (December 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 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 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 Deputy 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 State Police, Safety Enforcement Section, LR 25:2442 (December 1999).

Nancy Von Nortwick
Undersecretary

9912#082

RULE

**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., the Department of Revenue has amended LAC 61:I.4910 pertaining to the electronic funds transfer of tax payments.

These amendments 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 25:2442 (December 1999).

Brett Crawford
Secretary

9912#003

RULE

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, has amended 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 have been made 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 have been added.

Title 61 REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

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 25:2443 (December 1999).

Brett Crawford
Secretary

9912#004

RULE

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, is amending a rule that increases 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 25:2443 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#070

RULE

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, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 12, the Child Care Assistance Program (CCAP).

Title 67 SOCIAL SERVICES

Part III. Office of Family Support Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program §5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program, as determined by the Case Manager, are categorically eligible.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. ...
2. The household includes a child in current need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or is under court supervision.
3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the case head during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.
4. The case head, that person's spouse, and any parent of dependent children, if the parent lives in the household [including any minor, unmarried parent (MUP) who is not legally emancipated, and whose children are in need of Child Care Assistance], unless disabled as established by receipt of Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, worker's compensation, or other disability benefits, must be:

- a. employed a minimum average of 20 hours per week and paid either the Federal minimum hourly wage, or gross wages equivalent to the Federal minimum hourly wage multiplied times 20 hours per week; or

- b. attending a job training or educational program that is legally authorized by the state for a minimum average of 20 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

- c. engaged in some combination of employment, training, or education as defined in §5103.B.4.b, that averages at least 20 hours per week.

- d. Exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those members meets the required minimum average of 20 activity hours per week.

5. Household income does not exceed 75 percent of the state median income for a household of the same size. *Income* is defined as the gross earnings of the case head, that person's spouse, and any parent of dependent children, if the parent lives in the household (including any MUP who is not legally emancipated, and whose children are in need of Child Care Assistance), from all sources of employment, and the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemployment compensation benefits, and worker's compensation benefits.

6. The child in need of care must be either a citizen or a qualified alien. CCAP policy on qualified aliens is the same as policy defined by the Family Independence Temporary Assistance Program (FITAP).

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the State. Required verification includes proof of social security numbers for all household members, birth verification for all children in need of care, proof of all countable household income, and proof of the hours of all employment/education/training.

C.- D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999).

§5107. Child Care Providers

A. The case head is assured freedom in selecting the child care provider of his choice from a variety of child care provider types including center-based child care, registered family child day care homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before- and after-school care programs.

B. To be eligible for participation, family child day care home providers must furnish verification of social security number and residential address, proof that they are at least 18 years of age, and meet all registration requirements including current certification in infant/child or infant/child/adult Cardiopulmonary Resuscitation (CPR). All family child day care home providers participating in the Child Care Assistance Program will be registered and entered into the Provider Directory by the Office of Family Support. Family child day care home providers who provide

child care only to children related to them by blood, marriage, or adoption (nieces, nephews, siblings who do not live in the home, grandchildren, and great-grandchildren) need only apply for registration as family child day care homes, but must thereafter meet all registration requirements within one year.

1. All registration functions for family child day care homes, as provided in La. R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the Bureau of Licensing, shall be carried out by the Office of Family Support, Child Care Assistance Program.

C. ...

D. Under no circumstances can the following be considered eligible child care providers:

1. persons living at the same residence as the child;
2. - 4. ...

E. Providers will certify that neither they, nor any person employed by or residing with them, has been the subject of a validated complaint of child abuse or neglect; nor have they, or any person employed by or residing with them, been convicted of a felony or of any offense involving a juvenile victim. All providers, other than in-home providers, will certify that they have requested a criminal background check from the Louisiana State Police to verify this information, with respect to the provider and employees of Class A Centers, and the provider and all adult household members of family child day care homes, and will submit proof of having done so before being certified as an eligible provider.

1. Providers will be disqualified from further participation in the program if the department determines that a condition exists which threatens the physical or emotional health or safety of any child in care, as, for example, where a complaint of child abuse or neglect against

a provider or other person with access to children in care has been validated by authorities.

F. A quality incentive will be paid to each child care provider who achieves and maintains National Association for the Education of Young Children (NAEYC) accreditation. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Fund for services provided during the prior calendar quarter.

G. Funds in the form of scholarships may be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

H. - H.1. ...

2. A provider can receive no more than one such grant in any state fiscal year. To apply, the provider must submit an application form with verification, when required, that the repair or improvement is needed to meet DSS licensing or registration requirements and two written estimates of the cost of the repair or improvement, and must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999).

§5109. Payment

A. The sliding fee scale is subject to adjustment based on the state median income and poverty levels which are published annually. The sliding fee scale is as follows:

Sliding Fee Scale for Child Care Assistance Recipients - 75 Percent of Projected Median Income

Number In Household	2	3	4	5	6	7	DSS %
Monthly Household Income	0 - 922	0 - 1157	0 - 1392	0 - 1627	0 - 1862	0 - 2097	100%
	923 - 1182	1158 - 1473	1393 - 1764	1628 - 2056	1863 - 2347	2098 - 2545	85%
	1183 - 1441	1474 - 1789	1765 - 2136	2057 - 2484	2348 - 2832	2546 - 2993	65%
	1442 - 1700	1790 - 2105	2137 - 2508	2485 - 2913	2833 - 3317	2994 - 3441	45%
	1701 - 1959	2106 - 2420	2509 - 2880	2914 - 3341	3318 - 3802	3442 - 3889	25%
	ABOVE 1959	ABOVE 2420	ABOVE 2880	ABOVE 3341	ABOVE 3802	ABOVE 3889	0%

Number In Household	8	9	10	11	12	13	DSS %
Monthly Household Income	0 - 2332	0 - 2567	0 - 2802	0 - 3037	0 - 3272	0 - 3507	100%
	2333 - 2743	2568 - 2941	2803 - 3139	3038 - 3337	3273 - 3535	3508 - 3732	85%
	2744 - 3154	2942 - 3314	3140 - 3475	3338 - 3636	3536 - 3797	3733 - 3957	65%
	3155 - 3565	3315 - 3688	3476 - 3812	3637 - 3935	3798 - 4059	3958 - 4182	45%
	3566 - 3975	3689 - 4061	3813 - 4148	3936 - 4234	4060 - 4321	4183 - 4407	25%
	ABOVE 3975	ABOVE 4061	ABOVE 4148	ABOVE 4234	ABOVE 4321	ABOVE 4407	0%

Number In House-Hold	14	15	16	17	18	19	20	DSS %
Monthly Household Income	0 - 3742	0 - 3977	0 - 4212	0 - 4447	0 - 4682	0 - 4917	0 - 5152	100%
	3743- 3930	3978- 4128	4213 4326	4448- 4524	4683- 4722	4918- 4920	0	85%
	3931- 4118	4129- 4279	4327- 4439	4525- 4600	4723- 4761	4921- 4922	0	65%
	4119- 4306	4280- 4430	4440- 4553	4601- 4677	4762- 4800	4923- 4924	0	45%
	4307- 4493	4431- 4580	4554- 4666	4678- 4753	4801- 4839	4925- 4926	0	25%
	ABOVE 4493	ABOVE 4580	ABOVE 4666	ABOVE 4753	ABOVE 4839	ABOVE 4926	0	0%

B. The level of care authorized is based on the lesser of:

1. the number of hours the child is actually in care; or
2. the least number of activity hours of the case head, that person's spouse, or parent of dependent child(ren), including any MUP who is not legally emancipated, and whose children are in need of Child Care Assistance.

C. Payment levels are based on the number of hours as determined in §5109.B, paid according to the provider's actual daily charges, up to the following Maximum Rate Schedule:

Authorized Levels	Weekly Hours	Provider Daily Rates			
		Class A		All Others	
		Regular Care	Special Needs	Regular Care	Special Needs
Full Day	30+	\$15.00	\$18.75	\$12.00	\$15.00
3/4 Day	21-29	\$11.25	\$14.06	\$ 9.00	\$11.25
1/2 Day	11-20	\$ 7.50	\$ 9.38	\$ 6.00	\$ 7.50
1/4 Day	0-10	\$ 3.75	\$ 4.69	\$ 3.00	\$ 3.75

D. The payment amount for each month is a percentage, as shown in §5109.A, multiplied by the number of service days and the authorized rate for the appropriate level of care, as determined in §5109.B and C.

E. Payment, as calculated in §5109.D, is made on a monthly basis following the month in which services are provided to the eligible child care provider, as defined in §5107, selected by the case head.

F. Payment will not be made for a child who is absent from day care more than 10 days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month.

G. Non-FITAP households may be required to contribute toward the payment of child care costs based on the household size and income.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#058

RULE

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program (FITAP) Application, Eligibility, and Furnishing Assistance
(LAC 67:III.Chapters 11-13)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Subsequent to the federal and state legislation commonly known as "welfare reform," the agency promulgated changes to the existing code. The agency has reorganized Subpart 2 of the code in order to create a codified document which more closely follows the Temporary Assistance to Needy Families (TANF) State Plan and the policy of the Family Independence Temporary Assistance Program.

All of the regulations in Chapters 11 and 13 are now contained in Chapter 12 with few substantive changes. The only exceptions are the deletion of current §1157. *Income of Step-parents*, a regulation which is no longer in effect, and an addition to current regulations at §1247, that is, that months during which a recipient receives the earned income disregard shall not apply toward the twenty-four month limit.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Repealed

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1201. Application Date

All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed

application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2446 (December 1999).

§1203. Standard Filing Unit

The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. SSI recipients are excluded from this requirement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1205. Application Time Limit

The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), be mailed his first payment or notified that he has been found ineligible for a grant by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The Office of Family Support will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the FITAP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an Intentional Program Violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. a case is closed effective the fourth month because a parent fails to comply, attain good cause or become exempt from FIND Work during the three-month sanction period imposed when the parent first failed to cooperate with the FIND Work Program;

11. a case is closed effective the fourth month because a parent or other qualified relative fails to participate without good cause in the FITAP Drug Testing Program during the three-month sanction period imposed when the parent first failed to cooperate in the Drug Testing Program;

12. the case is closed due to the amount of child support collected through Support Enforcement Services;

13. the client has been certified for Supplemental Security Income and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1211. Minimum Payments

FITAP grant payments in an amount of less than \$10 will be prohibited.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;
2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;
3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;
4. physical evidence of domestic violence; or
5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

Subchapter B. Conditions of Eligibility

§1221. Age Limit

- A. A dependent child must be:
1. under 16 years of age, or
 2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.
- B. Unborn children are not eligible for FITAP.
- C. A pregnant woman who has completed fifth month of pregnancy may be certified if otherwise eligible (unborn is not eligible).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999).

§1223. Citizenship

- A. Each FITAP recipient must be a United States Citizen or a qualified alien. A qualified alien is:
1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
 2. an alien who is granted asylum under Section 208 of such Act;
 3. a refugee who is admitted to the United States under Section 207 of such Act;
 4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
 5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208)

or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

- a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
- b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA, or
- c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
- d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child or the alien parent of a battered alien as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);
4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the

requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or,

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999).

§1225. Enumeration

Each applicant for or recipient of FITAP is required to furnish a social security number or to apply for a Social Security number if such a number has not been issued or not known, unless good cause is established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999).

§1227. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day to day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives:

1. grandfather or grandmother (extends to great-great-grand);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply.

1. The minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;
2. No living parent or legal guardian allows the minor parent to live in his/her home;
3. The minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for FITAP;
4. The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;
5. There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult

relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the FITAP grant and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;
2. a person providing full-time care for an incapacitated family member living in the home;
3. a person providing child care that enables the qualified relative to receive full-time training;
4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;
5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program;
6. children not within the degree of relationship to be FITAP eligible who live in the home and who meet all other FITAP requirements.

D. The following group of persons who had been considered as essential persons are no longer eligible for inclusion in the assistance unit: the incapacitated nonlegal spouse of a qualified relative who is unrelated to anyone in the assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999).

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;

23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

25. Radiation Exposure Compensation Payments;

26. payment to victims of Nazi persecution; or

27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

B. Need Standards. The FITAP need standards are as follows:

Size of Household	Current Need Standard
1	\$ 245.00
2	472.00
3	658.00
4	809.00
5	955.00
6	1,089.00
7	1,217.00
8	1,347.00
9	1,471.00
10	1,595.00
11	1,731.00
12	1,870.00
13	2,005.00
14	2,146.00
15	2,291.00
16	2,444.00
17	2,564.00
18	2,727.00

2. To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to a standard deduction, a \$900 time-limited deduction and, in certain circumstances, to a deduction for dependent care. The following deductions are applied, and no other deductions are allowed:

1. Standard Deduction. The standard deduction is \$120.

2. \$900 Time-limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six month lifetime limit for the individual.

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or

for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

D. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	\$72
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789
18+	See Note 1

Note 1: To determine the amount for households exceeding 18 persons, the flat grant amount for the number in excess of 18 is added to the flat grant amount for 18 persons.

E. Payment Amount. The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

F. Income and Resources of Alien Sponsors

1. In determining eligibility and benefit amount for an alien other than those identified in §1223.A.8 and 9, the income and resources of his/her sponsor and the sponsor's spouse must be considered. The income and resources of an alien sponsor and the sponsor's spouse shall not apply to benefits during a 12-month period for those aliens identified in §1223.A.8 and 9. After a 12-month period, only the income and resources of the batterer shall not apply if the alien demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service (INS), and the agency determines that such battery or cruelty has a substantial connection to the need for benefits. A *sponsor* is defined as any person who executed an affidavit of support pursuant to §213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

a. achieves United States citizenship through naturalization; or

b. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any

such period. In determining the number of qualifying quarters of coverage, an alien shall be credited with:

i. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 18; and

ii. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

iii. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under §1229.F.1.b.i or ii if the parent or spouse of such alien received any federal means-tested public benefit (as provided under §403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding §6103 of the *Internal Revenue Code* of 1986, the commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

G. Income of Alien Parent. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999).

§1231. Immunization

Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the FITAP grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999).

§1233. Residency

FITAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999).

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. home property, covered by homestead exemption;

2. burial insurance, prepaid funeral plans or prepaid funeral agreements;

3. one burial plot for each member of the assistance unit;

4. personal property;

5. inaccessible resources;

6. life insurance;

7. livestock used for home produce;

8. trust funds if all of the following conditions are met:

- a. the trust arrangement is unlikely to end during the certification period and no household member can revoke the trust agreement or change the name of the beneficiary during the certification period;

- b. the trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed individual who has court-imposed limitations placed on the use of the funds;

- c. the trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. Exempt trusts established from the household's own funds if the trustee uses the funds only to make investments on behalf of the trust or to pay the education or medical expenses of the beneficiary;

9. disaster payments;

10. energy assistance payments;

11. Agent Orange Settlement Payments income;

12. Housing and Urban Development (HUD) payments and subsidies including HUD community development block grant funds;

13. Indian and Native Claims and Lands Payments received under Public Laws 92-254, 93-134, 94-540, Section 6 of Public Law 94-114 (89 Stat. 577, 25 U.S.C. 459e), tax-exempt portions made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act, and Public Law 98-123 or Public Law 98-124;

14. Women, Infants and Children (WIC) Program benefits;

15. relocation assistance;

16. Supplemental Security non-recurring lump sum retroactive payments in the month paid or the following month;

17. Wartime Relocation of Civilians Payments;

18. payments to victims of Nazi persecution;

19. real property which the family is making a good faith effort to sell;

20. \$10,000 equity value in one vehicle for each assistance unit;

21. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed \$6000, excluding interest, and the balance of the account cannot exceed \$6000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. OFS is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. IDA funds may be used only for the following purposes:

- a. educational expenses incurred at an accredited institution of higher education;
- b. training costs incurred for a training program approved by the agency; and
- c. payments for work-related expenses such as clothing, tools or equipment approved by the agency.

B. Resources of Alien Sponsors - Refer to §1229.F.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999).

§1237. School Attendance

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child's needs shall be removed from the FITAP grant until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.3.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999).

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. Assignment of Support Rights

1. Each applicant for, or recipient of, FITAP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting FITAP for, or on, behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as

reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, FITAP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

- a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;
- b. the child was conceived as a result of incest or rape;
- c. legal proceedings for adoption are pending before a court; or
- d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

- a. failure to keep two consecutive appointments;
- b. failure or refusal to cooperate at an interview;
- c. failure to appear for, or cooperate during a court date or genetic testing.

5. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of FITAP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of FITAP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999).

§1241. Sanctions for Refusal to Accept a Job

Eligibility for FITAP shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three month sanction period counts as months of FITAP receipt when applying the 24-month time limit. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to sanction for refusal to accept full-time employment. Assistance for the

incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999).

§1243. Work Requirements

Recipients must meet the work requirements outlined in LAC 67:III.Chapter 29.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8., 46:231.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999).

§1245. Parenting Skills Education

As a condition of eligibility for FITAP benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999).

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit. Months after June 1999 in which a recipient receives the earned income disregard shall not count toward the twenty-four month limit.

B. The following situations are exceptions to the 24-month time-limit (in two-parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the parent's ability to obtain employment.

C. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provisions. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time

limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless benefits are extended due to hardship. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999).

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An *illegal drug* is a controlled substance as defined in R.S. 40:961 et seq. - *Controlled Dangerous Substance*.

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorder (OAD).

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the drug screening, testing, education and rehabilitation program will be paid by the Office of Family Support.

D. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following:

1. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

2. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

3. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

4. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

F. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999).

§1251. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

§1253. Strikers

FITAP benefits cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the FITAP benefits.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

§1255. Individuals Convicted of a Felony Involving a Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6)] shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

Subchapter C. Recovery

§1285. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the FITAP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for FITAP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the FITAP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (FITAP Program) with evidence of failure to cooperate if the recipient refuses to

sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

Chapter 13. Repealed

J. Renea Austin-Duffin
Secretary

9912#057

RULE

Department of Social Services Office of Family Support

FIND Work Participation Requirements (LAC 67:III.2907-2913)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work".

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997, mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. Changes effective October 1999 are found at §2907.B.1, 3, 4, and 6 and §2911.A.4.

The agency also reorganized other sections of Subpart 2 in order to create a codified document which more closely follows the Temporary Assistance to Needy Families State Plan (TANF) and the policy of the FIND Work Program, including the addition of §2907.A.3, 4 and 5 which is age-specific policy, §2909.A, B, and C which provides specific information regarding "good cause," and §2913.A.2.b regarding transportation payments for participants who become ineligible for cash assistance due to earned income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

A.1. - 2. ...

3. A dependent child under age 16 is exempt.

4. A dependent child age 16 attending elementary, secondary, vocational, or technical school on a full-time basis is exempt.

5. A dependent child age 17 or 18 attending school and working toward a high school diploma, GED or Special Education Certificate is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 30 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10.

2. ...

3. A single parent/caretaker with a child under age 6 is deemed to be meeting participation requirements if that parent/caretaker is engaged in an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10 for a monthly average of 20 hours per week.

4. A parent/caretaker under age 20 is deemed to be meeting participation requirements if that parent/caretaker:

a. maintains satisfactory attendance in an activity described in §2911.A. 6, or

b. participates in an activity described in §2911.A.7 for a monthly average of 20 hours per week.

5. For a parent/caretaker age 20 or over, participation in an activity described in §2911.A.6, 7 and 8 may be counted if that parent/caretaker meets the requirements described in §2907.B.1 or 2.

6. No more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of:

a. individuals who meet countable participation requirements in an activity described in §2911.A.5; or

b. individuals who are deemed to be meeting participation requirements as described in §2907.B.4.

C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P. L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:2455 (December 1999).

§2909. Failure to Participate

A. Failure to participate in the FIND Work Program, without good cause, will result in the removal of the parent's needs from FITAP benefits for a period of three months. If the parent complies, attains good cause or becomes exempt during this time, he may be re-added to the certification effective the fourth month. If he fails to comply, attain good cause or become exempt, the FITAP case will be closed effective the fourth month, and will remain closed until he complies, attains good cause or becomes exempt. A second or subsequent failure to comply will result in closure of the FITAP case and the case cannot be recertified until the parent complies, attains good cause or becomes exempt.

B. Failure of a household member, other than a parent, to participate in the FIND Work Program, without good cause, will result in the removal of the member's needs from the FITAP benefits until the member complies, attains good cause or becomes exempt.

C. Good cause reasons for not participating in the FIND Work Program may include but are not limited to the following:

1. personal illness or injury;

2. physical or mental incapacity;

3. age 60 or older;

RULE

**Department of Social Services
Office of Family Support**

Support Enforcement; Interstate Income Assignment;
Cooperative Endeavors
(LAC 67:III.2523 and 2543)

- 4. family emergency or crisis situation;
- 5. domestic violence as described in LAC 67:1213;
- 6. unavailability of transportation or child care;
- 7. individual catastrophic conditions;
- 8. health or safety hazards at the participation site;
- 9. participation in FITAP drug testing program;
- 10. inability to speak the English language and work activity would require this skill;
- 11. discrimination based on race, color, religion, sex, age, natural origin, etc.;
- 12. appointment with health care provider and alternative arrangements cannot be made;
- 13. child care or day care for an incapacitated individual living in the home cannot be made.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193; R.S. 46:231, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:2455 (December 1999).

§2911. Work Activities

A. - A.3. ...

- 4. job search/job readiness, limited to six weeks per individual per federal fiscal year, of which no more than four may be consecutive;

5. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:451 (April 1997), LR 25: 2456 (December 1999).

§2913. Support Services

A. Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997 child care support services and payments are administered through the Child Care Assistance Program, LAC 67 III. Subpart 12.

2. Transportation Payment

a. Payments may not exceed \$500 per participant per month.

b. Participants who become ineligible for cash assistance due to earned income are eligible for a one-time transportation payment of \$100.

3. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:2456 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#060

The Department of Social Services, Office of Family Support, has amended 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 has implemented 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 has been 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

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 25:2456 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#064

RULE

**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, has amended 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 has adopted 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 25:2457 (December 1999).

§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 25:2457 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#066

RULE

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

**Child Residential Care Authority, Definitions, and
Controlled Intensive Care Facility
(LAC 48:I.7903, 7907 and 7925)**

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has amended the LAC 48:I. Subpart 3, Licensing and Certification and adopting Section 7925, "Controlled Intensive Care Facility or Unit."

This rule is mandated by Louisiana Revised Statutes 46:1401 through 1426.

These standards are being amended to add procedures for licensure, add definitions and to add additional licensing modules.

Title 48
PUBLIC HEALTH GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 79. Child Residential Care

§7903. Authority

A.1. - 2. ...

3. To carry out the legislative provisions and meet the needs of children who have been placed in out-of-home care, separate regulations have been developed which are designed for the different types of programs. These programs are established as "modules" to the child residential care regulations as listed below:

- a. Therapeutic Wilderness Program; and
- b. Controlled Intensive Care Facility or Unit.

4. To obtain a license as a Child Residential Care Facility, an applicant must meet, and adhere to, the licensing standards as stipulated in §§7901-7921. These standards shall be known as core standards.

5. To obtain a license as a Therapeutic Wilderness Program, an applicant must meet the core standards plus the licensing standards as stipulated in the module under §7923. If any core standard is not applicable to the Therapeutic Wilderness Program, it shall be so stated in the module.

6. To obtain a license as a Controlled Intensive Care Facility or Unit, an applicant must meet the core standards plus the licensing standards as stipulated in the module under §7925. If any core standard is not applicable to the Controlled Intensive Care Facility or Unit, it shall be so stated in the module.

7. An applicant may be licensed as a "stand alone" Child Residential Facility, a Therapeutic Wilderness Program or a Controlled Intensive Care Facility.

8. A facility already licensed as a Child Residential Facility may also be licensed to operate a Therapeutic Wilderness Program or a Controlled Intensive Care Unit by meeting the additional appropriate licensing standards. However, the licensed capacity of these units shall be separate from the licensed capacity of the Child Residential Facility.

9. A facility already licensed by another agency or as another type program must meet the licensing standards for Child Residential Facility plus the appropriate module standards.

10. A facility licensed by another agency or as another type program must have a clear separation between the areas to be licensed that will prohibit the residents from intermingling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

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 24:2129 (November 1998), LR 25:2458 (December 1999).

§7907. Definitions

* * *

Core Standards the basic licensing standards that all providers must meet in order to obtain a license.

* * *

Module the additional licensing standards that must be met, in addition to the core standards, to obtain a license for a particular speciality.

* * *

Controlled Intensive Care Facility or Unit a staff secure, intensive therapeutic program of individualized treatment provided on a twenty-four (24) hour, seven (7) day a week basis.

* * *

Controlled Time-Out an intervention used only in extreme situations where a child is out of control, and is a danger to him/herself or others, or whose presence is a severe disruption of the therapeutic environment.

* * *

Time-Out an intervention utilized when a child needs to be removed from a situation or circumstance and does not have the ability, at the time, to self monitor and determine readiness to rejoin the group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

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 24:2132 (November 1998), LR 25:2458 (December 1999).

§7925. Controlled Intensive Care Facility or Unit

A. Controlled Intensive Care Facilities or Units shall meet all core standards (§§7901-7921), unless specifically replaced or revised, plus the standards as stipulated in this module.

B. Orientation

1. All direct care staff shall receive 40 hours of orientation/training prior to being independently assigned to a particular job. In addition to the topics listed under §7911.E.1, the following topics must be covered:

- a. interpersonal relationships;
- b. communication skills;
- c. child growth and development;
- d. social/cultural lifestyles of the population served;
- e. procedures for use of time-out including controlled time-out; and
- f. procedures for use of locked doors and gates, if allowed.

2. All clerical and support staff, who have minimum contact with residents, shall receive at least sixteen (16) hours of orientation/training in topics other than specific job responsibilities, during the first two (2) weeks of employment. At a minimum this orientation/training must cover the following:

- a. security procedures;
- b. emergency and safety procedure including medical emergencies;
- c. the provider's philosophy, organization, program, practices and goals;
- d. detecting and reporting suspected abuse and neglect;
- e. reporting critical incidents;
- f. interpersonal relationships;
- g. children's rights; and
- h. social/cultural lifestyles of the population served.

3. All volunteers shall receive orientation, prior to beginning work, as listed for clerical staff.

4. All staff with supervisory authority over direct care staff or who have routine contact with residents shall receive orientation/training as listed for direct care staff.

C. Annual Training

1. All supervisory and direct care staff shall receive at least forty (40) hours of training, in addition to the orientation training, during the first year of employment.

2. All supervisory and direct care staff shall receive at least forty (40) hours of training each year of employment.

3. All clerical and support staff shall receive at least sixteen (16) hours of training each year of employment.

D. Staffing Requirements. Section 7911.H.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall have an adequate number of qualified direct care staff on duty and with the children at all times to ensure the health, safety and well being of children and to carry out all treatment plans.

2. The provider shall maintain a direct care staff to children ratio of at least 1:2 when children are present and awake and a staff to children ratio of at least 1:3 when children are present and asleep.

3. Direct care staff shall always be awake while on duty.

4. In addition to required direct care staff, at least one supervisory staff person shall be on call in case of emergency.

5. Any deviation from the staffing ratios as required by this section may only be made as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the required staffing ratio for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children being placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two (2) week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

E. Clothing

1. If a Controlled Intensive Care Facility or Unit requests, and is approved to provide uniforms or other clothing to residents, the following procedures must be followed.

a. All uniforms or clothing must be provided by the provider at no cost to the children, their family, the placing or the funding agency. This clothing must be neat, clean and of a type that would normally be worn in the community. Also, no individual child shall be required to wear any distinguishing type clothing or uniform for punishment or for any other negative reason.

b. To be approved to furnish uniforms or other clothing to residents, the provider must obtain a letter of approval from each state agency or court that places children in the facility. These letters of approval must state the type of uniform or clothing to be used and be submitted to the Bureau of Licensing.

c. If approval is granted, all residents, regardless of how or by whom admitted, shall be required to wear the uniform or clothing in accordance with approved treatment policies and procedures.

d. If approval is granted by the Bureau of Licensing, §7913.J.3 of the core standards shall not be enforced.

F. Intake Evaluation. Section 7915.B.1 of the core standards shall be replaced with the following for this module.

1. The Controlled Intensive Care Facility or Unit shall accept a child into care only when a current, comprehensive intake evaluation or assessment has been completed including health, family history, medical, social, psychological, and as appropriate, a developmental and vocational or educational assessment. This evaluation or assessment must have been completed or updated within the last six (6) months. If the child has been hospitalized for treatment, a copy of the last hospitalization report must be provided. This evaluation shall contain evidence that a determination has been made that the child cannot be maintained in a less restrictive environment within the community.

2. An emergency placement of a child into a Controlled Intensive Care Facility or Unit may be made without current evaluations or assessments only as follows:

a. The placing/funding agency verifies that the child requires controlled intensive care.

b. The proper evaluations or assessments are made available to the provider within fifteen (15) days.

3. If the proper evaluations or assessments are not made available to the provider within fifteen (15) days, the child must be removed.

G. The Treatment Plan

1. Section 7917.A.4 of the core standards shall be revised to require the treatment plan manager to review and approve status reports of the successes and failures of a child at least every thirty (30) days.

2. Section 7917.B.1 of the core standards shall be revised to require an initial treatment plan to be developed within seventy-two (72) hours of admission. If a master plan is not developed within fifteen (15) days of admission, a review of the initial plan must be made at this time. A master plan shall be developed within thirty (30) days of admission.

H. Time-out Procedures. In addition to §7917.K of the core standards concerning time-out procedures, the following shall be required for the use of controlled time-out.

1. If a child becomes uncontrollable and is a danger to her/himself or others he/she may be placed in controlled time-out. If a child is placed in controlled time-out, the procedures are as follows.

a. Controlled time-out may be for no longer than the time it takes for a child to reach a point where he/she is no longer a danger to her/himself or to others.

b. Controlled time-out shall be in increments of no more than fifteen (15) minutes each.

c. Direct care staff may not place a child in controlled time-out for more than the initial fifteen (15) minute time frame.

d. When direct care staff places a child in controlled time-out, the unit supervisor or case manager must be notified immediately.

e. If a second fifteen (15) minute time-out segment is needed, the unit supervisor or case manager must give approval.

f. The unit supervisor or case manager may only approve two (2) additional time-out time frames [the third and fourth fifteen (15) minute period].

g. Any further use of controlled time-out must be approved by a licensed mental health professional.

2. Written reports must be prepared and signed by the individuals authorizing each 15 minute time frame of controlled time-out which gives the events that preceded the need for the use of controlled time-out; why there was a need for additional controlled time-out; how the child reacted to controlled time-out, etc.

3. The case or treatment plan manager must prepare an incident report which covers the events that preceded the initial controlled time-out, the progression of events throughout the entire controlled time-out period and the end result of the time-outs. It shall also give any recommendations that may be deemed necessary to prevent the need for repeated use of controlled time-outs for the individual child or the need for changes in the child's individual treatment plan. This report shall be submitted to the administrator of the agency.

4. The door to the controlled time-out room may only be physically held closed by staff so that the child cannot exit the room.

5. The door to the controlled time-out room shall have a view panel that allows staff to observe the child at all times and staff shall keep the child in continuous sight the entire time that he/she is in the room.

6. The room used for controlled time-out shall have at least sixty (60) square feet of floor space and shall have no furniture, obstructions, projections or other devices that could be used as a means to cause harm to the child or as a weapon against staff.

7. As soon as the child is under control and is no longer a threat of harm to him/herself or others, the door to the controlled time-out room must be released.

I. Exterior Space. In addition to §7919.A of the core standards concerning exterior space, the following shall be required if the Controlled Intensive Care Facility or Unit utilizes a security fence with locked gates.

1. The fence shall have a gathering area that is at least fifty (50) feet away from the building.

2. The space shall be of sufficient size to allow for fifteen (15) square feet of space per each resident and staff that may be in the building.

3. The fence may not be equipped with razor wire.

4. All staff working in the controlled area must carry keys to the gate at all times.

J. Sleeping Accommodation. Section 7919.D.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall not permit more than two (2) children to occupy a designated bedroom space.

2. Any deviation to allow more than two (2) children to occupy a designated bedroom space may only be made as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the required two (2) children to a bedroom for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two (2) week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

3. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

K. Interior Space

1. Doors leading into a Facility or Unit may be locked only in the direction of ingress.

2. Doors in the line of egress shall not be locked.

3. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of State Fire Marshal and as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the requirement for unlocked egress doors for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a thirty (30) day written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 25:2458 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#068

RULE

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

**Day Care Centers: Disclosure of Information
(LAC 48:I.5350)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 46:1426, notice is hereby given that the Department of Social Services, Office of the Secretary, Bureau of Licensing has adopted the following rule governing the disclosure of information concerning licensed child day care centers.

Title 48

PUBLIC HEALTH: GENERAL

Part I. General Information

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

§5350. Disclosure of Information as Specified Under

R.S. 46:1426

A. Purpose; Authority. It is the intent of the Legislature to protect the health, safety, and well-being of children who are in out-of-home day care centers. Toward that end, R.S. 46:1426 allows parents or guardians of children enrolled in, or who have made application to be enrolled in, a day care center to obtain certain information pertaining to that particular day care center in addition to information that may be obtained under the Public Records Act subject to the limitations provided by R.S. 46:56(F)(4)(c).

B. Procedure for Requesting Information

1. Requests for information may be made by a parent or guardian of a child either by telephone or in writing.

2. Upon receipt of a request that does not give assurance that the person making the request is a parent or guardian of a child that is currently attending or that has completed a current application to attend the day care center in question, the Bureau of Licensing shall furnish the parent or guardian a certification form that must be completed and signed that certifies that their child is currently attending or that a current application has been made for the child to attend the particular day care center.

3. Upon receiving the needed information, or the certification form, the Bureau of Licensing shall initiate a review of the records of that particular day care center.

4. The Bureau of Licensing shall provide or make available all information, if any, that is requested, subject to limitations as provided by law.

5. Failure of a parent or guardian to sign a certification form or provide compelling information that indicates their child is either currently attending or has made application to attend said day care center will result in the request being handled as a request under the Public Records Act.

C. Information that May be Released

1. Information that may be released under R.S. 46:1426 is as follows:

a. each valid finding of child abuse, neglect, or exploitation occurring at the center, subject to the limitations provided by R.S. 46:56(F)(4)(c);

b. whether or not the day care center employs any person who has been convicted of or pled guilty or nolo contendere to any of the crimes provided in R.S. 15:587.1;

c. any violations of standards, rules, or regulations applicable to such day care center; and

d. any waivers of minimum standards authorized for such day care center.

2. No information may be released that contains the name, or any other identifying information, of any child involved in any situation concerning the day care center.

3. The identity of any possible perpetrator or of the party reporting any suspected abuse, neglect or exploitation shall not be disclosed except as required by law.

4. If there is no information in the files other than information covered under the Public Records Act, the parent or guardian shall be so notified and informed of the procedure for obtaining that information.

D. Costs. As is required for obtaining copies of records under the Public Records Act, parents or guardians wanting copies of records under R.S. 46:1426 shall be informed of the costs involved and pay for copies of said records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1426

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:2461 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#067

RULE

**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, has amended the *Louisiana Administrative Code*, Title 48, Part I.

This 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 25:2461 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#061

RULE

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, has amended the *Louisiana Administrative Code*, Title 48, Part I.

This 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 25:2462 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#065

RULE

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, has amended the *Louisiana Administrative Code*, Title 48, Part I.

This 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 25:2462 (December 1999).

J. Renea Austin-Duffin
Secretary

9912#059

RULE

Department of Transportation and Development Office of the General Counsel

Off-Premise Changeable Message Signs (LAC 70:I.132)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Transportation and Development hereby promulgates a rule entitled "Off-Premise Changeable Message Signs" in accordance with R.S. 48:461.

This rule has no known impact on family formation, stability and autonomy as set forth in R.S. 49:972. Changes in the rule were made pursuant to the provisions of R.S. 49:968. A public hearing was conducted on October 21, 1999.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

§132. Off-Premise Changeable Message Signs

A. *Changeable Message Sign* means any outdoor advertising sign which displays a series of advertisements, regardless of technology used, including, but not limited to, the following:

1. rotating slats;
2. changing placards;
3. rotating cubes;
4. changes in light configuration or light colors.

B. Qualifying Criteria

1. Message changes must be accomplished within four (4) seconds and the message must remain stationary for a minimum of eight (8) seconds.

2. The message change must be accomplished in such a manner that there is no appearance of movement of the message or copy during the change. This rule is not intended to prohibit movement of the structure in sequence in order to effect a change in message.

3. The sign may not contain flashing, intermittent or moving lights.

4. The use of such technology is limited to conforming signs only. Application of such technology to nonconforming signs is prohibited. (See LAC 70:I.137 for discussion of "non-conforming" outdoor advertising signs.) Act 651 of the 1999 Session of the Louisiana Legislature amended R.S. 48:461 to state that a "sign structure on an interstate highway for which a permit has been granted prior to June 5, 1992, and which was a legal conforming sign structure on June 4, 1992, shall not be determined to be legally non-conforming for failure to comply with the spacing provisions of this Section and may be maintained, repaired, or replaced as a legal conforming structure."

Therefore, for purposes of this rule, such structures may use the subject technology.

5. Any such sign shall contain a default design that will freeze the sign in one position if a malfunction occurs.

6. Such signs shall not use animated, scrolling or full motion video displays.

7. A changeable message sign which meets these criteria shall be considered an outdoor advertising sign.

C. This rule is not applicable to "on-premise" outdoor advertising signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 25:2463 (December 1999).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9912#104

RULE

Department of Transportation and Development Highways/Engineering

Fiber Optic Permits (LAC 70:III.Chapter 25)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby promulgates a rule entitled "DOTD Fiber Optic Permit Rules," in accordance with R.S. 48:381.2.

A change was made in the rule in accordance with the provisions of R.S. 49:968. A Public hearing was conducted on September 21, 1999, and legislative oversight was conducted on November 24, 1999. This rule has no known impact on family formation, stability and autonomy as set forth in R.S. 49:972.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 25. Fiber Optic Permit Rules

§2501. General Permit Conditions and Standards

A. The rights and privileges granted to applicant shall be non-exclusive and shall not be construed to be any broader than those expressly set forth in Louisiana law. Any facilities placed on the highway right-of-way shall be placed in accordance with existing laws and the standards of the Department.

B. All facilities, after having been erected, shall at all times be subject to inspection. The Department reserves the right to require such changes, additions, repairs, relocations and removal as may at any time be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway, to provide proper and safe protection of life and property on or adjacent to the highway, or to insure the safety of traffic on the highway. The cost of making such changes, additions, repairs and relocations shall be borne by the applicant, and all of the cost of the work to be accomplished under the permit shall be borne by the applicant.

C. The proposed facilities, their operation and maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits of use and occupancy. The proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy. Departmental records of prior permits are available for inspection. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way.

D. Installations within the highway right-of-way shall be established in accordance with applicable provisions contained in the following:

1. AASHTO Guide for Accommodating Utilities within Highway Right of Way;
2. Code of Federal Regulations, 23 CFR 23;
3. National Electrical Safety Code (C2); and
4. 1996 Federal Telecommunications Act.

E. Those facilities not included in the above mentioned documents shall be established in accordance with accepted practice. Where standards of the Department exceed those of the above cited codes, the standards of the Department shall apply. The Department reserves the right to modify its policies, as may be required, if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances, as may be required by the Department, shall be furnished to the Department by the applicant free of cost. The applicant shall make any and all changes or additions necessary in order to receive Departmental approval.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the Department's EDSM (Engineering Directives and Standards Manual) IV.2.1.6 and Vegetation Manual, as revised.

H. The applicant must agree to defend, indemnify, and hold harmless the Department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by the negligence of the Department, its agents or employees, provided, however, the provisions of this last clause (whether or not the same may have been caused by the negligence of the Department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the Department, its agents or employees, unless such sole negligence consists or shall have consisted entirely and only of negligence in the granting of a project permit or project permits.

I. The applicant is the owner of the facility for which a permit is requested, and is responsible for maintenance of the facility. Any permit granted by the Department is granted only insofar as the Department had the power and right to grant the permit. Permits shall not be assigned to another company without the express written consent of the Department.

J. Any permit granted by the Department is subject to revocation at any time.

K. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surface, shall be in

accordance with requirements contained in the Manual on Uniform Traffic Control Devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stockpiled on any highway or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side, including the median of any divided highway.

L. All provisions and standards contained in the permit relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

M. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to the satisfaction of the Department.

N. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

O. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities such as cable or conduits, the applicant must be a member of Louisiana One-Call.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:2463 (December 1999).

§2503. Specific Standards for Installation of Fiber-Optic Cable

A. All materials and workmanship shall conform to the requirements of the applicable industry code and to Department specifications.

B. All safety precautions for the protection of the traveling public must be observed. Undue delay to traffic will not be tolerated.

C. All excavations within the limits of the right-of-way shall be backfilled and tamped in six inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week of the original disturbance. Where existing spoil material is, at the discretion of the Department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

D. Any clearing and grubbing which may be required by the applicant shall be represented by a plan covering any such actions. Such plans shall also be submitted for erosion control measures which may be required to vegetate the area under such clearing and grubbing. The applicant is authorized to retain all cleared timber. The applicant shall follow up with an erosion control, seeding plan approved by the Department.

E. Access to the permitted installation shall be made in the following order of priority:

1. first from the land side;
2. second from the interchange (longitudinally); and
3. third from the highway.

F. Each occasion of access shall be pre-approved by the appropriate DOTD District Permit Office.

G. Repairs beneath the roadway shall not be allowed if such repairs necessitate open cutting (open trenches) the highway. If a problem occurs with a line crossing, the utility

company must install a new crossing. The utility company must bear the total cost.

H. The DOTD District Permit Office shall be contacted and notified and shall give Departmental approval whenever the installation must be accessed, including access for routine maintenance. For routine maintenance, three (3) days=notice shall be given. In emergency situations, as much notice as possible must be given.

I. Repeater boxes shall be placed outside of the right-of-way, unless otherwise approved by the Department.

J. Parallel installations shall be located on a uniform alignment to the right-of-way line and within six (6) inches of the approved alignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:2464 (December 1999).

§2505. Cables Installed Parallel to the Highway

A. In addition to the requirements enumerated above, the following requirements shall apply to cables installed parallel to the highway:

1. Installations shall occupy available space within the back ten (10) feet of the right-of-way (located on the side most distant from the traveled roadway, except where, upon showing of actual necessity, a permit is issued for another location;

2. Installations shall have a minimum earth cover of thirty-six (36) inches;

3. Installations shall have a minimum clearance of twenty-four (24) inches below existing or proposed drainage structures, unless otherwise approved by the Department.

4. There shall be no installation of cable within the median.

B. In general, installation of cable shall be as close to the right-of-way line as possible. The order of preferred locations for installing cable shall be:

1. between the control-of-access and the right-of-way;
2. between control-of-access right-of-way and shoulder if environmental conditions allow;
3. on longitudinal elevated structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:2465 (December 1999).

§2507. Cables Crossing the Highway

A. Crossings shall have at least five (5) feet of cover below the roadway and twenty-four (24) inches of cover below ditches or drainage structures.

B. Crossings shall be made at as nearly right angles to the highway as possible. No existing drainage structure under the highway may be used for this purpose.

C. Construction methods used shall be in accordance with the following requirements:

1. Cutting the surface or tunneling under it is specifically prohibited.

2. Installation shall be made either by boring or jacking under the highway from ditch bottom to ditch bottom. In the absence of ditches, or along sections of highway with curb or gutter, boring or jacking shall extend beyond the outside edge of the traveled way to a point at least equal to three (3) times the vertical difference between

the elevation of the roadway surfacing and the elevation of the top of the cable. Where width of right-of-way is insufficient to enable compliance with this requirement or where it is necessary to make a connection to an existing parallel facility which precludes compliance, the distance shall be computed to the right-of-way line or to the parallel facility. Any voids or overbreaks resulting from this task shall be backfilled with grout consisting of a cement mortar or a slurry of fine sand or clay, as conditions require. Excavating an open ditch to the edge of the pavement and boring and jacking the remainder of the distance is prohibited. Jacking and boring shall be done in accordance with Section 728 of the Louisiana Standard Specifications for Roads and Bridges, latest edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:2465 (December 1999).

§2509. Fees

A. A flat fee of \$5,000.00 per mile shall apply to fiber optic telecommunications installations placed within state controlled access highway rights-of-way.

B. The Department may reduce fees in exchange for shared resources.

C. The Department may reduce fees for its agents, i.e. those applicants who erect facilities on behalf of the Department in order to conduct Departmental work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:2465 (December 1999).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9912#076

RULE

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") amends LAC 58:I.2711 and 2713. The amendment to the rules changes the minimum distribution requirements from the Deferred Retirement Option Plan to comply with the Internal Revenue Code. The 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 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 25:2465 (December 1999).

§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:

Table with 2 columns: Age at Termination, Minimum Number of Years for Payout or Recovery. Rows include age groups like '55 or under' and '55 and one day to 60' with corresponding year values.

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 25:2466 (December 1999).

Glenda Chambers
Executive Director

9912#002

RULE

Department of Treasury
Board of Trustees of the State
Employees' Retirement System

Purchases of Service Credit
(LAC 58:I.1701, 1703, 1707 and 1709)

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") amends LAC 58:I.1701, 1703, and adopts LAC 58:I.1707 and 1709. The rules change the provisions for the purchase of service credit

by reinstated employees, and add provisions for partial purchase of service credit.

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 a wrongful termination, he must repay the refund not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered for the member's retirement status and service credit to be fully restored.

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 25:2466 (December 1999).

§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 date of hire prior to the wrongful termination shall be used for retirement purposes, if any contribution refund that the member received is repaid not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered. If the member repays all or any portion of such contribution refund after the sixtieth day following the first day the member returns to work after reinstatement is ordered, the repayment shall be treated in the same manner as a payment for any other refund and the date of hire for retirement purposes shall be the first day the member returns to work after reinstatement is ordered.

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 25:2466 (December 1999).

§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 25:2467 (December 1999).

§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 25:2467 (December 1999).

Glenda Chambers
Executive Director

9912#001