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Executive Orders

EXECUTIVE ORDER MJF 99-53

Justice System Funding Commission

WHEREAS, Executive Order No. MJF 98-33, signed on July 14, 1998, created and established the Justice System Funding Commission;

WHEREAS, it is necessary to amend the Commission's reporting schedule;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 98-33 is amended to provide as follows:

The Commission shall submit a comprehensive written report to the governor, the speaker of the House of Representatives, and the president of the Senate by January 1, 2001.

SECTION 2: All other sections and subsections of Executive Order No. MJF 98-3 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 13th day of December, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0001#040

EXECUTIVE ORDER MJF 99-54

Carry-Forward Bond Allocation
Louisiana Housing Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Executive Order No. MJF 99-28 (hereafter "MJF 99-28"), issued on July 9, 1999, allocated thirteen million dollars (\$13,000,000) from the 1999 Ceiling to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., for the acquisition, construction, and installation of a development project for the reconstruction and reconfiguration of a building to accommodate a mixed housing/commercial development facility, but the thirteen million dollar (\$13,000,000) allocation was returned unused to the 1999 Ceiling;

WHEREAS, an additional eight million two hundred thirty-three thousand three hundred fifty dollars (\$8,233,350) of the 1999 Ceiling was not allocated during the 1999 calendar year;

WHEREAS, Subsection 4.8 of MJF 96-25 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the 1999 Ceiling exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the 1999 calendar year by all issuers by twenty-one million two hundred thirty-three thousand three hundred fifty dollars (\$21,233,350); and

WHEREAS, the governor desires to allocate this excess and/or unused amount of the 1999 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

NOW THEREFORE I, M.J. AMIKE@ FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, the excess and unused private activity bond volume limit under the 1999 Ceiling is hereby allocated to the issuer for the carry-forward project and in the amount as follows:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Authority	Single Family Mortgage Revenue Bond Program	\$21,233,350

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of December, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0001#041

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.301, 705, 805, 907)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective December 14, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

Full-Time Student

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see 705.A.7., 705.D., 805.A.7., and 907.A.2. for more expanded TOPS requirements);

c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

* * *

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000).

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§705. Maintaining Eligibility

A.1. - 6. ...

7. by the end of each academic year, earn a total of at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

A.8. - C. ...

D. It is the student's responsibility to ensure that all requirements necessary to maintain award eligibility are completed. The Office of Student Financial Assistance shall only consider the official report of grades and hours earned which are received from the school attended. Students should be aware that individual school policies may affect the reporting of grade point average and hours earned for the academic year and accordingly, should become familiar with these policies.

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A.1. - 6. ...

7. By the end of each academic year, earn at least 24 credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by

advanced placement course credit. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; (See also §705.D) and

A.8. - 9. ...

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 24:1905 (October 1998), LR 25:1091 (June 1999), LR 26:68 (January 2000).

Chapter 9. TOPS Teacher Award

§907. Maintaining Eligibility

A.1. ...

2. by the end of each academic year, earn a total of at least 24 hours college credit during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall not include remedial course work nor hours earned during summer sessions or intersessions or by advanced placement course credits; (See also §705.D) and

A.3. - B. ...

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 23:1650 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:68 (January 2000).

Jack L. Guinn
Executive Director

0001#016

DECLARATION OF EMERGENCY

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

Tuition Opportunity Program for Students
(TOPS) Eligibility (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective December 14, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

**Part IV. Student Financial Assistance^c Higher Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards**

§703. Establishing Eligibility

A. - A.5.a.i. ...

ii. for purposes of satisfying the requirements of §703.A.5.a.i., above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

or

A.5.b. - G.2. ...

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000).

Jack L. Guinn
Executive Director

0001#017

DECLARATION OF EMERGENCY

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

Program Requirements^c Implementation
(OS035E) (LAC 33:I.4719)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (Department) to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the Secretary of the Department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The department relies on analytical data submitted both directly and indirectly to the department to determine compliance with both State and Federal regulations. As a

result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received accreditation by the department. Presently, no commercial laboratories have received departmental accreditation. This rule will extend the deadline to apply for accreditation to July 1, 2000, and the deadline for accreditation by the department to December 31, 2000. A finding of imminent peril to public health, safety and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The department must have access to accurate, reliable, precise data in order to meet its mandate to protect human health and the environment.

This emergency rule is effective on December 15, 1999, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS035E, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. The department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. The department will not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May

1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0001#018

DECLARATION OF EMERGENCY

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

Prospective Reimbursement Methodology for Nursing Facilities

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for private nursing facility services. Payments for nursing facility services are made in accordance with the prospective reimbursement methodology adopted effective August 1, 1984 (*Louisiana Register*, Volume 10, No. 6). A rule was subsequently adopted to establish patient specific classifications of care in accordance with requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1987 (*Louisiana Register*, Volume 16, No. 12). Subsequent rules were adopted to establish specialized nursing facility levels of care for specific types of patients in skilled nursing units such as Skilled Nursing/Infectious Disease (SN/ID) and Skilled Nursing/Technology Dependent Care (SN/TDC). The payment for SN/ID and SN/TDC was established as a cost-based reimbursement methodology (*Louisiana Register*, Volume 14, Number 12 and Volume 15, Number 11). The Bureau has decided that it is necessary to amend the December 20, 1988 and November 20, 1989 rules to convert the reimbursement methodology from a cost-based to a prospective methodology for SN/ID and SN/TDC services.

This emergency rule is being adopted to continue the provisions of the October 21, 1999 rule in force.

Emergency Rule

Effective February 18, 2000 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will reimburse nursing facilities for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services under a prospective reimbursement methodology. This methodology utilizes the skilled nursing (SN) rate based on the 1993 cost report inflated to the applicable rate year, plus an average

allowable cost per day. The allowable cost per day is determined through the Department's audit process in accordance with allowable cost guidelines for SN/ID and SN/TDC and based on audited cost reports for calendar year 1997 for the provision of these services plus a five percent (5 percent) incentive factor inflated to the midpoint of the year preceding the rate year.

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be limited to the same rates paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met:

1. the facility must have a valid Title XIX provider agreement for provision of nursing facility services;
2. the facility must be licensed to provide nursing services; and
3. the facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

B. Allowable incremental costs for SN/ID

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services. Nursing services personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. However, HCFA does not grant exceptions that include direct patient care in excess of 9.6 hours per patient day.

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/ID cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/ID status and not covered in the SN rate;

b. specialized nursing supplies related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/ID status must be supported by detailed justification that to substantiate the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/ID special equipment. Costs associated with demonstrated enhanced infection control measures are included. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/ID service not covered in the

regular skilled rate (1.4 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative, general, nursing administration, housekeeping, medical supplies and dietary.

5. Incentive factor is equal to 5 percent of the average allowable incremental costs added to the enhanced rate in order to assure reasonable access to SN/ID services.

C. Allowable incremental costs for SN/TDC

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services. Nursing service personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. However, HCFA does not grant exceptions that include direct patient care in excess of 9.6 hours per patient day.

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/TDC cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/TDC status and not covered in the SN rate;

b. specialized nursing supplies related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/TDC special equipment. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/TDC service not covered in the regular skilled rate (1.9 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative, general, nursing administration, housekeeping, medical supplies and dietary.

5. Incentive factor is equal to 5 percent of the average allowable incremental costs added to the enhanced rate, in order to assure reasonable access to SN/TDC services.

Facilities shall submit cost reports at the end of each twelve (12) month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a separate cost report which shall be subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

Rates for SN/ID and SN/TDC services will be rebased as determined necessary by the Department to ensure that appropriate services are reimbursed on a reasonable cost basis, recognizing the need for accountability for public funds, as well as the provider's right to a fair payment for services rendered. Base rate adjustments will result in a new base rate component which will be used to calculate the rate for subsequent years. A base rate adjustment may be made

when the event, or events, causing the adjustment is not one that would be reflected in inflationary indices.

Annual inflationary adjustments shall be contingent upon appropriation by the Legislature.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0001#073

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Fraud Assessment (LAC 37:XI.Chapter 23)

In accordance with the provisions of Louisiana Revised Statutes (La. R.S.) Title 49, Section 953(B) of the Administrative Procedure Act, the Department of Insurance has adopted an emergency rule, Rule 13, in order to implement without delay the provisions of La. R.S. 40:1428. Emergency Rule 13 will assess a fee on certain insurers to pay the cost of investigation, enforcement, and prosecution of insurance fraud in this state, as more fully described in La. R.S. 40:1421-1429.

Emergency rulemaking is necessary to immediately implement this fee assessment to combat the threat to the public welfare caused by insurance fraud in this state. This emergency rule is effective January 1, 2000, and will remain in effect for the maximum time allowed by law or until the adoption of Rule 13 by the Department of Insurance, whichever occurs first.

Title 37 INSURANCE Part XI. Rules

Chapter 23. Emergency Rule 13

§2301. Purposes

A. The purpose of this rule is to implement the provisions of La. R.S. 40:1428 by assessing a fee on insurers to pay the cost of investigation, enforcement, and prosecution of insurance fraud in this state as more fully described in La. R.S. 40:1421-1429 and this rule.

B. The fees collected shall be used solely for the purposes of Subpart B of Part III of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of La. R.S. 40:1421 through 1429, entitled "Insurance Fraud Investigation Unit."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§2303. Fee Assessment

A. As authorized by La. R.S. 40:1428, and subject to the limitations provided therein and in this rule, there is hereby assessed an annual fee not to exceed .000375 multiplied

times the direct premiums received by each insurer licensed by the Department of Insurance to conduct business in this state. This emergency rule is effective January 1, 2000, and will remain in effect either for the maximum time allowed by law or until the adoption of Rule 13 by the Department of Insurance, whichever occurs sooner.

B. The fee shall be assessed July 1, 2000, and each fiscal year thereafter, and shall be based on premiums received in the previous calendar year. The Commissioner of Insurance will notify insurers in writing of the fee assessment owed each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§2305. Limitations on the Fee Assessment

The fee shall not be assessed on premiums received on life insurance policies, annuities, credit insurance, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. The fee shall not be assessed on fifty percent of the premiums received on health and accident insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§2307. Allocation of the Fee Assessment

A. The fees shall be allocated as follows:

1. seventy-five percent of the fees collected shall be allocated to the Insurance Fraud Investigation Unit within the Office of State Police;

2. fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit;

3. ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the Section of Insurance Fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§2309. Payment of the Fee Assessment

The fee established in La. R.S. 40:1428 and in this rule shall be paid to the Commissioner of Insurance as required by La. R.S. 40:1428(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§2311. Sunset

This rule shall be null, void, and unenforceable on July 1, 2004 in accordance with the sunset provision of La. R.S. 40:1429, unless legislative authorization for this rule is reenacted prior to July 1, 2004. If such legislation authorization is reenacted prior to July 1, 2004, then this Rule shall continue in full force in effect without need for a reenactment, amendment, or re-promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 40:1428 and R.S. 40:1429.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

Inquiries concerning this rule should be directed to Barry W. Karns, Deputy General Counsel, Department of

James H. "Jim" Brown
Commissioner

0001#025

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Electronic Gaming Devices
(LAC 42:XIII.4201-4219 and 4327-4357)

In accordance with the provisions of La. R.S. 49:953, the Louisiana Gaming Control Board hereby determines that adoption of emergency rules relative to electronic gaming devices and the linking of electronic gaming devices on licensed riverboats by telecommunication to a central computer is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Louisiana Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Whereas Act 1301 of the 1999 Regular Session provides that "The legislature hereby finds and declares that there is a compelling state interest in insuring the most efficient, honest and accurate regulation of the gaming industry.

In order to maintain the security and integrity of electronic gaming devices and for insuring accurate and thorough accounting procedures, the law mandates that all licensed video poker devices, video pull-tabs, and slot machines at live racing facilities be connected to a central computer. Likewise the casino operating contract provides for complete and unrestricted access to information contained within their centralized computer to the office of state police and the Louisiana Gaming Control Board. The legislature finds that the only area of legalized gaming which does not have a central computer system is riverboat gaming. The legislature

finds that it is in the best interest of the state and the general public that all electronic gaming devices licensed in this state should be subject to this type of monitoring and accordingly that all electronic gaming devices on licensed riverboats should be linked by telecommunication to a central computer system.

The present level of technology in electronic gaming devices makes it both feasible and efficacious to require all electronic gaming devices on licensed riverboats in this state to be linked by telecommunication to a central computer system which will facilitate the monitoring and reading of the devices for the purposes of maintaining the security and integrity of the devices and the integrity of the information reported to the system, in order to insure that licensees meet their financial obligations to the state.

The most efficient, accurate, and honest regulation of the gaming industry in this state can best be facilitated by establishing a central computer system under which all electronic gaming devices on licensed riverboats will be linked to that system by telecommunication to provide superior capability of auditing, reporting, and regulation of that industry."

Further whereas Act 1301 of 1999 mandates that the rules authorized by the Act be adopted and promulgated before January 1, 2000.

A Notice of Intent in the same form as these emergency rules was published in the November 20, 1999 *Louisiana Register*. La. R.S. 49:968 4.1 requires that prior to adoption of a rule in the ordinary rule making process ninety (90) days shall have elapsed from the time of publication of the Notice of Intent in the *Louisiana Register*.

For the foregoing reasons, the Louisiana Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these emergency rules, effective December 31, 1999, in accordance with La. R.S. 49:953 B, to be effective for a period of 120 days or until the final rule is promulgated, whichever occurs first.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 42. Electronic Gaming Devices

§4201. Division's Central Computer System (DCCS)

A. Pursuant to R.S. 27:114, the Legislature of Louisiana has mandated that all electronic gaming devices on all riverboats shall be linked by telecommunications to a central computer system for purposes of monitoring and reading device activities.

B. The DCCS shall be located within and administrated by the Division, and shall be on line and completely functional by June 1, 2000.

C. The DCCS shall be capable of monitoring and reading financial aspects of each electronic gaming device such as:

1. coin in, coin out, coins to the drop, games played, hand paid jackpots, bills/paper currency accepted, and bills/paper currency by denomination accepted shall all be reported to the central computer system;

2. any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate may require immediate disablement of the electronic gaming device from patron play by the Division. The Licensee shall

report the malfunction to the Division within four hours after the occurrence;

3. no electronic gaming device shall be enabled for patron play after a meter malfunction as described in §4201(c)(2) until authorized by a Division agent;

4. meter information required in C.1 of this section will have been reported and documented by the central computer system on a previous event and will be used to provide all meter information prior to the device malfunction. Subsequent adjustments after the meter malfunction shall document a "meter reasonableness" as determined by the following procedures:

a. the meter information recorded prior to the device malfunction shall be verified as accurate by an operator of the DCCS;

b. a coin and bill validator test shall be performed on the electronic gaming device in the presence of a Division agent;

c. upon successful completion of the coin and bill validator test, all final meter information shall be documented on forms prescribed by the Division; and

d. the final meter information shall be reported to the DCCS operator and all final meter information shall be entered into the central computer system prior to the enablement of the electronic gaming device for patron play.

D. The DCCS shall provide for the monitoring and reading of exception code reporting to insure direct scrutiny of conditions detected and reported by the electronic gaming device, including any tampering, device malfunction, and any door opening to the drop areas, with exception of the drop team.

1. Exception or event codes that signal illegal door opening(s) shall necessitate an investigation by a Division agent, which may result in an administrative action against the Licensee.

2. All events that can be reported by an electronic gaming device shall be transmitted to the DCCS. Examples of the events reported are, but not limited to, as follows:

- a. machine power loss;
- b. main door open/closed;
- c. BVA or stacker accessed;
- d. hard drop door open/closed;
- e. logic board accessed;
- f. reel tilt;
- g. hopper empty;
- h. excess coin dispensed by the hopper;
- i. hopper jam;
- j. coin diverter error;
- k. battery low;
- l. jackpot win;
- m. jackpot reset; and/or
- n. logic board failure.

3. In the event of any exception or event code, or combination thereof which may indicate inappropriate meter readings, that is reported to the DCCS, the Division may require the disablement of the electronic gaming device.

E. No new electronic gaming device or EGD monitoring system shall be authorized for operation unless the electronic gaming device or EGD monitoring system meets the minimum requirements of §4201.

F. The DCCS shall not provide for the monitoring or reading of personal or financial information concerning any patron's gaming activities conducted on a riverboat.

G. Any new electronic gaming device placed on line and enabled for patron play shall have the annual fee required by R.S. 27:114 paid prior to placement into operation for patron play.

H. The payment of the electronic gaming device fee shall be made in such manner as prescribed by the Division.

I. Any reference to slot machine or slots in this LAC42:XIII.Chapter 42 includes all electronic gaming devices, herein referred to as EGD's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A manufacturer or supplier shall not sell, lease or distribute EGD's or equipment in this state and a licensee shall not offer EGD's for play without first obtaining the requisite permit or license and obtaining prior approval by the Division/Board for such action. This section shall not apply to those manufacturers or suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than the Administrative Rules when those manufacturers or suppliers are selling or distributing to such licensed entity.

B. Applications for approval of a new EGD shall be made and processed in such manner and using such forms as the Division may prescribe. Licensees may apply for approval of a new EGD. Each application shall include, in addition to such other items or information as the Division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in LAC 42:XIII.Chapter 42.

C. No game or EGD other than those specifically authorized in this LAC 42:XIII.Chapter 42 may be offered for play or played on a riverboat except that the Division may authorize the operation of progressive electronic EGD's as part of a network of separate gaming operations licensed by the Division with an aggregate prize or prizes.

D. Approval shall be obtained from the Division prior to changing, adding, or altering the casino configuration once such configuration has received final Divisional approval. For the purpose of this section, altering the casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office, or in a Division approved locked storage area. Such office/storage area shall be kept secure, and only authorized personnel shall have access.

F. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4203. Minimum Standards for Electronic Gaming

Devices

A. All EGD's submitted for approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts wagered, which shall not be less than eighty percent (80%) and not more than ninety nine point nine percent (99.9%) for each wager available for play on the device;

3. shall use a random selection process to determine the game outcome of each play of a game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of game elements which produce winning or losing game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of game elements or detectable dependency upon any previous game outcome, the amount wagered, or upon the style or method of play.

4. shall display an accurate representation of the game outcome. After selection of the game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a game with no data loss after a power failure;

10. shall have current game and the previous two games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to the approval by the Division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

- a. manufacturer;
- b. serial number; and
- c. model number.

18. shall have a communications data format from the EGD to the EGD monitoring system approved by the Division;

19. shall be capable of continuing the current game with all current game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if so equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4204. Progressive Electronic Gaming Devices

A. This section authorizes the use of progressive EGD's within one (1) riverboat provided that the EGD's meet the requirements stated in this LAC 42:XIII.Chapter 42 and any additional requirements imposed by the Administrative Rules, the Board, or the Division.

B. Wide area progressive games that link EGD's located on more than one (1) riverboat shall be approved by the Board and Division on a case-by-case basis.

C. Progressive EGD's Defined

1. A progressive EGD is an electronic gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. Base amount means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a progressive jackpot and its base amount.

4. A progressive jackpot may be won where certain pre-established criteria, which does not have to be a winning combination, is satisfied.

5. A bonus game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this LAC 42:XIII.Chapter 42.

D. Transferring of Progressive Jackpot Which is in Play

1. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the riverboat in the event of:

- a. EGD malfunction;
- b. EGD replacement; or

c. other good reason deemed appropriate by the Division to ensure compliance with this LAC 42:XIII.Chapter 42.

2. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the Division.

E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The licensee shall maintain a record of the amount shown on a progressive jackpot meter on the riverboat and/or dockside premises. The progressive jackpot meter information shall be read and documented, at a minimum, every twenty-four hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five (5) years.

4. The Licensee shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The Licensee shall record the progressive liability on a daily basis.

6. The Licensee shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to arrive at the increase in, and reasonableness of, the progressive jackpot amount.

7. Each Licensee shall formally adopt the manufacturer's specified internal controls for wide area progressive EGD's, as approved by the Division, as part of the Licensee's system of internal controls.

F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

G. Consistent Odds on Linked EGD's

1. When more than one (1) progressive EGD is linked together, each EGD in the link shall be the same denomination, same coin in multiplier, and have the same probability of hitting the combination that will award the progressive jackpot or jackpots as every other machine in the link.

H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

- a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered;
- b. multiply the accepted coins by the programmed rate of progression in order to determine the correct amounts to apply to the progressive jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered the jackpot amount is shown immediately.

I. Operation of Progressive Controller-Jackpot Mode

1. When a progressive jackpot is recorded on an EGD which is attached to the progressive controller or another attached approved component or system (hereinafter progressive controller), the progressive controller shall allow for the following:

- a. display of the winning amount;
- b. display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this LAC 42:XIII.Chapter 42.

3. When more than one (1) progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached approved component or system shall display the following information:

- a. the identity of the EGD that caused the progressive meter to activate;
- b. the winning progressive amount; and
- c. the new normal mode amount that is current on the link.

4. A Wide Area progressive EGD and/or a progressive device where a jackpot of one hundred thousand dollars (\$100,000) or more is won shall automatically enter into a non-play mode which prohibits additional play on the device after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the Division, the device may be offered for play.

J. Alternating Displays

1. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two (2) or more progressive EGD's shall be housed in a double keyed compartment in a location approved by the Division. All keys shall be maintained in accordance with LAC 42:XIII.Chapter 27 of the Administrative Rules.

2. The Division may require possession of one (1) of the keys.

3. Persons having access to the progressive controller shall be approved by the Division.

4. A list of persons having access to a progressive controller shall be submitted to the Division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the Division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the Division for approval at least sixty days before their enforcement. All restrictions approved by the Division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

a. the number of progressive jackpots won on each progressive level if the progressive display has more than one winning amount;

b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;

c. the maximum amount of the progressive payout for each level displayed;

d. the minimum amount or reset amount of the progressive payout for each level displayed;

e. the rate of progression for each level displayed.

M. Limits on Jackpot of Progressive EGD's

1. A Licensee may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The riverboat licensee shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. Licensee shall not reduce the amount displayed on a progressive jackpot meter or otherwise reduce or eliminate a progressive jackpot unless:

1. a player wins the jackpot;

2. the licensee adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M and the licensee documents the adjustment and the reasons for it;

3. the licensee's gaming operations at the establishment cease for any reason other than a temporary closure where the same licensee resumes gaming operations at the same establishment within a month;

4. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

a. the licensee documents the distribution;

b. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B; and

d. The distribution is completed within thirty (30) days after the progressive jackpot is removed from play or within such longer period as the Division may for good cause approve; or

e. the Division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing;

5. licensees shall preserve the records required by this section for at least five (5) years.

O. Individual Progressive EGD Controls

1. Individual EGD's shall have a minimum of seven electronic meters, including a coin-in meter, drop meter, jackpot meter, win meter, hand paid jackpot meter, progressive hand paid jackpot meter and a progressive meter.

P. Link Progressive EGD Controls

1. Each machine shall require the same number of tokens be inserted to entitle the player to a chance at winning the progressive jackpot and every token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Licensee shall have a computer connected to all EGD's on the riverboat to record and monitor the activities of such devices. No EGD's shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated gaming laboratory specified by the Division/Board. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the Division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD drop meters and the actual count of the EGD drop.

2. Prior written approval from the Division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures for when the computerized EGD monitoring system is down.

3. Each and every modification of the software shall be approved by a designated gaming laboratory specified by the Division/Board.

B. The computer permitted by subparagraph (1) of this subsection shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the riverboat as follows:

1. record the number and total value of tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of tokens deposited in the drop bucket of the EGD;

4. record the number and total value of tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the drop team;

7. be capable of logging in and reporting any revenue transactions not directly monitored by token meter, such as tokens placed in the EGD as a result of a fill, and any tokens removed from the EGD in the form of a credit;

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number; and

9. report the time, date and location of open doors or error conditions, as specified in §4201.D.2, by each EGD.

C. The Licensee shall store, in machine-readable format, all information required by paragraph b for the period of five years. The Licensee shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a Division agent in the format and media approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4206. Employment of Individual to Respond to Inquires from the Division

A. Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the Division to any inquires from him concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31st of each year report in writing the name of the individual designated pursuant to this section and shall report in writing any change in the designation within fifteen (15) days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4207. Evaluation of New Electronic Gaming Devices

A. The Division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The manufacturer seeking approval of the device shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Division/Board may require that the manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

B. The Division/Board may require the manufacturer or supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4208. Certification by Manufacturer

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the Division/Board and the manufacturer seeking approval of the device. The report shall include an explanation of the manner in which the device operates. The manufacturer shall return the report within fifteen (15) days and shall either:

1. certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the EGD is correct amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4209. Approval of New Electronic Gaming Devices

A. After completing its evaluation of the new EGD, the Division/Board shall determine whether the application for approval of the new EGD should be granted. In considering whether a new EGD will be given final approval, the Division/Board shall consider whether approval of the new EGD is consistent with LAC 42:XIII.Chapter 42. Division/Board approval of a EGD does not constitute certification of the device's safety.

B. Equipment Registration and Approval

1. All electronic or mechanical EGD's shall be approved by the Division/Board and/or its approved designated gaming laboratory and registered by the Division prior to use.

2. The following shall not be used for gaming by any licensee without prior written approval of the Division:

a. bill acceptors or bill validators;

b. coin acceptors;

c. progressive controllers;

d. signs depicting payout percentages, odds, and/or rules of the game;

e. associated gaming equipment as provided for in LAC 42:XIII.Chapter 42 of the Administrative Rules.

3. The licensee and/or manufacturer's request for approval shall describe with particularity the equipment or device for which the Division/Board's approval is requested.

4. The Division/Board may request additional information or documentation prior to issuing written approval.

C. Testing

1. The following shall be tested prior to registration or approval for use:

- a. all EGD's;
- b. EGD monitoring systems;
- c. any other device or equipment as the Division/Board may deem necessary to ensure compliance with this.

2. The Division/Board may employ the services of a designated gaming laboratory to conduct testing.

a. Any new EGD not presently approved by the Division/Board shall first meet the approval and testing criteria of the Division/Board's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the Division/Board of all test results. The Licensee, manufacturer or supplier shall incur all costs associated with the testing of the product. This may include costs for field test, travel, laboratory test, and/or other associated costs. Failure on the part of the requesting party to timely pay these cost may be grounds for the denial of the request and cause for enforcement action by the Division. Recommendations of approval by the designated gaming laboratory with regard to program approval(s) shall constitute Division/Board approval and do not require separate written approval by the Division/Board. Other test determinations shall be reviewed by the Division/Board and a written decision shall be issued by the Division/Board. In situations wherein the need for specific guidelines and internal controls are required, the Division/Board will work in concert with the designated gaming laboratory to develop guidelines for each Licensee. Licensees shall be required to comply with these guidelines and they shall become part of the Licensee's system of internal controls. At no time shall an unauthorized program, gaming device, associated equipment and/or component be installed, stored, possessed, or offered for play by a Licensee, Permittee, its agent, representative, employee or other person in the Louisiana Riverboat Gaming Industry.

3. Registration and/or approval shall not be issued unless payment for all costs of testing is current.

4. Registration, approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with the Administrative Rules, and/or this LAC 42:XIII.Chapter 42.

5. EGD's shall meet all specifications as required in §4203 and shall meet the following security and audit specifications:

- a. be controlled by a microprocessor;
- b. be connected and communicating to an approved on-line EGD monitoring system;
- c. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during game play;

d. be able to continue a game with no loss of data after a power failure;

e. have game data recall for the current game and the previous two games;

f. have a random selection process that satisfies the ninety-nine percent (99%) confidence level using the following test:

- i. standard chi-squared;
- ii. runs;
- iii. serial correlation.

(Note: These tests shall not be predictable by players.)

g. clearly display applicable rules of play and the payout schedule;

h. display an accurate representative of each game outcome utilizing:

- i. rotating wheels;
- ii. video monitoring; or
- iii. any other type of display mechanism that accurately depicts the outcome of the game.

6. All EGD's shall be registered with the Division/Board and shall have a registration sticker affixed to the device on a viewable, accessible location on the interior of the frame of the EGD. It is incumbent on each licensee to ensure that the registration sticker is properly affixed and is valid. In the event the registration sticker becomes damaged or voided, the licensee shall immediately notify the Division/Board in writing. The Division shall issue a replacement sticker and re-register the device as soon as practical.

7. All EGD's shall be located within the designated gaming area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if approved in writing by the Division.

8. Each licensee shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

- a. the serial number assigned to the EGD by the manufacturer;
- b. the registration number issued by the Division;
- c. the type of game the EGD is designed and used for;
- d. the denomination of tokens or coins accepted by each EGD;
- e. the location of EGD's equipped with bill validators and any bill validators that stand alone;
- f. the manufacturer of the EGD; and/or
- g. the location or house number of the EGD.

9. This inventory report shall be submitted to the Division's Operational Section on a diskette, in a data text format, upon request by the Division/Board.

10. All EGD's offered for play shall be given a "House Number" by the licensee. This house number shall not be altered or changed without prior written approval from the Division. The licensee shall issue the "House Numbers" in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the licensee's "On-Line Computer EGD Monitoring System", and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective house number attached to the device in a manner which allows for easy recognition by Division personnel and surveillance cameras.

11. Control Program Requirements:

- a. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media;
- b. the test methodology shall detect ninety-nine and ninety nine one hundredths percent of all possible failures;
- c. the control program shall allow for the EGD to be continually tested during game play;
- d. the control program shall reside in the EGD which is contained in a storage medium not alterable through any use of the circuitry or programming of the EGD itself;
- e. the control program shall check the following:
 - i. corruption of RAM locations used for crucial EGD functions;
 - ii. information relating to the current play and final outcome of the two (2) prior games;
 - iii. random number generator outcome; and
 - iv. error states.
- f. the control RAM areas shall be checked for corruption following game initiation, but prior to display of the game outcome to the player;
- g. detection of corruption is a game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function;
- h. the control program shall have the capacity to display a complete play history for the current game and the previous two games;
- i. the control program shall display an indication of the following:
 - i. the game outcome or a representative equivalent;
 - ii. bets placed;
 - iii. credits or coins paid;
 - iv. credits or coins cashed out; and
 - v. any error conditions.
- j. the control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

12. Accounting Meters:

- a. all EGD's shall be equipped with electronic meters;
- b. all EGD's electronic meters shall have at least eight digits;
- c. all EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached;
- d. the required electronic meters are as follows:
 - i. the coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both;
 - ii. the coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a win, or credits that are won, or both;
 - iii. the coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills inserted into the bill validator for play;
 - iv. the jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots;
 - v. the games-played meter shall display the cumulative number of games played (handle pulls);
 - vi. the drop door meter shall display the number of times the drop door was opened;

vii. if the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

- (a). the total number of bills that were accepted;
 - (b). a breakdown of the number of each denomination of bill accepted; and
 - (c). the total dollar amount of bills accepted.
- e. EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters;
- f. EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:
- i. the number of coins or credits wagered in the current game;
 - ii. the number of coins or credits won in the current game, if applicable;
 - iii. the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;
 - iv. the number of credits available for wagering, if applicable.
- g. electronically stored meter information required by this section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least one hundred and eighty days.

13. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

14. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if approved in writing by the Division. Meter readings, as prescribed by the Division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

15. Hopper:

- a. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:
 - i. jammed coins;
 - ii. extra coins paid out;
 - iii. hopper runaways; or
 - iv. hopper empty conditions.
- b. the EGD control program shall monitor the hopper mechanism for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42;
- c. all coins paid from the hopper mechanism shall be accounted for by the EGD including those paid as extra coins during hopper malfunction;
- d. hopper pay limits shall be designed to permit compliance by licensees with all applicable taxation laws, rules, and regulations.

16. Communication Protocol

a. An EGD which is capable of a bi-directional communication with internal or external associated equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

17. EGD's installed and/or modified shall be inspected and/or tested by Division Agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage

media has been tested and sealed into place by Division Agent(s). The Division's security tape shall at all times remain intact and unbroken. It is incumbent on the licensee to routinely inspect every device to ensure compliance with this procedure. In the event a licensee discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a Division Agent has the opportunity to inspect the board. A copy of the device's MEAL card shall be made and shall accompany the board.

18. No Licensee or other person shall modify an EGD without prior written approval from the Division. A request shall be made by completing form(s) prescribed by the Division/Board and filing it with the respective field office. The Licensee shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for enforcement action.

19. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

a. the EGD shall pay out at least eighty percent and not more than ninety nine and nine tenths percent (99.9%) of the amount wagered;

b. the theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage;

c. an EGD shall have a probability of obtaining the maximum payout greater than one in fifty million;

d. an EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

20. Modifications to an EGD's program shall be considered only if the new program has been approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program (program storage media). Therefore, it is not practical to list each one. In general, a program shall meet the ninety nine percent (99%) confidence interval range of eighty percent (80%) to ninety nine point nine and nine tenths percent (99.9%) prior to being removed or replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the games played on the existing program. An EGD's program shall not be approved for change unless the existing program has met or exceeded the minimum of one hundred thousand required games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a ninety (90) day trial period of a newly approved program.

21. A licensee shall be allowed to test, on a limited basis, newly approved programs. The licensee shall file an EGD 96-01 form and indicate in field 21 that the request is for a ninety-day trial period. Failure to do so may be grounds for denial of the request to remove the program prior to

reaching the ninety nine and nine tenths (99.9%) confidence interval. The licensee, upon approval, shall be allowed to test the program and will be allowed to replace it during this ninety-day period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the ninety day (90) approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

22. When an approved denomination change is made to an EGD which used or uses tokens, the licensee shall make necessary adjustments to the initial hopper fill listed on the Daily Fee Remittance Summary. Additionally, an adjustment shall be made to the Daily Fee Remittance Summary to reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net drop for the device.

23. Randomness Events/Randomness Testing

a. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

b. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

c. Two events are called independent if the following conditions exist:

i. the outcome of one event has no influence on the outcome of the other event; and

ii. the outcome of one event does not affect the distribution of another event.

d. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

i. the random number generator satisfies at least ninety-nine percent (99%) confidence level using chi-squared analysis;

ii. the random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the ninety-nine percent (99%) confidence level with regard to the runs test or any similar pattern testing statistic;

iii. the random number generator produces numbers which are independently chosen.

24. Safety Requirements

a. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

b. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

c. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

d. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

e. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The

device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for one hundred and eighty (180) days.

f. Electronic Discharges

i. The following shall not subject the player to physical hazards:

- (a) electrical parts;
- (b) mechanical parts; and
- (c) design principles of the EGD and its component parts.

25. On and Off switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

26. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

27. Error Conditions and Automatic Clearing

a. EGD's shall be capable of detecting and displaying the following conditions:

- i. power reset;
- ii. door open; or
- iii. inappropriate coin-in if the coin is not automatically returned to the player.

b. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

28. Error Conditions; Clearing by Attendant

a. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

- i. coin-in jam;
- ii. coin-out jam;
- iii. hopper empty or timed-out;
- iv. RAM error;
- v. hopper runaway or extra coin paid out;
- vi. program error;
- vii. reverse token-in;
- viii. reel spin error of any type, including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator; and

ix. low RAM battery, for batteries external to the RAM itself, or low power source.

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

29. Coin Acceptors

a. At least one (1) electronic coin acceptor shall be installed in each EGD.

b. All acceptors shall be approved by the Division/Board or the designated gaming laboratory.

c. Coin acceptors shall be designed to accept designated coins and to reject others.

d. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

- i. slugging;
- ii. stringing; and
- iii. spooling.

e. Coins which are accepted but not credited to the current game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD

control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

f. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

30. Bill Validators

a. EGD's may contain a bill validator that will accept the following:

- i. one dollar (\$1) bills;
- ii. five dollar (\$5) bills;
- iii. ten dollar (\$10) bills;
- iv. twenty dollar (\$20) bills;
- v. fifty dollar (\$50) bills; and
- vi. one hundred dollar (\$100) bills.

b. The bill acceptors may be for single denomination or combination of denominations.

31. Automatic Light Alarm. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or associated equipment that may affect the operation of the EGD is exposed, excluding all bartop EGD's.

32. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGD's:

- i. logic boards;
- ii. ROM;
- iii. RAM; and
- iv. program storage media.

c. No access to the area described above is allowed without prior notification to the Licensee's surveillance room.

d. The Division shall be allowed immediate access to the locked or sealed area. A riverboat licensee shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the licensee's system of internal controls. A licensee shall provide the Division a master key to the door of an approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with subsection (c) is grounds for enforcement action.

33. Tape Sealed Areas. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the Division's security tape. The security tape shall be affixed by a Division Agent. The security tape may only be removed by, or with approval from, a Division Agent.

34. Hardware Switches

a. No hardware switches may be installed which alter the pay tables or payout percentages in the operation of an EGD.

b. Hardware switches may be installed to control the following:

- i. graphic routines;
- ii. speed of play;
- iii. sound; and
- iv. other approved cosmetic play features.

35. Display of Rules of Play

a. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be approved by the Division/Board prior to play.

b. The Division/Board may reject the rules if they are:

- i. incomplete;
- ii. confusing;
- iii. misleading; or
- iv. for any other reason stated by the Division/Board.

c. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior approval from the Division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is approved by the Division.

36. Manufacturer's Operating and Field Manuals and Procedures

a. A Licensee shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and associated equipment established by the manufacturer of an EGD, component, on-line system, software, and/or associated equipment unless otherwise approved in writing by the Division/Board, or if the guideline(s) and/or procedure(s) conflict with any portion of this LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4210. Electronic Gaming Device Tournaments

A. EGD tournaments may be conducted by Licensees, upon written approval by the Division.

B. All tournament play shall be on machines which have been tested and approved by the Division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Licensees shall utilize, and each device shall be equipped with an approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board, with an approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) as prescribed by the Division are required to be submitted for each device used in tournament play when the non-tournament logic board is removed. The Licensee shall submit, in writing, procedures regarding the storage and security of the both tournament and non-tournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the licensee's discretion, and in accordance with applicable laws and rules, the licensee may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

I. The riverboat licensee shall submit rules of tournament play to the Division in accordance with LAC 42:XIII. 2953 or within such time period as the Division

may designate. The rules of play shall include, but are not limited to, the following:

1. the amount of points, credits, and playing time players will begin with;

2. the manner in which players will receive EGD assignments and how reassignments are to be handled;

3. how players are eliminated from the tournament and how the winner or winners are to be determined;

4. the number of EGD's each player will be allowed to play;

5. the amount of entry fee for participating in the tournament;

6. the number of prizes to be awarded;

7. an exact description of each prize to be awarded;

8. any additional house rules governing play of the tournament;

9. any rules deemed necessary by the Division/Board to ensure compliance with this LAC 42:XIII.Chapter 42.

J. A licensee shall not permit any tournament to be played unless the rules of the tournament play have been approved, in writing, by the Division.

K. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4211. Duplication of Program Storage Media

A. Personnel and Certification

1. Only the personnel defined in the Licensee's, Division approved, written internal controls shall be allowed to duplicate program storage media.

2. The Licensee shall provide to the Division certified documentation, from the manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The Licensee shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the manufacturer and/or the Division/Board.

4. Each duplicated program storage media shall be certified by the designated gaming laboratory's signature for that program storage media.

B. Required Documentation

1. Each Licensee shall maintain an program storage media Duplication Log which shall contain:

a. the name of the program storage media manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

- h. reason for duplication;
 - i. disposition of permanently removed program storage media.
2. The log shall be maintained on record for a period of five years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:
- a. manufacturer name and serial number of the new program storage media;
 - b. designated gaming laboratory signature verification number;
 - c. date of duplication; and
 - d. initials of personnel performing duplication.

D. Storage of Program Storage Media and Duplicator/Eraser

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the Division.
2. Equipment shall be released only to the personnel defined in the Licensee's, Division approved, written internal controls.
3. At no time shall the personnel defined in the Licensee's, Division approved, written internal controls leave unattended the program storage media duplication equipment.
4. Program storage media duplication equipment shall only be released from the security department, or other department approved by the Division, for a period not to exceed four hours within a twenty-four hour period.
5. An Equipment Control Log shall be maintained by the Licensee and shall include the following:
- a. Date, time, name of employee taking possession of, or returning equipment, and name of the individual assigned to the Division approved storage department taking possession of, or releasing equipment.
6. All Program storage media shall be kept in a secure area and the Licensee shall maintain an inventory log of all Program storage media.

E. Internal Controls

1. The Licensee shall adopt, and have approved by the Division, internal controls which are in compliance with this section prior to duplicating program storage media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4212. Marking, Registration, and Distribution of Gaming Devices

A. No one, including a licensee, Permittee, manufacturer or supplier may ship or otherwise transfer a gaming device into this state, out of this state, or within this state unless:

1. a serial number (which shall be the same number as given the device pursuant to the provisions of §15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five (5) millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. a manufacturer, supplier, or licensee shall file forms as prescribed by the Division/Board before receiving authorization to ship a device for use in the Louisiana Riverboat Gaming Industry;

3. each manufacturer or supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the Division approval number, and the name, state of residence, addresses and telephone numbers of the person to whom the gaming devices have been distributed and shall provide such list to the Division immediately upon request;

4. a registration fee of one hundred dollars \$100.00 per device shall be paid by company check, money order, or certified check made payable to "State of Louisiana, Department of Public Safety." This fee is not required on devices which are currently registered with the Division/Board and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the Division/Board shall issue a written authorization to ship for approved devices. This fee is applicable only to gaming devices destined for use in Louisiana by licensed riverboat entities or suppliers;

5. prior to actual receipt of the shipment, the Licensee shall notify the Division of the arrival. The Division shall require that the shipper's manifest or other shipping documents are verified against the Letter of Authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the Licensee's copy of the Letter of Authorization.;

6. the storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and approved in writing by the Division/Board prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area shall have been inspected and approved in writing by the Division/Board prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4213. Approval to Sell or Disposal of Gaming Devices

A. No gaming device registered by the Division/Board shall be destroyed, scrapped, or otherwise disassembled without prior written approval of the Division/Board. A licensee shall not sell or deliver a gaming device to a person other than its affiliated companies or a permitted manufacturer or supplier without prior written approval of the Division/Board. Applications for approval to sell or dispose of a registered gaming device shall be made, processed, and determined in such manner and using such forms as the Division/Board may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4214. Maintenance of Electronic Gaming Devices

A. A licensee shall not alter the operation of an approved EGD except as provide otherwise in the Division/Board's

rules and shall maintain the EGD's as required in LAC 42:XIII.Chapter 42. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the Division upon request. The written list of repairs for all EGD's shall be kept in a maintenance log book in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4215. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any EGD is questioned by any licensee, patron or an agent of the Division/Board and the question cannot be resolved, the questioned device shall be examined in the presence of an agent of the Division and a representative of the licensee. If the malfunction can not be cleared by other means to the satisfaction of the Division/Board, the patron or the licensee, the EGD shall be disabled and be subjected to a program storage media memory test to verify signature comparison by the Division. Upon successful verification of the signature of the program storage media ,and all malfunctions resolved, the EGD in question may be enabled for patron play.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated gaming laboratory selected by the Division/Board where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4216. Summary Suspension of Approval of Electronic Gaming Devices

A. The Division/Board may issue an order suspending approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this LAC 42:XIII.Chapter 42. The Division/Board after issuing an order may thereafter seal or seize all models of that EGD not in compliance with the LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4217. Seizure and Removal of Electronic Gaming Equipment and Devices

A. EGD's and associated equipment may be summarily seized by the Division/Board. Whenever the Division/Board seizes and removes EGD's and/or associated equipment:

1. an inventory of the equipment or EGD's seized will be made by the Division/Board, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or Permittee will be notified in writing by the Division/Board at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the licensee or Permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4218. Seized Equipment and EGD's as Evidence

A. All gaming equipment and EGD's seized by the Division/Board shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the Division/Board upon their seizure and may be disposed of by the Division/Board, which disposition shall be documented as to date and manner of disposal;

2. the Division/Board shall notify by certified mail each known claimant of a cheating device that the claimant has ten days from the date of the notice within which to file a written claim with the Division/Board to contest the characterization of the property as a cheating device;

3. failure of a claimant to timely file a claim as provided in subsection (2) above will result in the Division/Board's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within fifteen days after final determination;

5. items seized for inspection or examination may be returned by the Division/Board without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§4219. Approval of Associated Equipment; Applications and Procedures

A. A manufacturer or supplier of associated equipment and/or non-gaming products shall not distribute associated equipment and/or non-gaming products unless such manufacturer and/or supplier has been approved by the Division/Board. Applications for approval of associated equipment and/or non-gaming products shall be made and processed in such manner and using such forms as the Division/Board may prescribe. Each application shall include, in addition to such other items or information as the Division/Board may require:

1. The name, permanent address, social security number or federal tax identification number of the manufacturer or supplier of associated equipment and non-gaming products unless the manufacturer or supplier is currently permitted by the Division/Board. If the manufacturer or supplier of associated equipment and non-gaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the manufacturer or supplier of associated equipment and non-gaming products is a partnership, the names, permanent

addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

Chapter 43. Specifications for Gaming Devices and Equipment

§§4327. – 4357.

Repealed

The emergency rules shall become effective December 31, 1999, and shall remain in effect for one hundred and twenty (120) days or until the permanent rules published as a Notice of Intent at p. 2333 Vol. 25, No. 10, *Louisiana Register* are adopted and published whichever is sooner.

Hillary J. Crain
Chairman

0001#014

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police

Analysis of Blood and Urine for Alcohol and Drugs
(LAC 55:I.555 and 571-591)

The Department of Public Safety and Corrections, Office of State Police has adopted the following emergency rules in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. These emergency rules are adopted effective December 23, 1999 and shall remain in effect for a maximum of 120 days or until promulgated as a final rule whichever occurs first. As a result of the passage of Act No. 1212 of the 1999 Regular Legislative Session, it is necessary for the Department to promulgate rules in order to approve the methods utilized for chemical analysis of a person's blood, urine, breath or other bodily substances for the purposes of the Louisiana Implied Consent Law. Prior to the enactment of Act No. 1212 which became effective on August 15, 1999, the Department was only required to approve said methods for any such chemical analysis to be considered valid. If said analyses are to be considered valid after August 15, 1999, it is necessary for the Department to promulgate these approved methods in the form of administrative rules. Discretionary rules have previously been promulgated by the Department for the analysis of alcohol by testing breath and blood. However, it is necessary to amend one regulation, LAC 55, Part I, Chapter 5, §555.G, in these previously adopted regulations to list the name of an approved kit currently in use for the testing of alcohol in blood. It is also necessary to adopt regulations to list the

Department's approved testing methods for the detection of controlled dangerous substances in urine and blood. Failure to immediately amend LAC 55, Part I, Chapter 5, §555.G and adopt administrative regulations listing the Department's approved testing methods for the detection of controlled dangerous substances in urine and blood will render effective enforcement and successful prosecution of state law for driving under the influence of alcohol or controlled dangerous substances impossible. The Department expressly declares that the ineffective enforcement and unsuccessful prosecution of individuals who violate state law by driving under the influence of alcohol or controlled dangerous substances poses a threat to the public safety of the citizens of the state of Louisiana who utilize its public highways and roadways.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter B. Analysis of Blood

§555. Certified Techniques of Analyst

A. - F. ...

G. Blood drawn for the purposes of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" numbers 4000, 4990 or 4991 (manufactured by Becton-Dickinson division of Becton-Dickinson and Company), or "NIK Blood Alcohol Kit" Numbers 4000, 4990, 4991 (manufactured by NIK Public Safety, Inc.) or similar blood collection kits as approved. Such kits will be made available to all law enforcement agencies by the Louisiana State Police.

G.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:360 (June 1988), LR 17:676 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:

Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

§571. Definitions

The following words and terms used in this subchapter shall have the following meanings:

Aliquo different samples from the same specimen.

Analyte the drug or drug metabolite suspected or detected.

Chain of Custody the accounting of the integrity of each specimen through the tracking of all individuals or agencies which may have handled the sample from the point of collection to final disposition.

Confirmation Test a second analytical procedure to identify the presence or absence of a specific drug or drug metabolite.

Crime Laboratory the Louisiana State Police Crime Laboratory.

Department the Department of Public Safety and Corrections, Public Safety Services.

False Negative not reporting an analyte which is present in the sample

False Positive the reporting of an analyte which is not present in the sample.

Proficiency Testing Program performance of testing on specimens containing drugs or drug metabolites or lack of which the laboratory shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used screening techniques.

Quality Assurance a program to ensure quality standards in all aspects of the testing process including but not limited to, specimen acquisition, chain of custody, screening and confirmation testing, and validation of analytical procedure.

Quality Control procedures designed to assess the conduct of each step of the process for testing of drugs.

Retention Times the time for a sample component to elute from a chromatographic column which is useful in the possible identification of that component.

Screening (Initial) Test a test documented to indicate the possible presence of absence of a particular drug, drug class, or drug metabolite.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§573. Qualifications of Forensic Laboratories

Each forensic laboratory seeking approval from the Department to perform analysis of controlled dangerous substances in bodily fluids shall comply with the qualifications as established by the Louisiana State Police Crime Laboratory in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§575. Operating Procedures

A. The laboratory shall have a procedural manual which will include detailed descriptions of procedures for testing. In addition, laboratory policies shall exist which govern sample receiving, chain of custody, analysis, quality control and quality assurance, choice of reagents, review of data, and reporting. The procedural manual shall include the following:

1. instructions for preparation of reagents;
2. details of the analytical procedure;
3. instructions for preparation of controls and calibrators;
4. references to include theory and principle of the method.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§577. Personnel

A. The Toxicology Laboratory shall be supervised by a person who is qualified by reason of appropriate education and experience to assume the required professional, organizational, educational, and administrative responsibilities. The supervisor shall possess at least a bachelor's of science degree from an accredited college or university in one of the chemical, physical or biological sciences, medical technology, criminalistics, forensic science, toxicology, or pharmacology, and shall have at least

four years of full-time experience in a toxicology or forensic laboratory.

B. Analytical personnel shall also possess the minimum educational requirements as stated for the supervisor. The analyst shall be trained and show proficiency in each procedure performed.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§579. Certification

A. Individuals seeking to conduct drug testing in compliance with R.S. 32:661-669, shall:

1. make application to the Louisiana State Police Crime Laboratory;
2. submit a copy of their laboratory's operating procedural manual as related to toxicological testing;
3. successfully screen a sample comprised of one or more drugs or drug metabolites in a sample of whole blood, serum, or urine matrix. The sample may be furnished through the Louisiana State Police Crime Laboratory. Successful screening shall consist of:

- a. not reporting any false positives;
- b. confirming the presence of no less than 75 percent of the analytes routinely screened.

B. Personnel employed full time in the Toxicology Laboratory for a period of two years prior to the adaptation of these rules, shall be granted certification based upon review by the Louisiana State Police Crime Laboratory.

C. Certification shall be valid for a period of two years from the date of issuance or such time as determined by the Director of the Louisiana State Police Crime Laboratory. Certificates may be renewed upon subsequent application and successful completion of A(3) above.

D. Failure to adhere to any of the Rules and Regulations set forth herein or to maintain any qualification, as determined by the Director of the Crime Laboratory, may result in suspension, revocation, or cancellation of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§581. Receiving and Sampling of Evidence

A. Evidence submitted for toxicological examination shall be labeled for identification, securely sealed, and submitted in a container appropriate for shipping and maintaining security. They shall have been taken with the contents of a NIK Kit No. 4000, 4990, or 4991 (manufactured by NIK Public Safety, Inc.), B-D Kit No. 4000, 4990, or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company), or similar kit previously approved by the Louisiana State Police Crime Laboratory. Such kits shall be made available to all law enforcement agencies through the Louisiana State Police.

B. The kits shall contain no components which would interfere with the results of the test and each kit must be suitable for the purpose of collecting blood and/or urine for forensic toxicological determinations.

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within twenty-four (24) hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for

the analysis at the earliest possible opportunity after collection, not to exceed seven (7) days.

D. After submitting the sample to the testing facility, specimens shall then be refrigerated in a designated evidence security area.

E. Following analysis, the evidence will be stored for a period of one year under refrigeration either at the testing facility or by the submitting agency. After the one year storage period, the evidence may be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§583. Analytical Procedures

A. Analytical procedures shall include the use of at least two (2) tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g. blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte along with a 20 percent correlation between ion ratios of the base peak and another major ion. Retention times between the analyte in question and the reference analyte shall be within plus or minus 2 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§585. Review of Data

Before results are reported, all analytical data shall be reviewed and approved by the Toxicology Supervisor or a designee with the analytical protocols used by the laboratory. The review shall be documented within the analytical record.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§587. Quality Assurance

The laboratory shall participate in an external proficiency testing program for drugs in at least one type of specimen at least once every calendar year. The results of the proficiency testing shall be reviewed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§589. Maintenance, Repair and Inspection of Instrumentation

Maintenance and repair of all analytical instrumentation used for the purpose of analyzing the samples required in these guidelines may be performed by the supervisor of the Toxicology Unit or by an analyst assigned to the unit. This may include, but not be limited to, cleaning, replacing septa and injection port liners, changing columns, changing gases and gas flows, adjusting temperature settings, and other routine checks deemed necessary for accurate performance. In addition, the supervisor or analyst may perform diagnostic testing and repair as instructed by a service engineer from the equipment manufacturer or other service repair facility or from a manual provided by the equipment manufacturer detailing diagnostics and repair. Following each maintenance and repair, inspection of the instrument shall include the analysis of a known drug standard or mixture of standards to insure that the instrument is in proper working order. Instrumentation is to be checked each day that analysis is to be performed. A maintenance log shall be maintained for each particular instrument listing all repair or maintenance work performed. The log shall at a minimum list the date, time, nature of work and the name of the person performing the work.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§591. Reagents and Supplies

A. All drugs used for the preparation of reference drug standards shall be commercially purchased and shall be traceable to a certificate of analysis indicating that it has met the manufacturer's acceptable specifications for use. Purity of chemicals used in the analytical procedures shall be at least reagent grade as recognized by the American Chemical Society and water shall be distilled or de-ionized.

B. All instrument reagents shall be prepared in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

Nancy Van Nortwick
Undersecretary

0001#009

DECLARATION OF EMERGENCY

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

Reimbursement Rates for Residential Facilities
(LAC 67:V.3503)

The Department of Social Services, Office of Community Services adopts the following emergency rule in the Foster Care Program as authorized by R.S. 46:153. This emergency rule shall be in effect for 120 days effective January 5, 2000.

The Department of Social Services, Office of Community Services previously adopted a rule (*Louisiana Register*, Vol. 25, No. 6) which set the rate setting methodology for residential facilities caring for foster children. There are technical difficulties in the administrative component of the rate setting methodology. Implementing the rule would cause a fiscal emergency for many residential providers which would adversely affect their ability to continue caring for foster children in residential placements. The department previously published an emergency rule (*Louisiana Register*, Vol. 25, No. 9) delaying implementation of the revised rate setting system. The department sets rates in August of each year. An emergency rule is needed to continue the frozen rates issued in August, 1999 until rates are set again in August, 2000. Therefore, the department amends LAC 67:V.3503 to add D. freezing the residential rates issued for the 1999/2000 rate year at the 1998/1999 amount.

The Department of Social Services, Office of Community Services amends LAC 67:V.3503 to add D.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables and Expenditures

§3503. Reimbursement Rates for Residential Facilities

A.1. - C.

D. For rates issued for the 1999/2000 rate year, the Department will freeze the rates at the 1998/1999 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed emergency rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents regarding Education and Supervision of their Children. The proposed emergency rule will have no effect on the authority and rights of parents regarding education and supervision of their children.

3. The Effect of the Functioning of the Family. The proposed emergency rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed emergency rule will have no effect on the family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed emergency rule does not contain any function

which would need to be performed by a family or a local government.

J. Renea Austin-Duffin
Secretary

0001#056

DECLARATION OF EMERGENCY

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

Light Geese Hunting Regulations

In accordance with the emergency provision of R.S. 49:953B and 967D of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries acting on behalf of the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule for special regulations concerning the taking of "light geese" (Snow, Blue and Ross geese).

Effective January 24, 2000 and February 7, 2000 in the East and West Waterfowl Hunting Zones respectively, all waterfowl hunting seasons will be closed and the taking of "light geese" will be permitted by regulations established through the U.S. Fish and Wildlife Service Conservation Order which was effectuated by P.L. 106-108 effective November 24, 1999. Under the Conservation Order the following rules shall be in effect for the taking of "light geese" through March 12, 2000.

1. The use of electronic calls shall be legal.
2. Unplugged shotguns holding more than 3 shells will be legal.
3. There will be no daily or possession limits on numbers of light geese taken.
4. Shooting hours will be one-half hour before sunrise until one-half hour after sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service has notified the States that the Conservation Order shall be available to the States in accordance with the Arctic Tundra Habitat Emergency Conservation Act (P.L. 106-108). The Conservation Order is being implemented in an attempt to alleviate catastrophic habitat and ecological problems associated with overabundant snow goose populations. This Declaration of Emergency is being promulgated to allow Louisiana the opportunity to assist with national and international management regimes designed to stem the continued expansion of snow goose populations.

James H. Jenkins, Jr.
Secretary

0001#010

Rules

RULE

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

**Timber Stumpage Values
(LAC 7:XXXIX.111)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue, Tax-Commission, under the authority of R.S. 3:3 repeals §111. Stumpage Values.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§111. Stumpage Values

Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998), repealed LR 26:25 (January 2000).

Burton D. Weaver, Jr., Chairman
Forestry Commission

Malcom Price, Chairman
Tax Commission

0001#048

RULE

**Department of Culture, Recreation and Tourism
Office of State Parks**

**Rules and Regulations
(LAC 25:IX.303-331 and 501-507)**

The Office of State Parks has amended LAC 25:IX.303-331 and 501-507 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and the statutory provisions of R.S. 56:1681 et seq.

The amendments amend the reservation procedure and simplify rate structure to accommodate the introduction of the agency's new automated reservation system. The amendments also organize and clarify the rules, reflect the statutory name change of state commemorative areas to state historic sites, and provide for related matters.

The proposed rule will have no anticipated impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 3. Rules and Regulations

§303. Park Property and Environment

A. The provisions of the Louisiana Criminal Code (R.S. 14:1 et seq.) shall be enforced on state park property.

B. No person shall intentionally remove, damage disturb, or destroy state park property or the property of another person, without the consent of the owner. "Property" shall include structures, watercraft, movables, signs, markers, natural features, wildlife, and plants.

C. No timber may be cut, destroyed, or damaged except as necessary to meet established park management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the written permission of the assistant secretary or his designee.

D. No building, structure, or other park feature may be altered, erected, or constructed without written consent of the assistant secretary or his designee.

E. The assistant secretary shall, upon recommendation of the site manager, approve a carrying capacity for each state park area. Once a carrying capacity has been reached, or when additional visitors would adversely impact the park, the site manager is authorized to close the park site to incoming visitors.

F. Food, beverages, and smoking are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs.

G. ...

H. No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any park.

I. No plant material may be planted or otherwise introduced on any state park without the written approval of the assistant secretary or his designee.

J. Visitors to historic sites are prohibited from leaving designated interpretive trails and may not walk on historic earthworks, fortifications, mounds or like features without specific permission of the site manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 26:25 (January 2000).

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on state park property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for

vehicular park traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No person shall operate a vehicle in excess of 15 miles per hour on park property unless otherwise posted.

E. Only vehicles that have been properly licensed by the appropriate regulatory agencies may be operated on the public roads of state parks. Exceptions to this provision may be granted in advance on a case by case basis by the site manager.

F. No person shall clean, service and/or repair any vehicle on state park property except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. No person shall remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:25 (January 2000).

§307. Water Craft

A. Federal, state, and local laws, rules and ordinances related to the use of water craft shall be enforced. The operation of all water craft in and on all waters or streams, on or adjacent to park property, must be done in a careful and reasonable manner, and is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard.

B. Every owner and operator of a motor boat, vessel or other water craft shall carry at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by state and federal law for each person on board so placed as to be readily accessible.

C. Boats shall be launched only from designated boat ramps or launching areas within a park.

D. Persons renting boats must return the boat to the original docking location after use, and secure from unauthorized use.

E. No boat may be operated in a designated swimming area or in any other area designated by signs or any area restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Office of State Parks will not be responsible for theft or damage to boats, equipment or supplies left unattended.

G. Boats will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any craft capable of carrying five or more persons for hire, any craft having a water displacement of five tons or more, whatever the length, or any craft from which commercial activities are conducted involving shrimping, crabbing, fishing, etc.) are prohibited from using any state park facility without the

written consent of the assistant secretary. Loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work are prohibited.

I. All or portions of water bodies adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated No WAKE AREAS. Signs and/or buoys will mark the water bodies or portions thereof so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 26:26 (January 2000).

§309. Horseback Riding, Livestock, Animals and Pets

A. Horseback riding is allowed only in specially designated areas and/or as part of special program events approved in advance by the assistant secretary.

B. Dogs and other pets are not allowed to run at liberty in the parks. Any pet brought within the park area must be leashed, caged or crated, and will not be permitted within buildings or other enclosed structures of the park (the leash is not to exceed five feet in length). Only seeing-eye dogs will be permitted near designated swimming areas and in overnight facilities. Owners of pets causing any injury or damage will be fully responsible.

C. No person shall allow his livestock to run or graze on park property, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. No pets are allowed on state preservation areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89 (February 1986), amended LR 14:772 (November 1988), LR 26:26 (January 2000).

§310. Litter, Sanitation and Health

A. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon any state park property, except: When litter is placed into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon state park property or water bodies.

B. No person shall drain or dump refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses.

C. Cleaning fish or food, or washing clothing or articles of household use can only be done at designated areas.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any comfort station or any public structure, or depositing any bottles, cans, cloth, rags, metal, wood, stone, or other damaging substance in any of the fixtures in such stations or structures is prohibited.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a park.

G. Burial of garbage, litter, or dead animals on park property is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:26 (January 2000).

§311. Repealed. (provisions moved and amended in §331)

§312. Fires

Fires shall be built only in places specifically designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000).

§314. Swimming

A. Swimming is permitted only at designated places, and at the swimmer's own risk.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of all pools and beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

E. No food or drinks are allowed within enclosed pool and enclosed beach areas with the exception of concessions sold at the Bayou Segnette State Park wave pool.

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed at swimming areas with the exception of flotation devices provided by the Office of State Parks at the Bayou Segnette State Park wave pool.

G. No swimming at any beach will be permitted from sunset to sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 26:27 (January 2000).

§315. Amplified Sound Equipment

A. No person shall play amplified musical instruments within park areas except when approved by the assistant secretary or his designee. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in such a manner which could disturb other visitors

B. No person shall operate or use any public address systems, whether fixed, portable, or vehicle mounted, without prior approval of the assistant secretary or his designee.

C. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000).

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages in a park. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the park by other park users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000).

§319. Business Activities

A. No one may sell or offer for sale any merchandise or service in a park area without the written consent of the assistant secretary or his designee.

B. No one may distribute, post, place, or erect any advertising device in the park area without the written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000).

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the park, and/or restitution to the state for damages incurred.

B. Site managers and other park agents, including rangers, watchmen, and guards, may be certified as "Park Wardens." State Park wardens, in addition to the authority otherwise conferred by law upon such officers, are vested with the same authority and powers conferred by law upon regular law enforcement officers of this state. State park wardens have specific authority and responsibility to enforce all rules, regulations, and laws within the limits of their jurisdiction.

C. No person shall enter a park:

1. when the park is closed;
2. without proper registration;
3. in addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than \$25.

E. Park users may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number, a driver's license number, state of residency, place of employment, date of birth, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000).

§323. Repealed. (provisions moved and amended in §315)

§325. Repealed. (provisions moved and amended in §317)

§327. Repealed. (provisions moved and amended in §319)

§321. Repealed. (provisions moved and amended in §321)

§330. Day Use

A. Day-use facilities such as barbecue pits, tables, etc., which do not require prior reservations shall not be reserved by placing personal articles at these facilities prior to their immediate use. This includes firewood, ice chests, or any other personal property. The use of all such facilities is on a first come, first served basis.

B. The use of any facility in a park area is subject to certain conditions or policies set down on an individual facility basis by the site manager. These conditions or policies must be approved in writing by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:28 (January 2000).

§331. Overnight Use

A. General Provisions - Overnight Use

1. Any overnight use of a park requires a written permit or cash receipt from the park. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the assistant secretary or by the site manager upon the violation of any established park rule, regulation, or any condition of the permit.

5. Lock combinations are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. All overnight facilities have a check in time of 3 p.m. and a check out time of eleven a.m., except campsites, which have a check in time of two p.m. and a check out time of one p.m. Extensions may be approved by the park manager. Subject to availability, overnight facilities may be available to the user before the check in time.

7. Established time schedules (check in and check out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of any future use of the facility.

8. Overnight users must maintain a reasonably quiet facility between the hours of ten p.m. and six a.m.

9. No overnight user may erect or display unsightly or inappropriate structures or features which, in the opinion of the park manager, may create a disturbing or otherwise unpleasant condition detrimental to the general park use.

10. No permittee may repair or install any park equipment or furnishings unless authorized and supervised by the park manager.

11. In no case will public residency be allowed in a state park.

12. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

13. Permittee waives and releases all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to fifteen (15) consecutive days. At the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24 hour continuous period under any permit agreement.

2. State parks' campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many parks will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used for general guidelines subject to variance by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

5. The following camping combinations are applicable only to Grand Isle State Park:

a. one passenger vehicle and two tents (family unit only);

b. one passenger vehicle and one camping trailer;

c. one van-type camping vehicle and one tent;

d. one van-type camping vehicle and one camping trailer;

e. one pickup truck camper and one tent;

f. one pickup truck camper and one camping trailer;

g. one motorized camper (or bus) and one passenger vehicle.

Beach campsites cannot be reserved.

C. Cabins, Lodges, other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory upon occupancy. The visitor must report to the park manager any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the Office of State Parks for any missing property or damage to property may result in denial of future use of park facilities.

2. Facility furnishings cannot be moved without the permission of the site manager.

3. Upon termination of any use permit, the facility must be delivered up in good repair and in the same condition in which it was found. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of the facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:28 (January 2000).

Chapter 5. Procedures and Fees

§501. Operating Schedule

A. State Parks

1. All state parks that do not have a boat launch open at 7 a.m. and close at 9 p.m. year round. All state parks that have a boat launch capable of launching a motorized vessel and ones that are not designated for campers only, will open at 6 a.m. and close at 9 p.m. year round. A park attendant is on duty Fridays, Saturdays, and on days preceding holidays until 10 p.m. to register incoming campers and other overnight users only. Based upon user demand, and available staff and other resources, the hours of operation at each park site may be varied at the direction of the assistant secretary or his designee.

2. Pools and enclosed beach areas are usually operated from Memorial Day weekend through Labor Day weekend, subject to an operating schedule per individual park. All pools are closed on Mondays, except holidays.

B. State Historic Sites: Year-round schedule: Open 9 a.m.-5 p.m.; closed Christmas Day, New Year's Day, Thanksgiving Day.

C. State Preservation Areas: Year-round schedule: Open 9 a.m.-5 p.m. Closed Christmas Day, New Year's Day, Thanksgiving Day.

D. Temporary Operating Schedule: Some areas are not fully operational pending completion of programs or facilities. Also, because of budgetary or legislative mandates, operational schedules may change. Visitors should contact the site manager or the administrative office for information regarding sites with part-time operating hours and special group tour arrangements.

E. The assistant secretary or his designee may direct the closing of a park to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the park to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:29 (January 2000).

§503. Fees and Exemptions; Day-Use

A. - A.2 ...

a. St. Bernard SP swimming pool fee is \$2 per person- no entrance fee.

b. Bayou Segnette SP wave pool - in addition to the entrance fee and all other user fees: Adults (over 48") \$8 per day, Children (under 48") \$6 per day. The price includes one flotation device per person. Discount coupons available when purchased in quantity lots.

3. A self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

B. State Historic Sites General Admission Fees

1. An admission fee of \$2 per adult is charged for all state historic sites (exception: Locust Grove and Los Adaes, which have no admission charge). There is no admission charge for children age 12 and under. Admission entitles visitors to all facilities and regular programs which may be offered at the historic site. Special programs and events may include special admission rates. The payment of the admission fee at one historic site entitles guests to enter all historic sites on the same day with no additional charge. The receipt from the first site must be presented for admission to subsequent sites.

2. Organized groups of 10 or more are requested to notify the park manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

D. Boating

1. Rental boats are available in most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. The standard rate for rental boats with three life jackets and two paddles is \$10 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

3. ...

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through the park or through a concessionaire. Visitors should contact the site to check availability and rates.

E. Fishing Piers. A fishing pier extending into the Gulf of Mexico is located at Grand Isle East State Park. A fee is charged for day or night fishing on the pier in addition to the regular day-use or overnight-use fees. Fees are \$2 per person over 12 years of age and \$1 for children 12 years of age and younger.

F. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites. The rental rate varies, depending upon the size and location.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the park user on a first come, first served basis as any other non-reserved park pavilion.

4. ...

5. The carrying capacity of a group rental pavilions is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6.a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people. Reserve rental rate is \$40 per day.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people. Reserve rental rate is \$60 per day.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people. Reserve rental rate is \$100 per day.

G. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available at a rate of \$125 per day during normal park operating hours. Kitchen facilities may be used, if available.

H. Exemptions

1. Senior Citizens. Any citizen of the state of Louisiana who is identified as sixty-two years of age or older shall be exempt from paying the general admission charge to any state park in Louisiana. Any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted persons spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana. (R.S. 56:1692)

2. ...

3. School Groups - Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

4. ...

5. Non-Profit Community Home Based Organization - Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home based organization or "provider" shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or "provider".

a. Certification of the eligible organization or "provider" must be made in writing to the Office of State Parks, and the agency shall in turn recognize such certification prior to eligibility for this exemption.

b. This exemption shall not be applicable to day-use functions at any state park overnight facility such as group camps, cabins, campgrounds, etc.

I. Annual Day-Use Permits

1. Annual Day-Use Permits are available at a cost of \$30 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The Annual Day-Use Permits are valid for a period of one year beginning January 1 and ending December 31 annually. Permits may be obtained at any site.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

J. From time to time, as deemed appropriate by the assistant secretary, special programs, occupancy regulations, or discounts on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:29 (January 2000).

§504. Fees and Exemptions: Overnight Use

A. Camping Fee

1. An improved campsite rents for \$12 per night. An unimproved campsite rents for \$10 per night. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit. Improved sites are equipped with picnic table, grill, electricity and water hookups.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are charge of \$1 per person, per night, except the tepee area at Fontainebleau State Park where the charge is \$30 per group per night. Capacity level will be set by the site manager.

B. Rally Camping Areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

1. Fees

a. A fee of \$50 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition the standard day-use entrance fee is charged per vehicle.

3. Carrying Capacity - A maximum carrying capacity for rally sites is established by individual parks, and

information concerning these capacities is available through the individual park offices.

C. Golden Age/Golden Access Permit. Any citizen of the United States who possesses a Golden Age and/or Golden Access Passport issued by an agency of the United States, pursuant to 16 U.S.C. Section 460, and any person accompanying the holder of the passport in a camper rig as defined in Chapter 3, Subsection 311 H, of the rules and regulations of the Office of State Parks will be entitled to a 50 percent discount on any overnight campsite rentals. Proof of identification will be required.

D. Backpacking

1. Backpacking is available only at Chicot State Park at the present time. A permit is required for all overnight backpacking use and may be obtained at the park entrance station.

2. Each person will be assessed a fee of \$1 per night. A copy of the backpacking regulations can be obtained at the park entrance station.

3. Backcountry camping or backpacking is defined as camping in undeveloped areas of the park where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

E. Canoe Camping

Canoe camping at primitive campsites is available at Lake Fausse Pointe State Park and Lake Claiborne State Park. The unimproved campsite rental fee of \$10 is charged for use of these areas.

F. Cabins and Lodges

1. Cabins

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$65	6	8
Modular	\$60	6	8
Standard	\$50	4	6
Rustic	\$45	4	6

2. Park Lodges - These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Large	\$90	12	14
Small	\$90	7	9

G. Group Camps

Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows:

Classification	Overnight Rate	Day Rate	Maximum Capacity
Class III	\$300	\$200	100+
Class II	\$125	\$75	50+
Class I	\$75	\$50	30+

1. Group camps may be reserved for day use only at a basic rate. In addition, the normal day-use entrance fee will be assessed each vehicle entering the group camp area.

2. Beds, kitchen and necessary cooking ware are furnished. User must furnish his own tableware (silver, dishes, glasses, etc.), bed linens, pillows, towels, and toilet necessities.

H. Special Research Dormitory Facilities

1. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

3. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement.

b. The user must execute the agreement and return it to the site manager before occupying the dormitory.

5. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$100 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

6. Research Dormitory Occupancy Requirements

a. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

d. Research Dormitory Check-out time is 2 p.m.

7. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

8. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000).

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all facilities at state parks by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year.

2. The Call Center will operate 8 a.m. to 4:30 p.m., Monday through Friday. The Call Center will close for state holidays. Based upon demand, the Center's hours may be extended by the assistant secretary or his designee. Reservations may also be made on-line.

3. Reservations are accepted only from person 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

4. Deposit in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within fourteen days or less of the usage date, payment will be made by credit card only.

5. A cancellation of a reservation initiated by park users is subject to a surcharge. The cancellation fee is a minimum of \$10 per facility. If the reservation is canceled within fourteen days of the first day of intended use, the cancellation fee is the cost of one day's use or \$10 per facility, whichever is more.

6. In the event reservations must be canceled for maintenance or emergency reasons by park staff, the rental fee will be refunded in full. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

7. Reservations may be transferred from one date to another or one site to another based on availability for a \$10 transfer fee.

8. For cabins, lodges, group camps, rally shelters and camping a two day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000).

§506. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. Refunds may be made at the park upon approval of the site manager or his designee for those fees paid at the park for the following reasons:

1. in emergency situations where the park must be closed due to natural or man-made emergencies (water shortage, fire, weather, and equipment failure);

2. when a user chooses to leave a park before use of any facilities;

3. when the user chooses to leave a park before utilizing facilities for the total reservation period, the unused reservation period amount will be refunded minus the cancellation fee detailed in §505.1. An exception would include weekends which require a minimum reservation period.

C. All park-issued refunds will require that the visitor present a valid paid receipt for the amount of the requested refund.

D. All advance reservation refunds must be issued through the administrative office in accordance with §505.1.

E. Visitors are encouraged to request a temporary visitor pass for the purpose of inspecting the park facilities prior to an anticipated visit.

F. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the park as a result of inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000).

§507. Special Uses and Restrictions

A. - B. ...

C. Use Restrictions

1. A State Historic Site is an area which possesses a historical, cultural, or memorial significance when judged on a statewide basis. Activities and uses of historic sites are limited to those appropriate to the significance of each site as defined by the master plan and interpretive prospectus of the unit.

2. It is necessary that development on a state historic site be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to activities that do not conflict with the historical theme and confined to section(s) set aside for such purposes. Historic zones will be established to protect the resource and insure most conducive use of each state historic site. Space outside of the historic zone(s) and maintenance area(s) may be set aside for recreational use at the discretion of the site manager.

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits. No organized league activities will be allowed on the grounds of any state historic site.

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored,

commercial activities and events is not deemed in the best interest of the state historic sites. Such use fails to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. At Rebel State Historic Site, because of the theme of the area, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee.

5. Organizations offering support to historic sites, parks, and preservation areas either one in particular or on a general basis, such as historical societies, friends groups or service groups, may be permitted special functions at a site if a written request is made and written permission is obtained from the assistant secretary. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the site, either directly or indirectly, through greater public awareness in of the site or history of the area, or to assist the agency in the fulfillment of its mission and purposes.

D. Passenger Bus Restrictions

1. In an effort to facilitate control of the day-use carrying capacity for state parks (excluding state historic sites), no buses nor occupants thereof shall be admitted to state parks except by special permit for any day-use activities on weekends or holidays during the period Memorial Day weekend through Labor Day.

2. Special Bus Use Permits - Any access to state parks by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the groups' proof of \$1,000,000 liability insurance naming the Department of Culture, Recreation and Tourism and the Office of State Parks as additional insureds, and proof of \$500,000 automobile or bus liability insurance. Children traveling to state parks must be chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000).

Dwight Landreneau
Assistant Secretary

0001#049

RULE

**Department of Economic Development
Racing Commission**

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and also in accordance with Executive Order MJF 98-38, R.S. 49:1001, et seq., and

R.S. 4:141, et seq., the Louisiana State Racing Commission hereby adopts the following.

Title 13

ECONOMIC DEVELOPMENT

Part IX. Office of the Racing Commission

**Chapter 1. Substance Abuse and Drug-Free
Workplace Program**

§101. Philosophy

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000).

§103. Applicability

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000).

§105. Requirements

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

1. report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. promptly and cooperatively submit to drug/alcohol testing when required by a supervisor or appointing authority;

3. notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense which occurs on or off duty.

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

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

2.a Illegal or unauthorized drugs include:

i. any drug which is not legally obtainable;

ii. any drug which is legally obtainable, but has been illegally obtained;

iii. prescription drugs not being used in accordance with the prescription; or

iv. any substance which affects the employee's ability to safely and competently perform assigned duties.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000).

§107. Drug/Alcohol Testing

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

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

2. Post-Accident/Incident. An employee may be subject to drug testing following an on-duty accident where there is a reasonable suspicion that the employee was under the influence of drugs or alcohol. *Reasonable suspicion* is a belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that an

employee has engaged in drug or alcohol use. Only an appointing authority shall require an employee to submit to post-accident/incident testing. Generally, this decision will be based upon the recommendation of supervisory personnel at the scene who have objectively and thoroughly reviewed the circumstances of the accident/incident. The supervisor will fully document the facts upon which the recommendation for testing is made. Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:

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

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

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

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

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

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

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

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

6. Return-to-Duty/Rehabilitation Monitoring. Any employee who retains his/her job following a violation of these rules shall be required, at his/her own expense, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee shall be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:34 (January 2000).

§109. Drug Testing Procedures

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

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

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

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

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

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

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

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

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

4. appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its handling, storage and transportation from point of collection to final disposition;

5. testing shall be performed by laboratories certified for forensic urine drug testing by the U.S. Department of

Health and Human Services and in strict compliance with DHHS Guidelines;

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000).

§111. Alcohol Testing Procedures

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

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

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

D. Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing

form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000).

§113. Enforcement

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000).

§115. Confidentiality/Employee Rights

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000).

§117. Employee Assistance Program

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

B. Employees referred to the EAP coordinator by supervisory personnel or who, as a condition of continued employment, participate in a substance abuse rehabilitation program will be subject to the return-to-duty/rehabilitation monitoring testing set forth in these rules.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000).

§119. General Provisions

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000).

§121. Safety-Sensitive Positions

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000).

Charles A. Gardiner, III
Executive Director

0001#061

RULE

Department of Economic Development Real Estate Commission

Real Estate (LAC 46:LXVII.Chapters 1-67)

Under the authority of the Louisiana Real Estate License Law, 37:1435 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has repealed LAC 46:LXVII.Subpart 1.Real Estate, Chapters 1 through 67, in its entirety, and promulgated rules and regulations which will define and interpret the existing rules and regulations to a better extent. The rules have no known impact on family formation, stability, or autonomy.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate Subpart 1. Real Estate

Chapter 1. Authority

§101. Adoption

A. The rules and regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1431 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000).

Chapter 3. Applications for Initial Licenses

§301. Application

A. Every application must be fully completed, notarized and accompanied by the prescribed fees.

B. Every initial applicant for a salesperson license must provide an affidavit signed by the sponsoring broker at the time the application is submitted; or

1. The salesperson applicant may provide the affidavit signed by the sponsoring broker prior to issuance of the license.

2. Upon passing the licensing examination the applicant must, within ninety days, submit to the Commission a statement of sponsorship signed by a licensed real estate broker acknowledging that the broker will serve as the applicant's sponsoring broker. The Commission, at its discretion, may extend the ninety day period upon a showing that factors beyond the control of the applicant warrant such an extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000).

§303. Broker and Salesperson License Applications

A. Every applicant for licensing as an individual real estate broker or salesperson shall include with their application the following:

1. proof of completion of the required real estate educational hours from a real estate school holding a certificate of authority from the Commission or certificates or university transcripts indicating completion of courses which have been approved by the Commission. Effective January 1, 2000, only those prelicensing educational courses completed during the five year period immediately preceding the date of initial application for a real estate salesperson or broker license will be granted full credit by the Commission. Real estate prelicensing course work completed by an applicant prior to the five year period immediately preceding the date of initial application for a salesperson or broker license may be considered by the Commission for partial credit toward the initial prelicensing requirement. Any partial credit granted will be based on the

date(s) of course completion and the applicability of course content to current preclicensing requirements. The Commission may accept approved real estate course work obtained in other jurisdictions toward fulfillment of preclicensing salesperson and/or broker educational hours. Real estate course work obtained from nationally recognized institutes may also apply toward fulfillment of broker preclicensing hours. The applicant must apply for and receive approval of such course work from the Commission prior to submitting the initial licensing application. Every applicant for a Louisiana real estate license must complete an approved course of study consisting of at least thirty classroom hours of course work. Such course work shall include study of the Louisiana Real Estate License Law, Commission Rules and Regulations and Louisiana Civil Law relating to real estate and any other courses the Commission deems necessary and appropriate;

2. license verification history from each jurisdiction where the applicant has held or currently holds a real estate license as a broker or salesperson;

3. verification of passing an equivalent real estate licensing examination within the five year period immediately preceding the date of application if the applicant is requesting a waiver of the national portion of the licensing examination.

B. Every application for a corporation, partnership or limited liability broker license shall be submitted by the qualifying broker designated by the corporation, partnership or limited liability company on a fully completed, notarized application accompanied by the prescribed fees and the following documents:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating the individual real estate broker as its qualifying broker;

2. notarized Affidavit of the Qualifying Broker;

3. copy of the Registration Certificate issued by the Secretary of State;

4. copy of any registration issued by the Secretary of State for any trade name or trademark to be used by the corporation, partnership or limited liability company in its real estate business activities as a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000).

Chapter 5. Examinations

§501. Examination Procedure

A. Each applicant for a real estate license examination must submit an application to the Commission for a determination of eligibility to take the applicable licensing examination. The responsibility for timely submission of initial licensing applications rests solely with each individual applicant.

B. Upon a determination by the Commission that the applicant is eligible to take the licensing examination, an examination authorization will be issued to the applicant. The authorization will be valid for one examination which must be completed within a period of ninety days of issuance. If the applicant does not take the examination within the ninety day period, the applicant must apply to the Commission and receive a new examination authorization

prior to scheduling an appointment to take the licensing examination.

C. Upon receipt of the examination authorization from the Commission, the applicant is solely responsible for contacting the Commission's designated national testing service to arrange for an appointment to take the examination.

D. Each examination applicant must comply with all examination procedures established by the Commission and its designated national testing service. These procedures will be contained in a licensing information bulletin provided to each applicant with the initial licensing application packet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000).

§503. Disqualification of Applicants

A. Any action by an applicant to use, or attempt to use, to obtain, or attempt to obtain, to supply to others, or attempt to supply to others, specific information on copyrighted test questions appearing on any qualifying examination administered under the jurisdiction of the Commission shall be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000).

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service under current or expired contract with the Commission for administration of its licensing and certification examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000).

§507. Failure of Examination

A. Any applicant who takes and fails to pass the initial examination may apply to retake the examination by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days of the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. The failing applicant may continue to retake the examination for a period of one year from the initial examination date, provided the applicant follows the retake procedures as specified in Section 507 of this Chapter. Failure of the applicant to achieve a passing score on both the national and state portions of the licensing examination within the one year period will result in the loss of

examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§509. Partial Failure of Examination

A. Any applicant who takes an examination and passes only the national or state portion of the examination shall be required to retake only the failed portion. The applicant's passing score on the passed portion of the examination will be valid for a period of one year from the date of passage. The applicant may apply to retake the failed portion by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days from the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. Failure of the applicant to achieve a passing result on both portions of the examination within a one year period of the initial examination date will result in the loss of examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§511. Examination Requirement for Out-of-State Applicants

A. Any applicant for a Louisiana real estate license who was previously or is currently licensed in another jurisdiction as a real estate salesperson or broker shall be required to take and pass only the state portion of the examination, upon a showing by the applicant that the applicant has passed, within five years of applying for licensing in Louisiana, an equivalent examination in another jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

Chapter 7. Fees

§701. Refund of Fees

A. Except as otherwise provided in these rules and regulations all fees submitted to the Commission are nonrefundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§703. Duration of Fees for Licenses, Certificates and Registrations

A. Fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§705. Returned Checks

A. Payment of any fee with a check which is returned by a financial institution wherein the reason for not paying the check is not a fault of the financial institution shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks to the Commission which are returned by financial institutions for any reason will be notified of the return of the check by certified mail to the address registered by that person with the Commission. Within 10 days from the mailing of the notification, the person issuing the check will remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Commission in the amount of the returned check plus a \$25.00 processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

Chapter 9. Renewal Applications

§901. Timely Renewal of Licenses, Registrations and Certificates

A. The responsibility for the timely submission of renewal applications and the payment of the required fees rests solely with each individual licensee, registrant and certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§903. Non-Renewal of Real Estate Licenses

A. No real estate license shall be issued to any associate broker or salesperson until the individual real estate broker license of their sponsoring broker, or, if sponsored by a designated qualifying broker, the corporate, partnership, or limited liability company broker license of their sponsoring designated qualifying broker has been renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§905. Renewal Application

A. A salesperson or associate broker renewal application must be signed by a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000).

§907. Continuing Education Required for Renewal

A. The active license of an individual real estate broker or salesperson shall not be renewed unless the broker or salesperson has completed eight hours of approved continuing education course work during the immediately preceding license period. Course work submitted by delinquent renewal applicants may either be obtained in the preceding license period or prior to submission of the delinquent renewal application to the Commission.

B. Beginning January 1, 2001, except for purposes of compliance with the Americans with Disabilities Act (ADA) or other similar extenuating circumstances determined by the Commission, correspondence study courses shall not be accepted toward fulfillment of the four hours in mandatory continuing education subjects specified by the Commission unless said courses are certified by the Association of Real Estate License Law Officials (ARELLO) for distance learning purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

Chapter 11. Delinquent Renewal

§1101. Application for Delinquent Renewal

A. Applications for delinquent renewal of broker or salesperson licenses and applications for delinquent renewal of timeshare sales registrations shall be accepted by the Commission only during the six-month period immediately following the last December 31 date on which the applicant held a valid license or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1103. Loss of Renewal Eligibility

A. Licensees and timeshare sales registrants who fail to renew a real estate license or timeshare sales registration during the six-month delinquent period following the expiration of a license or registration shall apply as and meet all requirements of initial applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

Chapter 13. Broker Affiliation

§1301. Associate Broker

A. A licensed individual real estate broker may become exclusively affiliated as an associate broker with a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1303. Notification by Broker Applicants

A. Any applicant for licensing as an individual real estate broker who elects, if and when licensed, to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing of the name of the sponsoring broker prior to the issuance of the license. When the applicant is qualified for licensing as a broker, the

Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1305. Notification by Individual Real Estate Broker

A. Any individual real estate broker who elects to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing prior to beginning such a relationship and provide the name of the sponsoring broker and the effective date of the relationship. The notification shall be accompanied by the broker's license and the transfer fee. The Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1307. Escrow Accounts Prohibited

A. Any broker who is exclusively affiliated with a sponsoring broker is prohibited from maintaining a sales escrow checking account, rental trust checking account or security deposit trust checking account except as authorized in Chapter 27. All funds received by the associate broker in real estate transactions of any nature will be placed in the custody of the sponsoring broker.

B. Associate brokers who were licensed as individual real estate brokers and who maintained sales escrow checking accounts, rental trust checking accounts or security deposit trust checking accounts prior to affiliating with a sponsoring broker may continue to maintain those accounts for the limited and specific purpose of completing pending transactions, as authorized by Chapter 27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

Chapter 15. Transfers and Terminations

§1501. Transfers

A. The transfer of the real estate license of a salesperson or an associate broker in the active status, or the termination of sponsorship of a salesperson or associate broker, will be accomplished by completing a transfer form prescribed by the Commission and paying any required fees.

B. The sponsoring broker shall return the license of the salesperson or associate broker to the Commission within five days of the date of execution of the transfer form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1503. Exemption from Transfer Fee

A. No transfer fee or delinquent renewal fee shall be charged to an associate broker or salesperson who applies for transfer or change of status within sixty days of any of the following circumstances:

1. when the sponsoring broker has died;

2. when the sponsoring broker has failed to renew his license;
3. when the sponsoring broker's license has been suspended or revoked;
4. when the sponsoring broker's license is transferred to the inactive status;
5. when the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000).

§1505. Transfers on Acquisition or Purchase of Licensed Agencies

A. When a licensed agency is purchased or otherwise acquired by another licensed agency, the sponsoring or qualifying broker of the acquiring agency will notify the Commission in writing not later than the second working day following the date of acquisition.

B. The notification to the Commission will specify the date of acquisition and request the transfer of all licensees sponsored by the agency being acquired to the acquiring agency and shall certify continuous errors and omissions insurance coverage of all licensees being transferred to the acquiring agency. If the transfer of licensees necessitates the payment of fees to the Commission for coverage under the Commission group policy, a listing of all licensees to be covered under the policy and a check in payment of the required fees will accompany the notification

C. On receipt of the written notification the licenses of all associate brokers and salespersons will be transferred by the Commission to the acquiring agency under the sponsorship of the sponsoring or qualifying broker of the acquiring agency, with the effective date of transfer being the date of acquisition as specified in the written notice of acquisition.

D. The sponsoring or qualifying broker of the acquiring agency shall, within two working days following the date of acquisition, give written notice to all licensees transferred to the acquiring agency in connection with the acquisition.

E. Associate brokers or salespersons who do not elect to remain with the acquiring agency shall within five days after notification advise the sponsoring or qualifying broker of the acquiring agency and request the return of their licenses to the Commission. Transfers to a new sponsoring broker will be accomplished in accordance with the provisions of this Chapter.

F. The transfer of the licenses of associate brokers or salespersons who will be terminated by the sponsoring or qualifying broker of the acquiring agency will be accomplished in accordance with the provisions of this Chapter.

G. Not later than fifteen days following the date of acquisition, the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the status of all licensees formerly sponsored by the acquired agency.

1. The notification will include a listing by category which identifies:
 - a. each associate broker or salesperson who requested the return of their license to the Commission;

- b. each associate broker or salesperson who is being terminated by the acquiring agency; and
- c. each associate broker or salesperson who has elected to remain with the acquiring agency.

2. The notification will include:

- a. the licenses of each associate broker or salesperson who will not remain with the acquiring agency;
- b. copies of the written notification to and/or from each associate broker and salesperson as required by this Chapter;
- c. a check from the acquiring agency in payment of the appropriate transfer fee for each licensee who was sponsored by the agency being acquired and who will remain with the acquiring agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000).

§1507. Change of Licensing Status

A. Individual real estate brokers and salespersons may transfer from active to inactive status or from inactive to active status by completing a transfer form prescribed by the Commission, satisfying the requirements set forth in the Louisiana Real Estate License Law and Rules and Regulations of the Commission, and paying any required fees.

B. Corporate, partnership and limited liability company real estate broker's licenses shall remain in the active license status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000).

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property

A. Upon termination of a licensee's relationship with a sponsoring broker, every salesperson or associate broker shall immediately turn over to the sponsoring broker all business related property obtained from or provided by the sponsoring broker or agency, to include keys to any and all properties listed with the broker whether such keys were provided by the broker or obtained by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000).

§1703. Relinquishment of Business Related Data

A. Upon termination of a business relationship with a sponsoring broker, salesperson or associate broker shall immediately turn every over to the sponsoring broker all listing information, contracts, agency forms, and other business or agency related information, data, or documents obtained from or provided by the sponsoring broker or agency for use by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000).

§1705. Personal Obligations

A. The responsibility for settlement of matters pertaining to financial obligations resulting from the business relationship, including the payment of commissions and dues to professional organizations, rests solely with the parties to the relationship. Any disputes resulting therefrom should be properly addressed through civil litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

§1707. Report of Alleged Failure

A. Any sponsoring broker who alleges failure to comply with §1701 or §1703 of this Chapter by a formerly sponsored salesperson or associate broker shall submit a signed and documented report of such failure at the time the license is returned to the Commission, and provide a copy of the report to the former licensee. The report shall specifically list and identify the business related property or data not relinquished by the formerly sponsored licensee and the signed report shall constitute a written complaint filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names; Symbols; and Trademarks

§1901. Names on Licenses, Registrations and Certificates

A. All licenses, registrations and certificates issued by the Louisiana Real Estate Commission will be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors will be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to any corporation, partnership or limited liability company for any purpose will be issued in the identical name of the corporation, partnership or limited liability company as registered with the Secretary of State. No license, registration or certificate will be issued to any corporation, partnership, or limited liability company not registered with the Secretary of State.

3. The name of any broker or salesperson whose real estate license has been revoked by the Commission, with the revocation becoming final and effective on or after February 1, 1995, which in any way represents that the former broker or salesperson is licensed by the Commission to conduct real estate activities requiring licensing in Louisiana, shall not be utilized on any license issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

§1903. Trade Names

A. Licenses, registrations and certificates issued by the Commission will not indicate a trade name of the licensee, registrant or certificate holder unless the trade name is

registered with the Secretary of State and a copy of the registration is on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

§1905. Symbols and Trademarks

A. Licensees, registrants and certificate holders are prohibited from using any symbol or trademark in connection with any license, registration or certificate issued by the Commission without first registering the symbol or trademark with the Secretary of State and placing a copy of the registration on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

Chapter 21. Concurrent Licensing

§2101. Broker and Salesperson Licenses

A. A broker may conduct real estate activity as an individual real estate broker and concurrently be designated as the qualifying broker of one or more corporations, limited liability companies and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. Licenses as brokers or salespersons, or a registration as a timeshare interest salesperson shall not be issued to or held concurrently by any person. Brokers may not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

Chapter 23. Branch Offices

§2301. Branch Office

A. An office located at other than the registered address of a sponsoring or qualifying broker which has been established by the broker or a licensee sponsored by the broker for conducting any real estate activity requiring licensing as a broker or salesperson and which in any way advertises the name of the broker or broker's company or the telephone number of the licensed broker shall be considered to be a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

Chapter 25. Advertising

§2501. Advertisements

A. Any advertisement involving the sale, lease or management of real estate by any licensee shall include the name and telephone number of the licensed real estate broker, and may include the name and telephone number of a salesperson or associate broker sponsored by the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000).

§2503. Owner Authorization

A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2505. Accuracy in Advertising

A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted. The advertising shall not include any name or trade name of any franchiser or real estate organization or association of which the licensee is not a member or franchisee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2507. Advertisements of Residential Property

A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2509. Advertisements by Franchise Organizations

A. Any licensed broker or salesperson affiliated with a franchise organization must disclose to the public that the real estate brokerage firm is independently owned and operated in all advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2511. Agent Owner-Licensed Agent

A. A licensed broker or salesperson who offers property in which he or she owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he or she is a licensed real estate agent.

B. Any licensed broker or salesperson who advertises, or offers to purchase or rent property for his or her own full or partial interest shall state in any advertisement that he or she is a licensed real estate agent.

C. Including the term "licensed real estate agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.

D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2513. Appraisals

A. No licensee shall offer or advertise any appraisal service to the public in any manner which would create the impression of the licensee being a state certified real estate appraiser unless the licensee has been certified as such in accordance with R.S. 37:3406. Licensees who have not been certified as state certified real estate appraisers shall not describe or refer to any appraisal or other evaluation of real estate located in this state by the term "state certified."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

§2515. Internet Advertising

A. A real estate broker advertising or marketing on a site on the Internet must include the following data on each page of the site on which the advertisement appears:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

B. A real estate broker using any Internet electronic communication for advertising or marketing, including but not limited to, e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

C. An associate broker or salesperson advertising or marketing on a site on the Internet must include the following data on each page of the site on which the licensee's advertisement or information appears:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

D. An associate broker or salesperson using any Internet electronic communication for advertising or marketing, including but not limited to e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000).

Chapter 27. Escrow and Trust Accounts

§2701. Sales Escrow Checking Account

A. Each resident broker who accepts any monies on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies received by a broker in connection with the sale of real estate shall be deposited in this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2703. Rental Trust Checking Account

A. Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental payments from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2705. Security Deposit Trust Checking Account

A. Each resident broker engaged in the collection of rental security or damage deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2707. Account Affidavit

A. When requested to do so by Commission personnel, a broker shall execute and submit to the Commission an affidavit attesting to the existence, location and account number of a sales escrow checking account, rental trust checking account, or security deposit trust checking account, and authorizing and empowering the Commission or its

representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the Commission within five days following such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2709. Non-Resident Brokers

A. Each non-resident broker shall open and maintain sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2711. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of the branch offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2713. Signatory Rights on Checking Accounts

A. An individual real estate broker who maintains a sales escrow checking account, a rental trust checking account or a security trust checking account shall be an authorized signatory on each account maintained and the individual real estate broker shall be responsible for the proper maintenance and disbursement of the funds in the accounts. Granting authority to sponsored licensees and/or employees of the broker to sign checks on the accounts does not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and the qualifying broker shall be responsible for the proper maintenance and disbursement of the funds in the accounts. Granting authority to sponsored licensees, principals and/or employees of the licensed entity does not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2715. Additional Accounts

A. Where the interest of the principal parties to a particular transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker may open an additional sales escrow checking account, rental trust checking account or security deposit trust checking account in any financial

institution in the state of Louisiana or the state in which a non-resident broker resides and deposit therein all monies received in trust on behalf of those parties pursuant to that particular transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000).

§2717. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2719. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2500.00 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, keep funds in excess of \$2500.00 in a rental trust checking account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2721. Withdrawal

A. No monies received and deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall be withdrawn for any purposes except:

1. upon mutual written consent of all parties having an interest in the funds;
2. upon Commission order;
3. upon court order;
4. for the purpose of depositing monies into the registry of the court in a concursus proceeding;
5. for the purposes of depositing the funds with the Commission pursuant to Chapter 29;
6. to disburse funds from a sales escrow checking account to the appropriate party upon a reasonable interpretation of a contract for the sale of real estate;
7. for the purpose of returning the funds to a buyer at the time of closing;
8. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts with such payment being made from funds deposited into the accounts by the broker;
9. upon approval by the Commission in connection with the sale or acquisition of a licensed entity; and

10. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2723. Deposits

A. Any money received in connection with a real estate transaction involving the sale, lease or management of real estate shall be deposited into the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2725. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the Commission in writing of the closing of any sales escrow checking account, rental trust account checking or security deposit trust checking account within ten days following the date the account is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2727. Maintaining Accounts

A. Upon revocation, suspension or lapse of his license for any reason, or upon bankruptcy, a broker shall continue and maintain his sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2729. Corporations, Partnerships and Limited Liability Companies

A. Every licensed corporation, partnership and limited liability company shall open and maintain sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts as specified for resident and non-resident brokers. All funds received from or on behalf of clients in any real estate transaction conducted by the corporation, partnership, or limited liability company as a licensee shall be deposited into these accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000).

§2731. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the Commission of the acquisition will specify the account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the Commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the Commission in accordance with §2721.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency will be forwarded to the Commission certifying that all trust funds have been transferred. The letter will include the following:

1. a certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;
2. a certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;
3. a listing of all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;
4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. The sponsoring or qualifying broker of the agency being acquired will close the escrow accounts and trust accounts from which the funds were transferred within ten days following the transfer of funds and advise the Commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000).

§2733. Change of Licensing Status

A. An individual real estate broker who elects to become exclusively affiliated with a sponsoring broker, and an active broker transferring to an inactive status, shall continue to maintain their sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law. As of the effective date of relationship with a sponsoring broker, or transfer to inactive status, no further trust funds shall be placed in the accounts. The transferring broker shall advise the

Commission in writing within five working days of the effective date of the transfer to the new status of the amount of funds in each escrow or trust account maintained, and the approximate date each account will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000).

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a broker determines or has knowledge that a dispute exists as to the ownership or entitlement of a deposit or funds held in a sales escrow checking account, as a result of a real estate sales transaction, it shall be the obligation of the broker holding the funds to immediately notify in writing all of the parties and licensees involved of the dispute, and within 90 days of the scheduled closing date, or determination or knowledge that such a dispute exists, whichever shall first occur, to do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;
2. disburse the funds upon a reasonable interpretation of the contract which authorizes the broker to hold such funds. Disbursement may not occur until 10 days after the broker has notified, in writing, all parties and licensees;
3. through a concursus proceeding, deposit the funds into the registry of any court of competent jurisdiction and proper venue;
4. deposit the funds including original promissory notes, with the Louisiana Real Estate Commission along with a request for an escrow disbursement order. This request shall include the names and last known addresses of the principals to the agreement, a copy of the purchase agreement, all forms required by the Commission, and copies of any other documents which may have some bearing on the dispute. Note: In the event that the dispute is to be heard by the Commission, it will require that the agents and/or brokers appear before the Commission at its regularly scheduled meeting at which the dispute will be heard;
5. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000).

§2903. Escrow Disbursement Order

A. The Louisiana Real Estate Commission upon receipt of a request for an escrow disbursement order:

1. shall immediately cause the funds accompanying said request to be deposited in an interest bearing escrow checking account pending final disposition;
2. may commence an investigation by its staff of the dispute;
3. may, upon completion of an investigation, consider the investigative findings and at a regular or special meeting issue an escrow disbursement order providing for the disposition and allocation of funds which are being held in escrow and are in dispute;
4. may call an adjudicatory hearing before issuing an escrow disbursement order; or

5. may deposit the disputed funds into a concursus proceeding in any court of competent jurisdiction and proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000).

Chapter 31. Reporting of Changes of Address or Telephone Number by Licensees, Registrants and Certificate Holders

§3101. Reporting

A. Every licensee, certificate holder and timeshare registrant shall report any changes in the business or residence address or telephone number to the Commission in writing within ten days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

§3103. Changes in Data Provided by Corporations, Partnerships and Limited Liability Companies

A. Corporations, partnerships and limited liability companies licensed as real estate brokers shall file all reports required by any agency of this state when due and shall notify the Commission at the time of the filing of the reports of any information in the reports which would constitute a change in the information filed with the Commission by the licensed broker prior to the submission of the required reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

Chapter 33. Compensation

§3301. Full Knowledge

A. Licensees shall not accept compensation from more than one party without the written acknowledgment of all parties to the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. A licensee acting as a principal in a real estate transaction, whether individually or through any entity in which he or she has an interest, shall disclose his or her status as a licensed real estate agent to all other principals in the real estate transaction, in writing, prior to entering into any real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

Chapter 37. Agency Disclosure

§3701. Agency Relationships in Real Estate Transactions

A. Effective March 1, 1998, agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:3891-3899.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet may be obtained from the Commission in a form suitable for use by licensees in reproducing the pamphlet locally. Licensees are responsible for ensuring that the pamphlets are the most current version prescribed by the Commission and that reproductions of the pamphlet contain the identical language prescribed by the Commission.

C. Licensees will provide the agency disclosure informational pamphlet to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in LSA-R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets to prospective sellers/lessors and buyers/lessees shall ensure that the recipient of the pamphlet signs and dates the receipt included in the pamphlet. The licensee providing the pamphlet shall sign the receipt as a witness to the signature of the recipient, and the licensee will retain the signed receipt for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the receipt. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form shall be obtained from the Commission in a form suitable for use by licensees in reproducing the form locally. Licensees are responsible for ensuring that the form is the most current version

prescribed by the Commission and that reproductions of the form contain the identical language prescribed by the Commission.

C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent, but in no event later than when a purchase agreement is entered into by the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000).

Chapter 39. Presentation of Offers and Counter Offers

§3901. Timely Presentation of Offers and Counter Offers

A. All written offers and counter offers for the purchase of real estate shall be presented to all buyers and/or sellers for their consideration and decision immediately, without delay.

B. The licensee who prepares an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was signed by the offering party are included in the document.

C. The licensee who presents an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was accepted, rejected or countered are included in the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§3903. Negotiations in Exclusive Agency Contracts

A. Negotiations concerning property listed exclusively with a broker shall be carried on with the listing broker or agent designated by the listing broker, not the owner, except with the expressed consent of the listing broker.

B. Negotiations with a buyer who has entered into an exclusive buyer agent contract with a licensed broker shall be carried on with the licensed broker, or agent designated by the licensed broker, not the buyer, except with the express consent of the licensed broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§3905. Cooperative Transactions

A. Licensees receiving written offers or counter offers in cooperative transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§3907. Rejection of Offers and Counter Offers

A. All written offers and counter offers presented to a seller and/or buyer and not accepted shall be clearly marked as rejected and signed by the seller and/or buyer. In any circumstance in which a seller and/or buyer refuses to sign a

rejected offer or counter offer, the licensee making the presentation of the offer or counter offer shall annotate this fact indicating the time of day and date of the rejection of the offer or counter offer by the seller and/or buyer. A copy of the rejected offer or counter offer signed by the seller and/or buyer, or a copy of the rejected offer or counter offer bearing the annotation of the licensee, shall be provided to the buyer and/or seller, and the rejected offer or counter offer shall be returned to the prospective buyer and/or seller within five days after the signature or annotation is affixed to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§3909. Broker's Authority to Reject Offers or Counter Offers

A. In the event the owner (seller) is not available and grants authority to the listing broker to reject an offer or counter offer, the listing broker or a licensee designated by the listing broker shall mark the offer or counter offer as rejected and sign the offer or counter offer as such in lieu of the owner (seller), but the listing broker or licensee designated by the listing broker shall nevertheless forward a copy of the rejected written offer or counter offer to the owner (seller) for his signature acknowledging the rejection of the offer or counter offer. The copy of the rejected offer or counter offer signed by the owner (seller) shall be retained in the files of the listing broker. In the case of a cooperative transaction, the cooperating listing broker shall provide a copy of the rejected offer or counter offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

Chapter 41. Investigations and Hearings

§4101. Complaints

A. Complaints alleging violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission shall bear the signature of the complainant or that of his or her legal representative before any action will be taken thereon by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§4103. Addition of Respondents to Investigations

A. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission have been committed by licensees, timeshare registrants, or certificate holders other than the licensee, timeshare registrant, or certificate holder against whom the original complaint was made, the additional licensees or timeshare registrants may be added as respondents to the investigation in the absence of any written complaint alleging such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000).

§4105. Executive Director May Authorize Investigation

A. Upon documented probable cause, the executive director of the Louisiana Real Estate Commission may issue written authorization to investigate apparent violations of the Louisiana Real Estate License Law and/or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000).

§4107. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without a hearing by the Commission on the recommendation of the hearing examiner and the concurrence of the executive director.

b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.

c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.

d. The informal hearing will be attended by the case investigator, or in the absence of the case investigator, the chief real estate examiner, who will respond to questions concerning the investigation which resulted in the allegations, and the hearing examiner, who will inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings. No evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the Commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

e. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must stipulate to having committed an act or acts in violation of the Louisiana Real Estate License Law or the Rules and Regulations of the Commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the Commission, and the right to judicial appeal of the consent order.

f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.

g. If the respondent does execute a stipulations and consent order, the executive director shall submit the document to the Commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the Commission.

h. The actions of the Commission relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and at which authorization is granted to the executive director to execute the order in the name of the Commission.

i. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the Commission.

2. Formal Adjudicatory Proceedings

a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

b. The order issued by the Commission pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the Commission and entered into the record at the proceedings.

c. The date of entry is the date the order is issued by the Commission and entered into the record at the formal adjudicatory proceedings.

d. If a request for rehearing, reopening, or reconsideration of the order of the Commission is timely filed and denied by the Commission, the order of the Commission shall become final on mailing of the notice of the Commission's final decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000).

§4109. Appellate Proceedings

A. Rehearings

1. An order of the Commission shall be subject to rehearing, reopening or reconsideration by the Commission on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the Commission within ten days from the date of entry of the order rendered by the Commission.

2. The request shall be reviewed by the Commission attorney for compliance with the Administrative Procedure Act. A finding by the Commission attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

B. Judicial Review

1. Proceedings for judicial review of an order issued by the Commission may be instituted by filing a Petition for Judicial Review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.

2. In the event a request for rehearing, reopening or reconsideration has been filed with the Commission, the

party making the request shall have thirty days from the final decision on the request within which to file a petition for judicial review.

3. If a request for rehearing, reopening or reconsideration is not filed with the Commission, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within thirty days after the mailing of the order of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000).

§4111. Stay of Enforcement

A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the Commission. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4113. Costs of Adjudicatory Proceedings

A. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the Commission may assess the respondent the administrative costs of the proceeding, as determined by the Commission. Payment of these costs shall be a condition of the reinstatement of any license, registration, or certificate issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

Chapter 43. Licensee, Timeshare Registrant, and Certificate Holder Responsibilities

§4301. Knowledge of the Law

A. It shall be the duty of all licensees, certificate holders, and timeshare registrants to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana Real Estate License Law as set forth in Chapter 17, Title 37 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

Chapter 45. Franchise Operations

§4501. Registration of Franchise Name

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4503. Registration of Franchise Operation

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4505. Application for Registration

A. Any person, partnership, limited liability company, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:

1. name, address, and whether the applicant is a person, partnership, limited liability company, or corporation;

2. partnership and limited liability company - the names and addresses of all partners or principals;

3. corporation - names and addresses of officers and members of the board of directors and the place of incorporation;

4. partnership, limited liability company, or corporation - a certified copy of the articles of incorporation or the document establishing the partnership or limited liability company;

5. a certified, audited financial statement disclosing the current financial condition of the applicant;

6. a statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.

B. Upon receipt of the application for registration, the Commission may require such additional information as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4507. Agent for Service of Process

A. If the applicant is not a resident of Louisiana, it shall appoint a licensed active Louisiana individual real estate broker to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4509. Annual Registration

A. If the requirements set forth herein are met the Commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the Commission with all information as would modify or change the information previously submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000).

§4511. Renewal Requirements

A. Each application for renewal by a franchiser shall be submitted on or before January 15 of each year and shall reflect the information required by the Commission for the preceding year.

B. Any application for renewal by the franchiser shall also include the name and address of any licensed Louisiana broker that is operating under a franchise agreement with the franchiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

§4513. Penalty

A. Any person, partnership, limited liability company, or corporation which operates in Louisiana as a franchiser of real estate brokerage firms, without the specific authority to do so as granted by the Louisiana Real Estate Commission, shall be subject to a penalty of the refusal by the Commission to allow said person, partnership, limited liability company, or corporation to operate or do business in Louisiana for a period of at least one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

§4515. Violations of Law

A. The Commission shall have the power to withdraw any registration and/or issue a cease and desist order, after a hearing, to any franchiser that is subject to these rules and regulations, upon determination that any federal or state law or Commission regulation has been or will be violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

Chapter 47. Waiver of Renewal Requirements

§4701. Veteran Waiver

A. Licensees who are inducted into military service or those licensees in the military who are transferred out of state shall, upon furnishing appropriate evidence of their honorable service, be entitled to renewal of their licenses, without penalty, provided application is filed within six months following discharge. The provisions of this Section shall extend to spouses of persons described herein above who were licensed at the time of such induction or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

Chapter 49. Reciprocity

§4901. Licensing

A. The Commission may enter into a reciprocal agreement with the appropriate authority of any other state to permit any resident of that other state who is licensed there as a real estate broker or salesperson to obtain an

equivalent Louisiana non-resident license and engage in the real estate business in Louisiana if that other state agrees to similarly grant a non-resident license to any Louisiana resident broker or salesperson and permit the licensee to engage in the real estate business in that other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

§4903. Requirements for License

A. Any person residing in and licensed as a real estate broker or salesperson in a state whose appropriate authority has entered into a reciprocal agreement with the Commission shall be granted an equivalent non-resident license by the Commission upon applying and complying with the following requirements:

1. providing the Commission with sufficient proof of his licensing by his resident state;

2. paying all fees prescribed for an equivalent Louisiana resident license;

3. filing an irrevocable Appointment of Agent for Service of Process with the Commission appointing the executive director as the licensee's agent for service of process in all matters arising out of or in conjunction with any real estate activities conducted by the licensee in Louisiana;

4. corporation-procuring a certificate of authority to do business in Louisiana from the Louisiana Secretary of State and providing the Commission with a copy; and

5. partnership or limited liability company-procuring a certificate of registry as a foreign partnership from the Louisiana Secretary of State and providing the Commission with a copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

§4905. Non-resident Licensee

A. The non-resident licensee is bound, in all respects, by the provisions of the Louisiana Real Estate Licensing Law (R.S. 37:1431, et seq.) and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

Chapter 51. Out-of-State Broker Cooperation

§5101. Broker Cooperation

A. A Louisiana broker may cooperate with a licensed broker of another state in the sale, lease or management of real property located in Louisiana within the limits provided in the Louisiana Real Estate License Law and Rules and Regulations of the Commission under the following conditions.

1. The sale, lease or management shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the out-of-state broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the out-of-state broker. The out-of-state broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

2. Any monies collected on behalf of others shall be maintained in the Louisiana broker's sales escrow checking account, rental trust checking account or security deposit trust checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, lease or management of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement describing the property involved must be filed for each separate transaction. This agreement must contain verbiage wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate License Law and Rules and Regulations of the Commission in all respects.

4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000).

§5103. Referral Fees

A. A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

§5105. Jurisdiction Over Out-of-State Activities

A. The Commission shall have the power to impose any sanction permitted by this law on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

Chapter 53. Real Estate Schools

§5301. Education Division

A. The Louisiana Real Estate Commission does hereby create the Education Division which shall be responsible for real estate school, instructor, and continuing education

vendor certification. The Education Division shall administer on behalf of the Commission all regulations, laws and other matters pertaining to real estate education programs under the jurisdiction of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

§5303. Approval of Schools

A. The following regulations apply to real estate schools seeking approval to conduct a course of education in real estate subjects for prelicensing requirements as prescribed under R.S. 37:1460.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

§5305. Course Curriculum

A. The Commission shall require certified real estate schools to follow model curriculum guidelines established by the Commission in courses offered for salesperson and broker prelicensing credits.

B. Courses of instruction offered by certified real estate schools shall be designated as follows:

1. Real Estate 101-90 hour course in real estate principles/practices

2. Real Estate 201-90 hour basic fundamentals review for broker applicants;

3. Real Estate 202-30 hour course on Louisiana License Law, Rules and Regulations of the Commission and Louisiana Civil Law;

4. Real Estate 203-30 hour broker responsibilities course.

C. The Commission may approve real estate course work obtained through colleges, universities, nationally recognized institutes or other sources for credit toward the salesperson or broker prelicensing requirement. No waiver will be granted for Real Estate 202 and Real Estate 203 when required as a condition of licensing; however, the Education Division may authorize the substitution of course work obtained from other educational sources if it is determined that such courses are equivalent to the content requirements of Real Estate 202 or Real Estate 203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

§5307. Certificate of Authority

A. No person shall operate a real estate school from which the Commission will accept a certificate of completion in satisfaction of prelicensing requirements unless such person applies for and is granted a certificate of authority in good standing issued by the Commission.

B. No certificate of authority shall be issued or renewed for any school applicant holding a real estate broker license whose school is designed, intended and/or primarily used for instruction of that same broker/owner's future salesperson or broker affiliates.

C. Each applicant for a certificate of authority to operate a real estate school shall comply with the following:

1. file with the Commission a fully completed application on forms prescribed by the Commission and accompanied by appropriate fees as provided in R.S. 37:1443;

2. submit with the application three letters of reference from responsible parties which provide information relating to the applicant's integrity, character, and/or qualifications and experience in real estate or related education;

3. at application, or prior to final approval of the certificate of authority, and for each renewal period thereafter, furnish proof of coverage of a school surety bond as issued by an insurance company authorized to do business in this state, conditioned for the protection of the contractual rights of those real estate students attending said school and in the amount of \$10,000.00.

D. The Commission shall issue a certificate of authority to operate a real estate school upon a determination that the applicant has met all requirements of certification.

E. Certificates of authority issued under this Section shall be valid for a maximum of one year and shall expire on December 31 of each year.

F. Failure to submit a timely application for renewal of a certificate of authority by December 31 may result in an assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an expired certificate of authority will be limited to the six-month period immediately following the expiration date of the certificate of authority. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

G. Real estate schools shall not schedule courses which will extend beyond December 31 unless renewal of the certificate of authority has been applied for and approved by the Commission.

H. All Louisiana state and private colleges and universities where a real estate course is given in a regular curriculum are exempt from filing for this certificate of authority. The Commission reserves the right to require compliance with all requirements of this Section, except for assessment of application fees, from those courses offered through continuing education divisions of colleges and universities.

I. State vocational-technical schools or parish school boards which conduct courses in real estate and receive certification from the Commission shall meet all requirements required of proprietary schools except for application fee requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000).

§5309. School Owners and School Directors

A. Each approved school shall designate a school director who shall be responsible to the Commission for all aspects of operation of the school, to include the specific courses of education to be conducted and submission of reports and other information required or requested by the Commission.

B. School directors shall coordinate school branch locations and disseminate information pertaining to changes

in the license law, rules and regulations, or policies of the Commission to all staff, instructors, and school employees.

C. School owners and school directors shall cooperate with Commission personnel in all matters pertaining to the administration of the school and shall appear and testify under oath at any hearing held by the Commission when requested to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:53 (January 2000).

§5311. Instructor Qualifications

A. Except for guest lecturers, persons instructing at a state certified school must be state certified by the Commission or hold an equivalent certification or designation acceptable to the Commission.

B. Any applicant applying for a state certified real estate instructor certificate shall file an application with the Commission in such form as prescribed by the Commission and accompanied by appropriate fees as prescribed in R.S. 37:1443, provide proof of passing a real estate instructor assessment examination specified by the Commission, and possess at least one of the following qualifications:

1. a bachelor's degree with a major in real estate from an accredited college or university;

2. a bachelor's degree from an accredited college or university and at least two years experience in the real estate business;

3. a real estate broker license and a minimum of five years experience in the area of proposed study;

4. a Juris Doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of the proposed study;

5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university; or

6. any qualifications which in the opinion of the Commission constitute the equivalent of one or any combination of the above mentioned qualifications.

C. An instructor certificate shall be issued only after a determination has been made by the Commission that the applicant has met the requirements of certification.

D. Instructor certificates issued under the provisions of this Section shall be valid for a maximum of one year and shall expire on December 31 of each year.

1. Failure to renew an instructor certificate by December 31 may result in the assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an instructor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

2. Any application for renewal of an instructor certificate must be accompanied by proof of the applicant's successful completion of eight hours of continuing education course work approved by the Commission and completed during the current certification period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:53 (January 2000).

§5313. Guest Lecturers

A. Persons selected by approved schools to instruct as a guest lecturer in an approved prelicensing course shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;
2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;
3. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in prelicensing courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

C. Guest lecturers shall not be used by approved schools as staff instructors. The Commission may require that guest lecturers teaching on a regular basis be required to apply for and obtain certification as a real estate instructor under §5311 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5315. School Facilities

A. Every school shall utilize facilities meeting the following standards.

1. The premises, equipment and facilities of the school shall comply with all local, city, parish and state regulations, such as fire codes, building and sanitation codes.
2. The school shall provide adequate space, seating, equipment, and instructional material to accommodate the number of students enrolled and in attendance.

B. Facilities are subject to inspection by representatives of the Commission prior to approval or subsequent thereto during regular school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5317. School Records

A. Real estate schools shall maintain accurate and properly indexed records on all students for at least a five year period after course completion and shall make those records available for inspection upon request of the Commission or its representatives.

B. Real estate school records shall include, but are not limited to, the following information:

1. complete name and address of each student;
2. total classroom hours and title(s) of courses undertaken by each student;
3. dates of attendance at those courses by each student;
4. test scores or pass/fail indication for each student;
5. copy of student contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5319. Tuition/Fees and Student Contract

A. Each real estate school shall enter into a written contract with each of its students.

B. The tuition and fees charged by the school for a specific course of instruction shall be clearly set forth in each student's contract, and a copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after the contract is signed by both parties.

C. If additional fees are to be charged for supplies, materials or required books, these charges shall be clearly itemized by the school in the student contract, and such supplies, materials or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5321. Course Reporting Requirements

A. Real estate schools shall submit, in a timely manner, information concerning schedules, class locations, attendance reporting affidavits and other related information as required by the Commission. The Commission will provide each school with the necessary forms and instructions for reporting course scheduling and completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5323. Certificates of Completion/ Classroom Hours

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours completed, and shall be signed by the school director or an authorized designee.

B. No certificate of completion shall be accepted from any real estate school that is not in good standing with the Commission on the date of certificate issuance.

C. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations which are considered to be part of the course. Real estate schools shall not give credit to any student for completing more than eight hours of instruction in one calendar day.

D. In compliance with requirements of the Americans with Disabilities Act (ADA), alternative methods of course delivery are permitted to accommodate students with special needs. Such alternative arrangements shall be documented by the school and reported to the Commission prior to the beginning of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000).

§5325. Prohibition Against Recruiting

A. No person shall at any time, while on the premises of a certified real estate school, discuss the sponsorship of any student by any licensee of the Commission. Schools shall display the following statement in classrooms where preclicensing courses are being taught and the school director shall ensure that the instructor of each orientation session read the following statement to the students at the beginning of the session: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on the school premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

B. Unless an exemption has been applied for and granted by the Commission as specified in this Section, an applicant for a real estate license cannot, for a period of one year after successful completion of real estate preclicensing education, be licensed with the sponsoring broker of an owner, instructor, guest lecturer or member of the administrative staff of the real estate preclicensing school attended by said applicant. Applicants for licensing may request a waiver of this regulation provided the following conditions are met.

1. An application for exemption shall be submitted on an affidavit form provided by the Commission and contain a notarized statement from applicant and sponsor attesting to the fact that their decision to affiliate was in no way influenced by said broker's affiliation with a state certified real estate school.

2. Request shall be received and acted upon by the Commission at least ten days prior to the applicant's enrollment in a scheduled preclicensing course of study. Waiver of the ten-day requirement will be granted only upon a determination by the Commission that extenuating circumstances prevented the timely filing of the exemption request.

C. No brokerage firm may operate a real estate school under the same legal entity as the brokerage firm.

D. No real estate school shall be operated in an office that is also utilized for the operation of a brokerage firm. For the purpose of this rule, operation by a real estate school shall mean the conducting or doing business in any manner including, but not limited to, the holding of classes, the instruction of students, the use of telephone lines, the occupying of office space, and the enlistment, solicitation and/or recruitment of potential students or licensees.

E. No real estate school may provide any name or list of names of any potential licensees or students whether potential or enrolled in any real estate school to anyone other than the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

§5327. Change of Address

A. Every certified real estate school, school director and certified real estate instructor shall report any change in the address or phone number of a business or residence to the Commission within 10 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

§5329. School Advertising

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the Commission and shall include the school's certificate of authority number assigned by the Commission.

B. Any advertising which includes price quotes for a course shall accurately reflect total costs including any books and materials required for the course.

C. The Commission may require that a school furnish proof of any of its advertising claims. Retractions of unfounded advertising claims may be ordered by the Commission. Such retractions shall be published in the same manner as the original claim and be paid for by the violator.

D. Real estate school advertising shall not be combined with any advertisement of a real estate brokerage business or vice versa.

E. Certified real estate schools shall not advertise or offer any guarantee to pass the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

§5331. School Inspections

A. Real estate schools certified by the Commission shall be subject to review and periodic audits by official representatives of the Commission. Representatives may observe classroom activities, evaluate course content, instructor proficiency, and/or audit school reporting/attendance records to ensure that courses are being conducted in accordance with the provisions set forth in R.S. 37:1460 and this Chapter. If the school is determined to be deficient in any of these areas, a deficiency report specifying the areas of deficiency and a date by which the deficiencies are to be corrected will be provided to the school by the Commission. Any school receiving a deficiency report shall correct any deficiencies noted by the date designated by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

Chapter 55. Real Estate Post Licensing and Continuing Education Vendors

§5501. Vendor Approval

A. The following regulations apply to entities seeking approval to conduct educational courses to meet real estate post licensing and continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

§5503. Application

A. Any entity desiring to act as an approved real estate post licensing and/or continuing education vendor shall file

an application with the Commission. Each initial application shall be fully completed, notarized and accompanied by the following:

1. a financial statement of the person, partnership, corporation or legal entity which is seeking an approved education vendor certificate;
2. three letters of reference from responsible persons with information relating to applicant's integrity, character, responsibility and/or qualifications and experience in real estate education;
3. appropriate fees as required;
4. name, address and biographical information on each proposed instructor;
5. complete information on each proposed course offering; and
6. any additional information as requested and deemed necessary by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000).

§5505. Bond Requirement

A. Each initial and renewal applicant for an approved post licensing and/or continuing education vendor certificate shall obtain and file with the Commission proof of coverage of a \$5,000.00 surety bond as issued by an insurance company authorized to conduct business in this state. The bond shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of those students attending post licensing and/or continuing education courses of said vendor. In cases where state certified prelicensing real estate schools apply for and obtain a post licensing and/or continuing education vendor certificate, the school's required \$10,000.00 surety bond may be used to satisfy the requirements for prelicensing, post licensing and continuing education bond coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5507. Application Review

A. An initial application shall be reviewed and acted upon no later than thirty days from the date the application is received at the Commission office. If the application is rejected, the applicant may appeal the decision to the Commission. If such an appeal is made, the applicant will be required to appear before the Commission at a regularly scheduled meeting to speak on behalf of and to respond to questions and concerns pertaining to the application. If the application is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5509. Application Approval

A. Upon approval of any initial application for an approved vendor certificate, the Education Division shall assign an approved vendor number to the person, partnership, corporation or legal entity granted approved

vendor status. The approved vendor number shall appear in any advertisements of approved courses by the vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5511. Application Denial

A. When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant, and the conviction, may in and of itself be sufficient grounds for refusal of a certificate.

B. When an applicant has made a false statement of material fact on his application, such false statement may in and of itself be sufficient grounds for refusal of a certificate.

C. Previous revocation of a real estate license held by an applicant shall also be grounds for refusal to grant a certificate.

D. In addition to the grounds for denial of an application specified in A through C of this Section, an application for an approved vendor certificate may be rejected if the applicant fails to qualify in one or more of the following areas:

1. financial stability of applicant;
2. experience and capability of entity requesting approved vendor certificate;
3. experience and capability of proposed instructors;
4. suitability or quality of proposed course offerings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5513. Certificate Renewal

A. Approved vendor certificates shall be granted on a calendar year basis, expiring on December 31 of each year. Failure to submit a timely application for renewal by December 31 shall result in an assessment of a delinquent penalty. The period for delinquent renewal of an approved vendor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be considered as an initial application insofar as fees and filing information are concerned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to the public. Each course acceptable for credit toward fulfillment of the thirty-hour post licensing requirements for salespersons or brokers must be a minimum of four hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

2. Approved continuing education courses which do not require an examination will not be considered toward post licensing requirements.

3. Approved schools and vendors shall not incorporate post licensing instruction and hours with prelicensing and/or continuing education instruction and hours.

B. Continuing Education

1. Approved continuing education courses must be open to the public. Courses accepted for credit toward the continuing education requirement shall consist of a minimum of two hours of instruction and may include, but are not limited to, the following subject areas:

- a. appraisal;
- b. finance;
- c. taxes;
- d. zoning;
- e. Louisiana Real Estate License Law/Commission Rules and Regulations;
- f. environmental quality;
- g. federal laws affecting real estate (includes HUD and fair housing regulations);
- h. property management.

C. Each course registered with the Commission shall expire on December 31 unless updated, submitted for renewal by the approved vendor, and approved for renewal by the Commission. The vendor shall notify the Commission of any changes in course material which may substantially alter a course offering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000).

§5517. Requirements for Submission of Additional Course Approval Requests by Approved Vendors

A. Approved education vendors shall apply for and receive approval for any new courses to be offered by the entity prior to advertising or offering the course to licensees. Each additional course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course including title, course description, length of course, outline, and, for post licensing only, a copy of the course final examination;
3. name, address and resume' of each proposed instructor, if applicable.

B. If a request for additional course approval is rejected, the vendor may appeal the decision to the Commission. No additional review fee will be required for such an appeal. If the request is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:57 (January 2000).

§5519. Post Licensing and Continuing Education Course work by Correspondence

A. Approved education vendors shall apply for and receive approval of correspondence study course(s) prior to any public offering. Passage of an examination is a requirement for all post licensing courses. Passage of an

examination is not a requirement for classroom continuing education courses; however, licensees choosing to complete their continuing education through correspondence or distance learning courses will be required to comply with specific course completion verification procedures applicable to correspondence or distance learning courses. Each correspondence course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course, including title, course description, length of course, outline, and a copy of the required test.

B. Applications for approval of correspondence courses shall comply with the following where applicable.

1. Written correspondence courses
 - a. A workbook consisting of a minimum of 20 typed pages, not smaller than 8 1/2" x 11" in size, per two hours of continuing education correspondence study credit or a workbook consisting of a minimum of 40 typed pages, not smaller than 8 1/2" x 11" in size, per four hours of post licensing education is required. If the course meets only the minimum of pages, the type cannot be larger than 12 point. Minimum standards require that paragraphs may be indented not more than 10 spaces and a maximum of one line of space may appear between paragraphs. Charts and graphs are not to be included in the required minimum page total. The top margin of the page cannot exceed 1 1/2", the bottom margin 1 1/2", and the side margin 1". The Commission reserves the right to approve an offering which marginally meets the minimum page requirement. Such approval will be based on a determination that the time period required to complete the course exceeds the credit hours requested based on the technical nature of the subject matter.

2. Audio/visual correspondence courses
 - a. Video taped material may be submitted for approval as a complete course offering or in conjunction with written correspondence. The applicant shall provide a complete written transcript of any video taped material submitted for approval.

2. Audio only courses shall be formatted in segments consisting of taped lecture of at least two hours for continuing education purposes or at least four hours for post licensing purposes. The applicant shall submit a written transcript of the taped lecture with each request for audio approval.

3. Computer generated correspondence courses
 - a. Computer generated correspondence courses will be considered for approval provided the applicant submits course materials in the exact format to be offered for education credit.

2. The Commission, at its discretion, may request a written transcript of a proposed computer generated course offering prior to a final determination of the suitability of the course for education credit.

4. Other distance learning education
 - a. Distance learning education courses may be considered for approval provided the courses meet the conditions for delivery specified in the standards for distance education established by the Association of Real Estate License Law Officials (ARELLO) and provided the course content is in a real estate subject approved by the

Commission for post licensing or continuing education credit for Louisiana licensees.

C. Every correspondence course for post licensing or continuing education shall require students to complete a written test consisting of a minimum of twenty multiple choice questions with four possible choices (a,b,c and d) for each two hours of continuing education credit or a minimum of forty multiple choice questions with four possible choices (a,b,c and d) for each four hours of post licensing credit. The written assignment or test a student submits for grading shall include the following statement:

I certify that I have personally completed this assignment.

Student's Signature _____ Date _____

D. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

E. No changes will be made to approved correspondence course material without the prior written approval of the Commission.

F. Education vendors shall:

1. have the student's name, social security number, address and payment prior to the student receiving the course;

2. not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached;

3. not grade any test which does not contain the signed certification required by paragraph C, above;

4. certify students as successfully completing a course only if the student completes any required written assignments and pass the required examination on course content;

5. issue certificates containing the following information to students completing education by correspondence:

a. complete name of approved vendor and LREC vendor code;

b. name and social security number of student completing course;

c. specific course title;

d. number of hours of education received;

e. date of course completion;

f. signature of verifier of course completion;

g. indication that student successfully completed examination on course content;

h. correspondence study completion noted with the notation, "correspondence" or "C".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:57 (January 2000).

§5521. Post Licensing and Continuing Education Instructor Qualifications

A. With the exception of guest lecturers, only those persons meeting at least one of the following qualifications will be permitted to instruct approved post licensing and continuing education courses on a regular basis:

1. a state certified real estate instructor holding a current certificate;

2. a college or university professor in real estate, finance, business, economics, or related field;

3. a specialist with a degree or designation and experience teaching the subject(s) of proposed instruction; or

4. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000).

§5523. Prohibition of Recruiting

A. No person shall, at any time, while on the premises or facilities where an approved education course is being taught, discuss the sponsorship of any student by any licensee of the Commission. Approved vendors shall display the following statement in classrooms where continuing education courses are being taught: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on these premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000).

§5525. Course Fees

A. When fees are charged for an approved course offering, vendors shall enter into a signed written agreement with each individual stipulating the cost of the course and the vendor's refund policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000).

§5527. Course Completion Verification and Reporting Requirements

A. Each approved vendor shall provide written verification of attendance to each course participant and shall provide the Commission, on a monthly basis, attendance verification on each participant. Approved vendors may be required to use a standard certificate as specified by the Commission. Verifications shall include, but may not be limited to, the following:

1. complete name of approved vendor and LREC vendor code;

2. name and social security number of participant;

3. specific course title;

4. number of hours completed;

5. date and, if applicable, an indication of successful completion of an examination on course content;

6. signature of verifier of the course completion;

7. when applicable, correspondence study completion noted.

B. Approved vendors shall submit to the Commission monthly schedules of course offerings and attendance verification reports on each completed course. Such schedules shall be submitted to be received by the

Commission at least ten days prior to the beginning of each month. The information is to be submitted on forms provided by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000).

§5529. Record Keeping

A. Approved vendors shall maintain, for five years, attendance records on each person completing an approved course offering. In cases where a participant requires a duplicate of an attendance/verification record, it is the responsibility of the vendor to provide a proof of completion verification to the participant. Reasonable fees, if assessed for duplicate records, are to be determined by the vendor.

B. Approved vendors shall maintain properly indexed information on each approved offering, including all records of attendance/verification reports submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5531. Inspection or Monitoring of Approved Vendors/Courses

A. Commission representatives may audit any approved course offering to determine adequacy of course presentation, content and compliance with post licensing and/or continuing education regulations.

B. Commission representatives may inspect vendor records during regular business hours to determine compliance with record keeping requirements specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5533. Prelicensing Schools Offering Post Licensing and Continuing Education Courses

A. In addition to prelicensing courses, any state certified real estate school may offer post licensing and continuing education courses, provided the school applies for and receives approved continuing education vendor status. No additional initial or renewal fees will be required of the school; however, filing fees for each additional course approval request will be required as provided in R.S. 37:1443.

B. A separate Louisiana Real Estate Commission vendor code will be assigned to the school upon compliance with post licensing and/or continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5535. Advertisement

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the Commission and the LREC vendor code number assigned by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5537. Change of Address

A. Any change in the address or telephone number of the administrative offices of an approved vendor shall be reported to the Commission within ten days of the effective date of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5539. Post Licensing and Continuing Education on an Individual Basis

A. The Commission will consider for credit, on an individual basis, course work completed by licensees through non-approved providers including, but not limited to, colleges and universities, national appraisal organizations, the societies, institutes, and councils of the National Association of REALTORS[®], National Association of Real Estate Brokers, and federal, state and local governmental entities.

B. Licensees seeking approval for course work obtained through non-registered vendors/providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information and, if applicable, verification of successful completion of an examination on course content.

C. The Commission may approve, on a one time basis, courses offered by entities not registered as approved vendors with the Commission. Such approvals may be granted to no more than three specific locations per non-registered vendor and shall be limited to two courses per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5541. Commission Sponsored Seminars/ Continuing Education Only

A. As required by law, each year the Commission will provide annual continuing education courses sufficient to satisfy the mandatory continuing education requirement at no additional cost to the licensee.

B. Funds for the Commission sponsored programs are derived from the Real Estate Research and Education Fund as provided in R.S. 37:1464.

C. Licensees attending Commission sponsored seminars shall comply with all attendance requirements and shall not engage in conduct that is abusive, threatening or in any way degrading the representatives of the Commission who have been assigned to monitor the seminars, or to any other

person present at the seminar. Licensees who engage in such conduct shall be directed to immediately leave the premises and a written report of the incident will be completed and submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000).

§5543. Seminar Instructor Qualifications

A. Instructors teaching Commission sponsored seminars shall qualify in one of the following categories:

1. a state certified real estate instructor's certificate in good standing with the Commission;
2. a college or university professor in real estate, finance, business, economics or related field; or,
3. a specialist with a degree or designation with at least five years experience in the area of proposed course instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5545. Minimum Length of Courses

A. Courses of instruction for continuing education purposes will not be approved by the Commission if the total instruction time is less than two hours. Courses of instruction for post licensing purposes will not be approved by the Commission if the total instruction time is less than four hours. Time devoted to breakfasts, luncheons, dinners or other refreshments shall not be counted as instruction time.

B. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Vendors shall not grant credit to any student for completing more than eight hours of instruction in one calendar day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

Chapter 57. Timeshares

§5701. Requirements for Processing

A. Every applicant for initial registration as a timeshare developer or timeshare salesperson shall submit to the Commission a fully completed application on a form provided by the Commission accompanied by the prescribed fees.

B. Every application for an initial timeshare salesperson registration shall contain the name of the developer for whom the applicant will be working following registration and shall be signed by a designated representative of that developer.

C. Applicants for registration as timeshare developers shall submit the following to the Commission at the time of filing for registration:

1. sample copies of the conveyance and financing forms and, when applicable, copies of the public offering statement and a certified copy of the timeshare declaration;

2. when applicable, an affidavit, signed by the chief executive officer or managing partner of the developer and by any natural person having an ownership interest exceeding ten percent in either the developer or entities which control it, that states under penalty of perjury that the affiant has read the timeshare declaration and all attached documents, and that they are true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5703. Receipt of Application

A. Every application shall be received and approved by the Commission prior to the date the applicant engages in the business of selling timeshare interests within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5705. Bonds

A. At the time of initial application, each applicant for registration as a timeshare developer shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$1,000 dollars per unit week included in the timeshare plan in accordance with R.S. 9:1131.4D.

B. At the time of initial application, each applicant for registration as a timeshare interest salesperson shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$10,000.00 in accordance with R.S. 37:1437.1E.

C. A new bond or a renewal or continuation of the original bond shall be required for each registration period. If a continuous bond is filed, no new or renewal bond is required as long as the continuous bond remains in force and effect.

D. In the event a bond is revoked or canceled by the surety company, the timeshare registration of the named bondholder shall automatically be suspended until such time as a new bond is filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5707. Fees

A. Registration fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5709. Automatic Suspension for Non-Renewal

A. If a developer's timeshare registration is suspended or revoked, no sales of timeshare interests in that project may be conducted by that developer, by any timeshare sales registrant working for that developer, or by any licensed real estate broker or salesperson working with that developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000).

§5711. Terminations

A. A developer who wishes to terminate an association with a sales registrant shall return the registrant's sales registration certificate to the Commission along with a properly executed transfer form as provided by the Commission.

B. A sales registrant who wishes to terminate an association with a developer shall request, in writing, that the developer return that registrant's sales registration certificate to the Commission, and shall sign the appropriate transfer form as proof of the request.

C. A sales registrant may transfer to another developer upon submission of a property executed transfer form signed by both the registrant and a designated representative of the developer. This transfer request shall be accompanied by a new bond and appropriate transfer fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5713. Advertising

A. Any advertising material relating to a timeshare plan or solicitation shall be filed with the Louisiana Real Estate Commission by the developer prior to use. All such advertising shall be in compliance with R.S. 9:1131.12.

B. The developer shall file each prize and gift promotional offer to be used in the sale of timeshare interests with the Commission prior to its use.

C. Prize and promotional offers shall be accompanied by a filing fee in accordance with R.S. 37:1443. Each filing of a prize and gift promotional offer with the Commission shall be in compliance with R.S. 9:1131.13.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5715. Establishment of Escrow Account

A. Where applicable, the developer of each timeshare plan that has timeshare property located in Louisiana, or who maintains a sales office in Louisiana for the sale of timeshare interests, shall establish interest bearing escrow accounts in the developer's name at a financial institution in the parish where the timeshare property or sales office is located, in accordance with R.S. 9:1131.16 and 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5717. Affidavit of Authority

A. Every developer of a timeshare plan shall submit to the Commission notarized affidavits attesting to the existence, location and account number of the developer's escrow accounts. The affidavits shall authorize and empower the Commission or its representatives to examine, inspect, and/or copy the developer's escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5719. Escrow Account Closing

A. Every developer shall notify the Commission of his intention to close an escrow account at least ten days prior to the intended closing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5721. Maintaining an Escrow Account

A. Upon revocation, suspension or lapse of registration, a developer shall nevertheless continue to maintain all escrow accounts until such time as all monies have been disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5723. Change of Address

A. Every registrant shall report in writing any change in business or residence address or telephone number to the Commission within ten days of the change. Such notification shall be by hand delivery or certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5725. Payment to Non-Registrants

A. Timeshare registrants, in accordance with the provisions of R.S. 37:1446.A, shall not offer or pay a fee or any other compensation of any kind to any unregistered person for the purpose of obtaining any timeshare solicitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

§5727. Developer Records

A. Every developer shall retain, for at least five years, readily available and properly indexed copies of all documents which in any way pertain to the sale or solicitation of timeshare interests in which he has acted as a developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000).

Julius C. Willie
Executive Director

001#027

RULE

Board of Elementary and Secondary Education

Bulletin 741~~0~~ Louisiana Handbook for School Administrators and Bulletin 746~~0~~ Louisiana Standards for State Certification of School Personnel~~0~~ Employment of School Superintendents (LAC 28:I.901 and 903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), and an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The amendment to Bulletin 741 adds Standard 1.016.01 which will enable a school district with a K-12 population in excess of 45,000 students (Orleans, East Baton Rouge, Jefferson and Caddo Parishes), through its locally authorized governing board, to select a superintendent who does not hold a valid state issued teaching certificate provided that the district appoints a chief academic officer whose primary and substantial job description consists of governing academics including curriculum and instruction. This chief academic officer must hold a valid teaching certificate, meet all BESE criteria set forth for superintendents, and must be appointed no later than 120 days after the superintendent's appointment. The addition to Bulletin 746 references Bulletin 741 for allowable circumstances for waivers of the above requirements.

**Title 28
EDUCATION**

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

§901. School Approval Standards and Regulations

A. Bulletin 741

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AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:62 (January 2000).

Bulletin 741~~0~~ Louisiana Handbook for School Administrators

1.016.01 In the event that a school district in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not hold a valid state issued teaching certificate, such school district may appoint the candidate provided that:

- a) the district appoint a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;
- b) the chief academic officer possess a valid state issued teaching certificate;
- c) the chief academic officer also meet all criteria required of a superintendent set forth in existing SBESE policy;

d) this shall only effect districts with a K-12 population in excess of 45,000 students;

e) provide that the chief academic officer be appointed no later than 120 days after the appointment of the superintendent candidate.

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§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 26:62 (January 2000).

Bulletin 746~~0~~ Louisiana Standards for State Certification of School Personnel

Addition to Bulletin 746:

Allowable circumstances for waiver of these requirements are addressed in Bulletin 741, Louisiana Handbook for School Administrators.

Weegie Peabody
Executive Director

0001#008

RULE

Board of Elementary and Secondary Education

Bulletin 746~~0~~ Louisiana Standards for State Certification of School Personnel~~0~~ Policy on Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an addition to be added to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds the policy on suspension, revocation, and reinstatement of certificates for persons who have been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense.

**Title 28
EDUCATION**

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

B. - D.3. ...

E.1.a. - e. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:193, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1998), LR 24:1091 (June 1998), LR 26:62 (January 2000).

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever.

II. For the purposes of this policy

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgement of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

F. A teacher may contact the office of the Board of Elementary and Secondary Education and request a hearing prior to the date set for the revocation consideration by the

Board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, set aside, or vacated, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:44, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. For other final convictions rendered 0 to 3 years prior to revocation, reinstatement will not be considered for at least 3 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement

A. An individual may apply to the Board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions/requirements of parole and/or probation (the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc. and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (VIII.A.1 and 2) and below (VIII.C.1 through 6);

3. request a reinstatement hearing.

C. Evidence of rehabilitation shall include but not be limited to:

1. letter of support from a local district attorney;
2. letter of support from a local judge;
3. letter of support from the applicant's parole/probation officer, local police chief, or local sheriff
4. letter of support from a local school superintendent;
5. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);
6. other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

E. If the Board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Note: The Administrative Procedure Act shall be applied where applicable (R.S. 49:950, et seq.).

Weegie Peabody
Executive Director

0001#011

RULE

Board of Elementary and Secondary Education

Bulletin 1566~~6~~ Guidelines for Pupil Progression (LAC 28:XXXIX.307)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education amended Bulletin 1566, Guidelines for Pupil Progression. The amendment changes the approval and submission process of plans to the Department of Education. Plans will no longer be approved by the Department of Education.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566~~6~~ Guidelines for Pupil Progression

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§307. Submission Process

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval (including dates and locations) must be submitted.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:64 (January 2000).

Weegie Peabody
Executive Director

0001#012

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)~~6~~ Eligibility (LAC 28:IV.703 and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) amends rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

Part IV. Student Financial Assistance~~6~~ Higher Education Scholarship and Grant Programs **Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards**

§703. Establishing Eligibility

A. - A.4.g. ...

5.a. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III

1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
1	American History
1	World History, World Culture, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
2	In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. for purposes of satisfying the requirements of §703.a.5.a.i, above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

or

A.5.b. - G.2. ...

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.6.c. ...

d. for purposes of satisfying the core curriculum requirements for a TOPS-Tech award, a student may substitute for a core curriculum course those courses listed as equivalent courses in §703.A.5.a.ii.

A.7. - 11. ...

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 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 26:65 (January 2000).

Jack L. Guinn
Executive Director

0001#020

RULE

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

Tuition Opportunity Program for Students (TOPS) Scholarship and Grant Program (LAC 28:IV.103, 301, 701-705, 803, 805, 903, 907, 1701, and 2101)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby adopts the following.

Title 28

EDUCATION

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

Chapter 1. Scope

§103. Purpose

A. - C. ...

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with Act 1302 of the 1999 Regular Session of the Legislature, SGPM shall be mailed to the President and Superintendent of each City and Parish School Board in the State, the principal of each high school in the state for distribution to all high school counselors at each high school, the Chancellor, Director of Financial Aid, and Business Office of each public postsecondary school in the state, and the Chancellor, Director of Financial Aid, and Business Office at each regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 24:632 (April 1998), LR 24:1897 (October 1998), LR 26:65 (January 2000).

Chapter 3. Definitions

§301. Definitions

* * *

Award Amount an amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance."

* * *

Cumulative High School Grade Point Average the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. Effective for high school graduates in the academic year 2002-2003, the

Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum and recorded on the official transcript reported to the Louisiana Department of Education. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X(\text{Converted Quality Points})}{4.00(\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying, $5X = 12$; $X = 2.40$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

* * *

Eligible Noncitizen an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency. For 1997, 1998, and 1999 high school graduates, an Eligible Noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

Louisiana Resident

a. any independent student or any dependent student with at least one parent or legal guardian who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized

by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

b. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv. above.

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than sixty days after reporting to such station, changes his military personnel records to establish Louisiana as his official home of record, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of a completed residency affidavit and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence, must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within sixty days after the member reported to duty at a duty station in Louisiana.

* * *

Steady Academic Progress the maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale. Students will be required to maintain Steady Academic Progress effective for the beginning of the 1999 Fall Semester.

* * *

Undergraduate Student a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

Weighted Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000).

Chapter 7. Tuition Opportunity Program for Students (TOPS) Performance and Honors Awards

§701. General Provisions

A. - E.4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend.

E.6. - E.9. ...

10. Award Amounts shall be credited to a student's account with the institution and shall be used consistent with the institution's policy, and as directed by the student, to pay for those educational expenses included in the Cost of Attendance.

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999), LR 26:67 (January 2000).

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided;

A.2 - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria, unless the student chooses to receive the TOPS Tech Award. The student will be deemed to have chosen the TOPS Tech Award if that student enrolls in a non-academic program of study pursuing a skill or occupational training at a Louisiana public postsecondary school. Once a student has enrolled in a skill or occupational training program, the student's choice of the TOPS Tech Award will be irrevocable.

E. - G.2. ...

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000).

§705. Maintaining Eligibility

A. - A.7. ...

8. maintain Steady Academic Progress as defined in §301.

A.9. - A.9.b. ...

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. ...

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 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will

be suspended until such time as proof of citizenship is provided;

A.2. - 11. ...

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 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 26:67 (January 2000).

§805. Maintaining Eligibility

A. - A.7. ...

8. maintain Steady Academic Progress as defined in §301.

A.9. ...

B. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility

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 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - 9. ...

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 23:1650 (December 1997), amended LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000).

§907. Maintaining Eligibility

A. - A.3. ...

4. maintain Steady Academic Progress as defined in §301:

A.5. - 9. ...

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 and 4, may be reinstated upon attainment of the required GPA and achieving the GPA

required for Steady Academic Progress, as defined in §301, provided the period of ineligibility did not exceed two years.

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 23:1650 (December 1997), amended LR 24:638 (April 1998), LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:68 (January 2000).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. - A.1. ...

2. Approved Nonpublic High Schools - nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement. The approvals by BESE may be provisional or probational approvals.

A.3. - A.3.d. ...

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), or which high school has been approved by the Southern Association of Colleges and Schools Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

A.4.a.i. - B. ...

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 17: 959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:68 (January 2000).

Chapter 21. Miscellaneous Provisions and Exceptions **§2101. Academic Suspension of Awards and Reinstatement**

A. Students denied an award for their failure to maintain the required cumulative grade point average or for their failure to maintain Steady Academic Progress, as defined in §301, may be reinstated upon attainment of the required cumulative grade point average, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

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 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:646 (April 1998), amended LR 24:1915 (October 1998), LR 26:68 (January 2000).

Jack L. Guinn
Executive Director

0001#015

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) Teacher Award
(LAC 28:IV.901, 909, 911)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby adopts the following.

Title 28

EDUCATION

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

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. ...

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teacher, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as defined by the U.S. Department of Education;

B.2. - C.6. ...

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 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000).

§909. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the U.S. Department of Education, teach one year for every two years of funding received, or repay

the funds received, plus accrued interest and any collection costs incurred.

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 the Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000).

§911. Discharge of Obligation

A. - B.1. ...

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by the U.S. Department of Education, one year of teaching will fulfill two years of funding;

B.3. - D.2. ...

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 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000).

Jack L. Guinn
Executive Director

0001#013

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Chemical Accident Prevention
(LAC 33:III.5901) (AQ196)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5901 (Log #AQ196).

Act 839 of the 1999 Regular Session enacted R.S. 30:2063(K), which exempts storers of liquefied petroleum gas from regulation by the department for purposes of the chemical accident prevention program. This rule will exempt from the chemical accident prevention program, storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of Public Safety and Corrections, and storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process. The basis and rationale for this rule are to reflect this exemption made by Act 839 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.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

* * *

[See Prior Text in A-C.5]

6. In 40 CFR 68.130 the list of substances is modified to read, "Storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of Public Safety and Corrections or storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process are not subject to the provisions of this Chapter."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000).

James H. Brent, Ph.D.
Assistant Secretary

0001#058

RULE

**Office of the Governor
Office of Elderly Affairs**

Area Agencies on Aging Policies
(LAC 4:VII.1121-1143)

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 20, 2000. The purpose of the proposed rule change is to update existing policies governing area agencies on aging (AAAs) in Louisiana. The Federal Older Americans Act of 1965, as amended, (OAA) requires GOEA, as the State agency on aging, to divide the State into planning and service areas (PSAs) and designate an AAA for each. The AAAs receive federal and state funds based upon a formula approved by the U.S. Administration on Aging. OAA funds are awarded to AAAs for the purpose of assisting AAAs to develop or enhance comprehensive and coordinated community based service systems for providing all necessary supportive services, including nutrition services, for persons age 60 and over throughout the planning and service area. Except where a waiver is granted by the State agency, AAAs must award funds for direct services by contract to community services provider agencies and organizations. This rule complies with Public Law 89-73 and R.S. 46:932. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 4
ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1121. Definitions

Administration on Aging (AoA) an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging (AAA) an agency designated by the State agency on aging to develop and administer the area plan for a comprehensive and coordinated system of services for older persons in a planning and service area.

Area Plan the application submitted by an AAA to receive Older Americans Act funds. Older Americans Act funds can be expended only under an area plan that has been approved by the State agency on aging.

Assistive Technology technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

Comprehensive and Coordinated System of Services a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such systems by any public or private agency or organization;
2. develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;
3. use available resources efficiently and with a minimum of duplication; and
4. encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

Contract an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

DHHS the United States Department of Health and Human Services.

Direct Service any activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.

Director the director of the Governor's Office of Elderly Affairs.

Disability except when such term is used in the phrase "severe disability," "developmental disabilities," "physical or mental disability," "physical and mental disabilities," or "physical disabilities," means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

Governor's Office of Elderly Affairs (GOEA) the focal point on aging for the State of Louisiana, also referred to as

the State Unit on Aging (SUA), "State agency on aging," or "State Agency."

Greatest Economic Need the need resulting from an income level at or below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)].

Greatest Social Need the need caused by noneconomic factors, which include:

1. physical and mental disabilities;
2. language barriers; and
3. cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that:
 - a. restricts the ability of an individual to perform normal daily tasks; or
 - b. threatens the capacity of the individual to live independently.

Information and Assistance a service for older individuals that:

1. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;
2. assesses the problems and capacities of the individuals;
3. links the individuals to the opportunities and services that are available; and
4. to the maximum extent practicable, ensures that the individuals receive the services needed, and are aware of the opportunities available, by establishing appropriate follow-up procedures.

Low-Income Minority a person whose income is below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)] and who is designated as African American, Not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; or Asian American/Pacific Islander.

Minority minority older persons are confined to the following designations:

African American, Not of Hispanic Origin a person having origins in any of the black racial groups of Africa.

American Indian or Alaskan Native a person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian American/Pacific Islander a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa and the Hawaiian islands.

Hispanic a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Native Americans American Indians, Alaskan Natives, and Native Hawaiians.

Older Americans Act (42 United States Code Section 3001 et seq.) federal legislation, first passed in 1965, that authorizes grants to states for programs and services for the elderly.

Outreach interventions initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

Planning and Service Area (PSA) a geographic area of the state designated by the State Agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider an entity awarded a subcontract from an area agency to provide services under the area plan.

Severe Disability a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

1. is likely to continue indefinitely; and
2. results in substantial functional limitation in 3 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

State Agency on Aging the single State agency designated to develop and administer the state plan on aging and to be the focal point on aging in the state (also referred to as the "state unit on aging" (SUA) or "State Agency"). The Governor's Office of Elderly Affairs (GOEA) is the State agency for Louisiana.

Subcontract an award of financial assistance by an AAA to a service provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(A).

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 26:70 (January 2000).

§1123. Purpose of the Area Agency on Aging

A. Area Agencies on Aging (AAAs) receive funds from the State agency on aging to plan, develop, coordinate and arrange for services in their respective planning and service areas (PSAs). As advocates, AAAs use Older Americans Act (OAA) funds to leverage state and local resources to expand and improve services. AAA's contract with public or private groups to provide services paid for using OAA funds. In some cases, the AAA may act as the service provider.

B. The AAA shall be the leader relative to all aging issues on behalf of all older persons in the PSA. This means the AAA shall carry out a wide range of functions related to advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation, designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the PSA. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

C. A comprehensive and coordinated community based system described in §1123.B shall:

1. have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;
2. provide a range of options;
3. assure that these options are readily accessible to all older persons - the independent, semi-dependent and totally dependent - no matter what their income;
4. include a commitment of public, private, voluntary and personal resources committed to supporting the system;

5. involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;
6. offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;
7. provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;
8. evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;
9. have a unique character which is tailored to the specific nature of the community; and
10. be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change and plan community resources for the present and for the future.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 302(l).

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 26:71 (January 2000).

§1125. Area Agency on Aging Standards

A. Planning

1. The Area Agency on Aging (AAA) shall determine its objectives systematically after making a finding of need and determination of priorities within the PSA.
2. The AAA shall establish a mechanism to ensure that objectives are monitored and accomplished as set forth in the area plan.
3. Area agencies shall install a workable system for ongoing data collection in the PSA.
4. Area agencies shall implement a workable system for determining the needs of older persons within the PSA.
5. Area agencies shall establish a mechanism for determining and analyzing on an ongoing basis the existing services and resources available in the PSA to meet the needs of older persons and the extent to which such resources meet identified needs.

B. Leadership/Advocacy

1. The AAA shall act as the focal point in the PSA for activities which promote comprehensive and coordinated services for older persons.
2. The AAA shall operate a public information program in the PSA focusing on needs and concerns of seniors in the PSA.

C. Pooling/Coordination

1. The AAA shall establish linkages with public and private agencies in the PSA for the purpose of fostering comprehensive and coordinated services to older persons.
2. The AAA shall effect joint program agreements with other agencies in the PSA.
3. The AAA shall identify and tap potential resources to be directed toward inaugurating, expanding or improving services to older persons.

D. Monitoring, Assessment and Provision of Technical Assistance

1. The AAA shall develop and employ a mechanism for regularly monitoring subcontracts under the area plan.

2. The AAA shall develop and implement systematic procedures for regular assessments of subcontracts under the area plan.

3. The AAA shall develop and implement a plan for providing technical assistance to subcontractors under the area plan and to other organizations in the PSA concerned with the needs of older persons.

E. Contracts Management

1. The AAA shall develop and issue standardized application kits and procedures for applications for funds under the Area Plan.

2. The AAA shall develop standardized procedures and criteria for review of applications for funds under the Area Plan.

3. Selection criteria and procedures for the award of subcontracts shall be published and disseminated to agencies applying for Title III funds.

4. The AAA shall maintain on file selection criteria and procedures used for the award of subcontracts.

5. The AAA shall consult with the advisory council before awarding subcontracts.

6. Where the AAA encounters delays in the review of proposals, applicants shall be notified.

7. The AAA shall establish and disseminate appeals procedures for subcontract proposals which are denied approval.

8. The AAA shall maintain documentation supporting all of its subcontracts.

9. Notifications of approval and disapproval of proposals shall be issued in writing and on a timely basis.

10. The AAA shall develop and implement procedures for amendments to subcontract awards.

11. Proposals of subcontractors which receive funds shall contain clearly defined objectives that are in keeping with those included in the approved area plan.

12. Subcontracts awarded shall define the relationship between the AAA and the subcontractor.

13. The AAA shall establish written procedures governing the management and operation of subcontracts which are in keeping with Federal and state laws, regulations, policies and procedures. The procedures shall be communicated to agencies conducting subcontracts under the area plan.

14. Agencies conducting subcontracts under the area plan shall meet the requirements for licensure, if required.

15. Where there are multi-lingual/cultural older persons in the PSA, the AAA shall assure that the staff of subcontractors include multi-lingual/cultural personnel.

16. The AAA shall obtain documented assurance that information about consumers of services is maintained confidentially by subcontractors.

17. The AAA shall obtain documented assurance that subcontractors coordinate their services with the existing information and assistance services.

18. The AAA shall require subcontractors to provide evidence that services are accessible to older persons.

F. Fiscal Management

1. The AAA shall establish and implement fiscal management procedures to assure effective operation of the AAA programs.

2. The AAA shall establish and implement a system to monitor financial expenditures of subcontracts under the area plan.

3. The AAA shall maintain an accounting system which is in keeping with sound accounting procedures.

4. The AAA procurement practices shall be in keeping with Federal, state and local practices.

5. Expenditures made under the area plan shall be in keeping with pertinent Federal, State and local policies.

6. AAA program and financial records shall be maintained in conformance with Federal and state regulations for reporting.

7. The AAA shall follow established property management policies and procedures.

8. The AAA shall have an internal audit plan which is in keeping with generally accepted auditing practices and Federal and state regulations.

G. Establishing or Maintaining Information and Assistance Services. The AAA shall establish or maintain information and assistance services in sufficient numbers to assure that all older persons in the PSA have reasonably convenient access to such services.

H. Outreach

1. The AAA will use outreach efforts that will:

a. identify individuals eligible for assistance under this Act, with special emphasis on:

i. older individuals residing in rural areas;

ii. older individuals with greatest economic need (with particular attention to low-income minority individuals);

iii. older individuals with greatest social need (with particular attention to low-income minority individuals);

iv. older individuals with severe disabilities;

v. older individuals with limited English-speaking ability; and

vi. older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

b. inform the older individuals referred to in §1125.H.1.a.i-v, and the caretakers of such individuals, of the availability of such assistance.

2. The AAA shall conduct an annual evaluation of the effectiveness of outreach conducted under §1125.H.1.

3. If there is a significant population of older Native Americans in the PSA of the area agency (at least 25 per parish), the AAA shall conduct outreach activities to identify elder Native Americans in such area and shall inform such older Native Americans of the availability of assistance under the Older Americans Act.

I. Staff Development

1. The AAA shall establish and implement a plan which provides for in-service training for all staff.

2. The AAA shall establish and implement a plan which provides that the staff of the subcontractors under the area plan receive training.

J. Civil Rights. The AAA shall develop and implement a system to ensure that benefits under the Area Plan are provided in a non-discriminatory manner as required under Title VI of the Civil Rights Act of 1964.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(1).

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 26:71 (January 2000).

§1127. Area Agency on Aging Responsibilities

A. Advocacy Responsibilities:

1. to monitor, evaluate, and comment upon all policies, programs, hearings, and community actions which affect older persons;

2. to solicit comments from the public on the needs of older persons;

3. to represent the interests of older persons to public officials, and public and private agencies or organizations;

4. to consult with and support the State's long term care ombudsman program;

5. to coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons;

6. to supply service providers under the area plan with copies of interagency agreements relative to services provided;

7. to facilitate the coordination of community-based, long term care services designed to retain individuals in their homes, and designed to emphasize the development of client-centered case management systems as a component of such services;

8. to identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

9. to ensure that case management is provided in a consistent manner throughout the PSA.

B. General Planning and Management Responsibilities:

1. to develop and administer an area plan for a comprehensive and coordinated service delivery system in the PSA, in compliance with all applicable laws and regulations;

2. to assess the kinds and levels of services needed by older persons in the PSA, and the effectiveness of the use of resources in meeting these needs;

3. to enter into contracts to provide all services funded under the plan, except as provided in Section 307(a)(10) of the Older Americans Act;

4. to provide technical assistance, monitor and evaluate the performance of all service providers under the plan;

5. to coordinate the administration of its plan with the federal programs specified in Section 203(b) of the Older Americans Act, and with other federal, state, and local resources in order to develop the comprehensive and coordinated service system required by Section 306(a)(1) of the Older American's Act;

6. to conduct periodic evaluations of activities carried out under the area plan;

7. to establish an advisory council as required by Section 306(a)(6)(F) of the Older Americans Act to advise continuously the AAA on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;

8. to give preference in the delivery of services under the area plan to older persons with the greatest economic and/or social need, as defined in Section 305(d)(2) of the Older Americans Act, with particular attention to low-income minority individuals;

9. to assure that older persons in the planning and service area have access to information and referral services;

10. to provide adequate and effective opportunities for older persons to express their views to the area agency on policy development and program implementation under the plan;

11. to identify older persons and inform them of the availability of services under the plan. These outreach efforts should have special emphasis on the rural elderly and the isolated urban elderly, and on those with greatest economic and/or social need;

12. to seek to involve the private bar in legal assistance activities;

13. to designate, where feasible, community focal points as provided in Section 306(a)(3) of the Older Americans Act;

14. to plan appropriate programs to meet identified needs of the elderly in the PSA. This includes:

a. determining which services will be funded and at what level;

b. identifying client target groups which will receive priority, in general and for specific services;

c. setting standards for service delivery;

d. developing a case management system to be used by service providers; and

15. to develop and maintain on file for review:

a. standards for use in the delivery of services;

b. a description of the interrelation among service providers funded by the AAA; and

c. methods for selecting persons with the greatest social and economic need to receive services;

16. to provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M.

C. Eldercare/Case Management

1. AAAs may provide eldercare, as specified in LAC 4:VII.1241.

2. AAAs may provide one or more component of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and 45 CFR 1321.61(a)(4).

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 17:600 (June 1991), LR 18:1376 (December 1992), LR 26:72 (January 2000).

§1129. Area Agency on Aging Governing Body

A. Authority and Responsibilities

1. A governing body shall be responsible for all AAA activities, including the expenditure of funds awarded by GOEA.

2. The AAA governing body has the authority to:

a. appoint the director of the AAA;

b. determine personnel, organization, fiscal and program procedures subject to GOEA policies;

c. determine overall program plans and priorities for the AAA, including provisions for evaluating performance;

d. grant final approval on program proposals and budgets of service providers under the area plan;

e. assure compliance by all subcontractors with all rules, regulations, and GOEA policies;

f. supervise the extent and the quality of the participation of the elderly in the programs of the AAA and its subcontractors; and

g. determine the rules and procedures of the governing body subject to GOEA policies.

3. The governing body is responsible for securing financial resources beyond those allocated by GOEA.

4. Members of the governing body shall avoid conflicts between their personal interests and the interests of the AAA.

a. Conflicts of interest include situations wherein a member of the governing body:

i. is involved in a AAA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or

ii. discloses information relating to the business of the AAA which can be used by another entity to the detriment of the AAA.

b. Immediate family is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

c. Other entities include any organization or individual which does business or seeks to do business with the AAA or competes with the AAA.

4. If a member of the AAA governing body is aware of any personal interest related to an issue that exists or is under consideration by the AAA, the individual shall immediately and prior to the discussion about or action on the issue:

a. disclose the existence of all personal interests; and

b. abstain from voting and/or attempting to influence the decision.

B. Composition

1. Former AAA board members shall not be employed as paid agency staff of the same area agency for a period of two (2) years immediately following separation from the governing body.

2. Former AAA staff members shall not serve on the governing body of directors of the same area agency for a period of two (2) years immediately following separation from employment, except where the governing body is composed of elected public officials (e.g., parish council or police jury).

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(c)(4), Section 307(a)(11) and R.S. 43:1119.

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 17:600 (June 1991), LR 26:74 (January 2000).

§1131. Area Agency on Aging Advisory Council

A. Functions of the Advisory Council

1. The advisory council shall carry out advisory functions which further the AAA's mission of developing

and coordinating community-based systems of services for all older persons in the PSA.

2. The advisory council shall advise the AAA relative to:

- a. developing and administering the area plan;
- b. conducting public hearings;
- c. representing the interests of older persons; and
- d. reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

3. The advisory council shall follow operational procedures established by the AAA governing body.

B. Composition of the Area Agency Advisory Council

1. The advisory council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the AAA in developing community-based systems of services.

2. The advisory council shall be made up of:

- a. more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in Older Americans Act Title III programs;
- b. representatives of older persons;
- c. representatives of health care provider organizations, including providers of veterans' health care (if appropriate);
- d. representatives of supportive services providers organizations;
- e. persons with leadership experience in the private and voluntary sectors;
- f. local elected officials; and
- g. the general public.

3. Members of the AAA governing body shall not serve on the advisory council.

C. Review by Advisory Council. The AAA shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Sec. 306 (a)(6)(F) and 45 CFR 1321.57.

HISTORICAL NOTE: Promulgated by the Office of the Governor's Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:599 (June 1991), LR 26:74 (January 2000).

§1133. Area Plan

A. Purpose of the Area Plan. The area plan is the application submitted by an area agency to the State Agency in order to receive funds. The area plan contains provisions required by the Older Americans Act and its implementing regulations and the Governor's Office of Elderly Affairs. It includes commitments that the area agency will administer activities so funded in accordance with all requirements. The area plan also contains a detailed statement of the manner in which the area agency is developing a comprehensive and coordinated system throughout the planning and service area for all allowable services. An area agency may receive contracts and enter into subcontracts under the Older Americans Act only under an approved area plan.

B. Duration and Format of the Area Plan. The AAA must submit to GOEA an area plan for its PSA for a two, three, or four year period with such annual adjustments as may be necessary. The area plan shall be based upon a uniform format developed by GOEA for area plans within the state.

C. Content of the Area Plan

1. The area plan will specify:

- a. conditions of older persons in the PSA;
- b. current system of service delivery based on the most recently available data;
- c. an assessment of current capacity in the PSA to perform service systems development activities;
- d. the organization of the AAA;
- e. composition and functions of the AAA advisory council;
- f. goals and objectives for the conduct of the AAA functions described in this Section, and for the development and delivery of services for the aging. Service delivery objectives shall include, for each service, the projected numbers of persons to be served and standard units of service to be provided;
- g. financial plan, showing projected expenditures by source (federal, state, and local) and service;
- h. standard assurances for complying with applicable laws, regulations, and other directives; and
- i. The AAA's approach to, plans for, and/or current involvement in eldercare, as defined in LAC 4:VII.1241.

2. Whenever the AAA plans to provide eldercare and/or to provide case management for a private entity, the area plan, or its amendment, shall include the provisions specified in LAC 4:VII.1241.D.

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations that have a proven record of providing services to older individuals), that:

- a. were officially designated as community action agencies or community action programs under Subsection 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or
- b. came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and
- c. meet the requirements under Subsection 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3)).

D. Development and Amendment of the Area Plan

1. Area plans shall be developed for a two, three, or four year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually and as available allotments change. The format of the area plan and instructions for its completion shall be prescribed by the Governor's Office of Elderly Affairs and issued separately.

2. Prior to the adoption of the content areas described in §1133.C of this Manual, the area agency must conduct public hearings in accordance with a schedule established by the advisory council. The area agency must give at least fourteen days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The area agency shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the area plan.

3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.

4. In accordance with the state public meetings law, LA R.S. 42:4.1 et seq., the area agency, in holding public hearings, must give at least fourteen days' notice to older persons in each parish, including the advisory council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The area agency must submit the area plan and amendments for review and comment to the advisory council.

E. Review and Approval of the Area Plan and Amendments

1. The completed area plan will be submitted to GOEA for review and approval by a date specified by GOEA. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by GOEA.

2. The area plan must be amended if:

a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;

b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;

c. the AAA proposes to add, substantially modify, or delete any area plan objective(s); or

d. GOEA specifies additional circumstances under which area plan amendments are required.

3. Amendments must be documented on those area plan exhibits affected by the change and submitted to the State Agency with a written rationale. Such proposed changes may not be executed until approved by GOEA.

4. The State Agency shall approve an area plan which meets the requirements of this manual and the area plan format and guidelines issued.

5. A plan which is disapproved by the State Agency shall be returned to the AAA along with a written reason for disapproval. At its discretion, the State Agency may request that specific changes be made before resubmittal.

6. The AAA may appeal disapproval of its area plan or amendment in accordance with GOEA hearings and appeals procedures.

F. Management Plan. As part of a management plan the AAA will develop a work plan for attaining the objectives outlined in the area plan. The work plan shall be kept on file for review at the AAA office.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

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 17:57 (January 1991), LR 18: 1376 (December 1992), LR 26:75 (January 2000).

§1135. Program Administration

A. Contract Development. The area agency is responsible for the translation of program designs into service delivery project proposals to be developed and carried out by service providers. In carrying out its service procurement responsibilities, the area agency shall adhere to Governor's Office of Elderly Affairs procurement procedures issued annually.

B. Capacity Building, Training and Technical Assistance. The area agency is responsible for the provision of consultation, training, and support to staff of service providers and other organizations to strengthen their administrative and service delivery capability.

C. Monitoring and Assessment of Service Providers

1. The area agency on aging shall monitor and assess all funded services provided under the area plan. Monitoring and assessment of service providers shall be conducted with documentation maintained on file at the area agency on aging office. Self-assessments shall be conducted where direct delivery has been authorized by the Governor's Office of Elderly Affairs. The purpose of these activities is to measure service delivery efficiency and effectiveness and to assure compliance with contractual agreements. Suggested corrective action outlined in the monitoring report shall be used as a tool for program planning and improvement. Personnel qualifications and staff utilization will be reviewed as part of this monitoring process.

2. Monitoring activities carried out by the area agency will be directed toward:

a. identifying performance problems as a basis for determining provider need for technical assistance and training;

b. measuring the provider's progress toward providing those services specified in the proposal, and placing an emphasis on older persons with the greatest social and economic need;

c. assuring compliance with applicable federal, state, and local law, regulations and other requirements; and

d. assuring cost-effective use of available resources for the elderly.

D. Program Evaluation. The area agency is responsible for evaluating programs for the aging, both those provided under the area plan and those offered by other organizations.

E. Contributions for Services Under the Area Plan

1. The area agency shall assure that agencies providing supportive and nutrition services under the area plan shall afford participants the opportunity to contribute to the costs of the services provided. The participants shall determine for themselves what they are able to contribute toward the cost of the service. No eligible person shall be denied a supportive or nutrition service because of his failure to contribute.

2. The area agency shall ensure that the methods of receiving contributions from individuals by the agencies providing supportive or nutrition services under the area plan shall be handled in such a manner as to insure confidentiality.

3. The area agency shall assure that all contributions will be used to expand the services of the provider, and that nutrition services providers must use all contributions to increase the number of meals served, and/or to facilitate access to such meals. Providers of supportive services must use all contributions to increase supportive services.

F. Confidentiality and Disclosure of Information. The area agency shall ensure that information about or obtained from an older person, in a form which identifies the person, shall not be disclosed without the individual's informed, written consent or that of his authorized representative.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and Section 307(a)(13)(C).

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 26:76 (January 2000).

§1137. Services to Special Populations

A. Low-Income Minority Individuals

1. The AAA shall include in each agreement made with a provider of any service under this title, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

2. The AAA shall set specific objectives for providing services to older individuals with greatest economic or social needs, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan.

3. The AAA shall include in each agreement made with a provider of any service under Title III of the Older Americans Act, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

4. The AAA will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals.

B. Native Americans. The AAA will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III of the Older Americans Act, if applicable.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

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 26:77 (January 2000).

§1137. Repealed

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

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 26:77 (January 2000).

§1139. State Agency Approval of Area Agency on Aging Contracts

The AAA must submit all proposed subcontracts with profit making organizations under the area plan to the State Agency for prior approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 212 and 45 CFR 1321.55.

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 26:77 (January 2000).

§1141. Priority Services

A. General Rules

1. The AAA must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:

a. services associated with access to services (transportation, outreach, information and assistance, and case management services): thirty percent;

b. in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction): fifteen percent; and

c. legal assistance: 5 percent.

2. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

3. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that the minimum percentage of its supportive services funds are allocated to the remaining priority services categories.

B. Waiver Requirements

1. Before an AAA requests a waiver under §1141A.2 of this manual, the AAA shall conduct a timely public hearing in accordance with the provisions of this Paragraph. The AAA requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

2. The AAA shall prepare a record of the public hearing conducted pursuant to §1141.B.1 of this manual and shall furnish the record of the public hearing with the request for a waiver made to GOEA under §1141.A.2 of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b)(2), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), LR 26:77 (January 2000).

§1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. AAAs use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved area plans except as provided in §1143.B of this manual.

2. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.

3. AAAs shall follow the service procurement guidance issued by GOEA.

4. GOEA shall evaluate AAA applications to provide direct services in order to determine whether direct delivery of such service(s) by an AAA using its own employees is necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the AAA.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, GOEA shall review the documentation required in the service

procurement guidance, including, but not limited to, standards, specifications, solicitations for proposals (SFPs) and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an AAA.

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver services determined by GOEA to be directly related to area agency on aging administrative functions. GOEA has defined these services as: Case Management, Information and Assistance, and Outreach.

2. For services not directly related to area agency on aging administrative functions, GOEA, after exploring alternatives, may authorize direct service delivery if the AAA:

a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or

b. demonstrates that it can provide service(s) of comparable quality more economically than other providers.

3. GOEA's decision concerning AAA requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that service(s) are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has: 1) advertised the availability of funds; and 2) written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require an AAA to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least ten percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in §1143.F of this manual in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least ten percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds budgeted for the service divided by the number of units of service to be delivered.

c. In applying the More Economic Test, GOEA shall utilize the criteria used by the AAA in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedures

1. For services where direct delivery authorization is not requested the AAA governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. evaluate proposals received; and

c. award procurement contract(s) or financial assistance under contract to best applicant(s).

2. For each service the AAA desires to provide directly, the AAA governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. conduct a preliminary evaluation of all proposals received; and

c. provide sufficient documentation to GOEA to enable the State Agency to make a determination of the necessity of direct service delivery by the AAA.

E. Service Delivery Standards

1. A person qualified by training and experience shall be designated to be responsible for the conduct of activities, including supervision of paraprofessional and volunteer staff.

2. There shall be adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

3. The service shall be provided in a timely manner to meet the individual needs of eligible participants.

4. There shall be an established system for follow-up on referrals.

5. There shall be an up-to-date file of community resources which will contribute to the well being of older persons.

6. Procedures shall be established for publicizing the service.

7. Linkages shall be planned with other services available under Title III Section 203 of the Older Americans Act.

8. There shall be a sound management system capable of furnishing timely and accurate fiscal and program reports.

9. There shall be a sufficient schedule of service delivery days. (minimum: 250 service delivery days per contract year)

10. Outreach shall be available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Native Americans [if there is a significant Native American population (at least 25 per parish) in the PSA], and rural elderly.

11. There shall be service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

12. There shall be a system established for the re-evaluation of clients receiving services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), amended LR 18:610 (June 1992), LR 26:77 (January 2000).

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

0001#063

RULE

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision
(LAC 4:VII.1271-1275)

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 20, 2000. The purpose of the proposed rule change is to update existing policies governing hearing procedures for: service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed; persons filing a formal grievance with the Office of the State Ombudsman pursuant to LAC 4:VII.1229.L.3.b; any ombudsman against whom a grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman; and any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1. This rule complies with R.S. 46:932 and R.S. 40:2802.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1271. Hearing Procedures for Service Providers and Applicants

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.

2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refuses the basis of the action. The notice must include:

- a. a copy of the AAA's action letter;
- b. the dates of all relevant actions;

c. the names of individuals and organizations involved in the action appealed;

d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and

e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and

f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:

a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;

b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;

c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;

d. the criteria used in awarding the contract involved in the hearing; and

e. the petitioner's application for the contract involved in the hearing.

2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under Subsection 1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least ten working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in Subsection 1267.F.

3. The rules of evidence described in Subsection 1267.G shall apply to an evidentiary hearing under this Section.

4. The hearing examiner shall make a record of the evidentiary hearing in accordance with Subsection 1267.M.

5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.

2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The

director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.

3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 26:79 (January 2000).

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to Section 1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any laws or regulations believed to have been violated; and
- d. all grounds upon which petitioner refutes the State Ombudsman's decision.

C. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

- a. a statement of time, date, exact physical location (to include street address and city), and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved;
- d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and
- e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the State Ombudsman or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:

- a. all information relevant to the complaint;
- b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and
- c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under State law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Louisiana Administrative Procedure Act.

G. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.

I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.

J. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

L. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 (a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:265 (March 1992), amended LR 26:80 (January 2000).

§1275. Hearing Procedures for Persons Filing Appeals in the Long Term Care Assistance Program

A. Right to a Hearing. The Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following applicant's receipt of the written notification of adverse decision from the agency.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the agency's decision is appealed. The request must include:

a. the basis upon which petitioner refutes the agency's decision (i.e., additional information or administrative error); and

b. a specific statement of the suspected administrative error; and/or

c. additional information which the agency should consider in rendering a decision, including, but not limited to the following:

i. dates of all relevant actions; and

ii. the names of individuals, agencies or organizations who may be able to substantiate the petitioner's claim.

C. Administrative Review of Adverse Decision

1. Upon receipt of a request for a hearing pursuant to Subsection 1275.B, the administrator of the Long Term Care Assistance program (the program) shall investigate the allegation stated in the request; consider the additional information provided by the petitioner; and issue a written decision within 30 days.

2. The written decision shall inform the petitioner of the findings of the investigation, the actions to be taken, if any, as a result of the investigation, and the provisions for appealing the decision to the director .

3. If the administrator of the program fails to respond or to act upon an appeal within 30 days, or if dissatisfied with the results of the Administrative Review, the petitioner may refer the request for a hearing to the director.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

a. a statement of time, date, location, and nature of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular section of statutes, regulations, and rules involved;

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and

e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the administrator of the program or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision.

F. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type

commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq., the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (A)(5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1275 shall be as provided in Subsection 1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1275 shall be as provided in Subsection 1267.K.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

L. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November, 1992), amended LR 26:81 (January 2000).

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

0001#059

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 finds 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.

B.3. - F. ...

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 25:1627 (September 1999), repromulgated LR 26:82 (January 2000).

Kemp Wright
Executive Director

0001#044

RULE

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

**Continuing Education Submission Fees
(LAC 46:XLVII.3335)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the fee increases of the board. The amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3335. Continuing Education/Nursing Practice

A. - G.10.b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

11.a. - b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

H. - H.2.a. ...

b. Fees payable upon submission of an application for review of an offering are: \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status for one year.

J.1. - 4. ...

5. Fees payable upon submission of a refresher course for approval are \$400 with \$100 being non-refundable.

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

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

of Nursing, LR 24:1293 (July 1998), amended LR 25:514 (March 1999), LR 26:83 (January 2000).

Barbara L. Morvant, R.N., M.N.
Executive Director

0001#043

RULE

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

**Fees for Education Services
(LAC 46:XLVII.3505)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the alternative to disciplinary proceedings of the board. The amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3505. Approval

A. ...

B. Notwithstanding any other provisions of this Chapter, the board shall collect in advance fees for education services as follows:

- 1. School Approval Site-Visit \$500.00/site visit
- 2. Out of State Clinical Approval \$250.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated LR 24:1293 (July 1998), amended LR 26:83 (January 2000).

Barbara L. Morvant, R.N., M.N.
Executive Director

0001#045

RULE

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

**Registration and Licensure Fees
(LAC 46:XLVII.3341)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has

amended the Professional and Occupational Standards pertaining to a fee increase of the board. The proposed amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3341. Fees for Registration and Licensure

A. Notwithstanding any other provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows:

1. Licensure
 - a. Examination Application \$ 80.00
 - b. Endorsement Application \$100.00
 - c. RN Renewal Fee \$45.00
 - d. RN Late Renewal Fee \$90.00
 - e. Retired License Fee (one time fee) \$45.00
 - f. RN Reinstatement from Inactive or Retired Status \$45.00
 - g. RN Reinstatement from Delinquent Status \$90.00
 - h. Initial APRN Licensure Application \$100.00
 - i. APRN Endorsement Application \$100.00
 - j. APRN Renewal Fee \$50.00
 - k. APRN Late Renewal Fee \$100.00
 - l. APRN Reinstatement from Inactive Status \$50.00
 - m. APRN Reinstatement from Delinquent Status \$100.00
 - n. APRN Prescriptive Authority Application \$100.00
 - o. APRN Prescriptive Authority Site Change \$25.00
 - p. Reinstatement of Prescriptive Authority Privileges \$ 50.00
 - q. Verification of Licensure \$ 25.00
 - r. Duplicate Application \$ 10.00
 - s. Duplicate License \$ 10.00
2. Miscellaneous
 - a. Consultation \$100.00 /hour
 - b. Photocopies \$.50/page
 - c. Certified Documents \$1.00/page
 - d. Listing of Registered Nurses/Advanced Practice Registered Nurses \$10.00 programming fee plus costs as follows:
 - .02/per name on disk
 - .04/per name on cheshire labels
 - .06/per name on press-on labels

e. Special Programming Request Actual Costs (minimum \$100.00)/per program

B. ...

1. The board shall collect a \$25 fee for returned checks for any of the fees discussed in §3341.A.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 26:84 (January 2000).

Barbara L. Morvant, R.N., M.N.
Executive Director

0001#036

RULE

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

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

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 8. Registered Veterinary Technicians

§809. Fees

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 26:84 (January 2000).

§811. Certificate Renewal; Late Charge

A. - B. ...

C. Any application for renewal of a certificate of approval and/or any payment of the annual renewal of certificate fee which is postmarked after September 30 of

each year shall be subject to all accrued fees and an additional late fee of \$20 per fiscal year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 26:84 (January 2000).

Kimberly B. Barbier
Administrative Director

0001#028

RULE

Department of Health and Hospitals Office of Public Health

Lead Poisoning Prevention Program

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299.22 and 40:1299.23, the Department of Health and Hospitals, Office of Public Health has amended regulations pertaining to Parish Lead Poisoning Prevention and Treatment Programs as published in the *Louisiana Register* of February 20, 1989.

The proposed rule establishes the relationship between the local and state Lead Poisoning Prevention Programs, redefines the blood lead level of a lead case, and specifies method of reporting. This rule also specifies reporting requirements for laboratories responsible for conducting analysis of blood lead levels on children in Louisiana between the ages of 6 to 72 months of age, inclusive.

A. Relationship of Local and State Lead Poisoning Prevention Programs

The local lead prevention program shall collaborate with the state Lead Prevention Program at the Office of Public Health and adhere to current Centers for Disease Control and Prevention guidelines.

B. Definitions

1. *A Case of Lead Poisoning* in children between the ages of six months of age is defined as:

- a. a venous blood-lead level greater than or equal to 15 Mg/dl (micrograms per deciliter);
- b. acute symptomatic illness consisting of lead colic with or without lead encephalopathy; or
- c. chronic symptomatic illness consisting of the signs and symptomatic illness consisting of the signs and symptoms of chronic plumbism, including, but not limited to anemia, nephropathy, neuropathy, loss of developmental skills, recurrent lead colic and/or recurrent lead encephalopathy.

2. *Previously Reported* is defined as any case of lead poisoning which has been diagnosed by a medical provider, and reported to the Office of Public Health as specified in Subpart C of this rule.

3. *Hazardous Lead Environment* is defined as any lead based substance that exists in or about a dwelling, dwelling unit, household, school or day care facility or institutions in which children or other persons commonly reside or visit; and said lead based substance is determined to be on any surface, exposed surface, chewable surface and contains 0.5

percent less of the total weight or more than six hundredths of one percent (0.06%) lead by weight of nonvolatile content or in excess of seventh-tenth milligrams per square centimeter (0.7 mg/cm²) of surface when tested by a radioisotope x-ray fluorescent analyzer or any other equivalent method; or said lead based substance contains less lead than stipulated in this definition (see Section 4:001 of the Louisiana Sanitary Code also), but has been demonstrated to be a source of lead poisoning in any person, especially a child under six (6) years of age.

4. *Clinical Laboratory* is a facility for the biological, microbiological, Serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human being.

C. Mandatory Case Reporting by Health Care Providers

1. Medical providers must report a lead case to the Lead Poisoning Prevention Program, Office of Public Health within 48 hours to ensure appropriate and timely follow-up. All health care providers shall assure that all the following information is completed for all blood lead analysis ordered by the health care provider and that this information accompanies the sample to the testing laboratory:

- a. child's name;
- b. parent's or the guardian's name;
- c. child's street and mailing address, including the city, state, parish, and zip code;
- d. child's date of birth;
- e. child's sex;
- f. child's race;
- g. child's national origin;
- h. child's Social Security Number;
- i. phone number where the child can be reached;
- j. Medicaid number, if any;
- k. type of sample (Venous or Capillary);
- l. sample date;
- m. type of test: first, annual, or repeat test;
- n. blood lead level results in micrograms per deciliter (Mg/dl).

2. Lead cases along with the specified information can be reported either by fax at (504) 599-1376 or by telephone at (504) 599-0256, and followed up by the mailing of the information to the Louisiana Childhood Lead Poisoning Prevention Program, Office of Public Health, Room 311, 325 Loyola Avenue, New Orleans, LA. 70112.

D. Reporting Requirements of Blood Lead Levels by Laboratories for Public Health Surveillance

1. Clinical laboratories responsible for conducting analysis to determine blood lead levels, and/or responsible for reporting the results of analysis to referring laboratories and other health care providers, shall also report the results to the Louisiana Office of Public Health at least monthly to the Lead Poisoning Prevention Program at the address listed in Subpart C above.

2. The following information is essential for appropriate monitoring, screening and treatment of lead poisoning.

a. All results of blood lead testing for children between the ages of 6 to 72 months of age must be reported, regardless of the test results.

b. Laboratories shall collect and report all of the information specified in items a - n in Subpart C above. However, items b, c, f, g, h, i, and j must only be reported if the information is available to the laboratory.

c. Laboratories can report the information required by this rule to the Office of Public Health. by electronic transfer.

David W. Hood
Secretary

0001#052

RULE

Department of Insurance Office of the Commissioner

Regulation 69C Year 2000 Exclusions
(LAC 37:XIII.8705, 8709, 8713-8717,
8721, 8725, 8727, 8731)

As authorized by Title 22:1 et seq. and in accordance with the provisions of LRS 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance hereby amends Regulation 69, which governs the use of Year 2000 Exclusions in this state.

The regulation has been divided into subchapters. Subchapter A contains general provisions. Subchapter B applies only to the admitted market. Subchapter C contains the substantive provisions applicable to the surplus lines market. Subchapter D addresses administrative actions by the Commissioner. All references to reinsurers are being deleted.

Notwithstanding the revisions to this regulation, surplus lines insurers and reinsurers remain subject to all applicable parts of the Insurance Code, including but not limited to Part XXVI, and should act in accordance therewith. Insurers which engage in conduct which is not in the best interest of the public or the policyholder will result in the imposition of sanctions as authorized by law.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 87. Regulation 69C Year 2000 Exclusions

Subchapter A. General Provisions

§8705. Scope and Applicability

A. The scope of application of this regulation differs depending on whether the insurer is an admitted insurer or a surplus lines insurer.

B. Admitted Insurers. Except for Subchapter C, this regulation applies to all admitted property and casualty insurance companies engaged in the business of insurance in this state and governs the use of Y2K exclusions whether issued before, on or after its effective date. It governs all Y2K exclusions affecting contracts of insurance delivered or issued for delivery in this state by admitted insurers which cover property risks or liability risks located in this state, or are to be performed in Louisiana regardless of where made or delivered.

C. Surplus Lines Insurers. Surplus lines insurers must comply with Subchapter C of this regulation. Subchapter B does not apply to surplus line insurers.

(Former subsection C is now the last sentence in subsection A.)

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3., LRS 22:1262 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999), LR 26:86 (January 2000).

§8709. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein:

Admitted Insurers means any and all property and casualty insurers authorized to do business in this state pursuant to a Certificate of Authority duly issued by the Commissioner of Insurance for the State of Louisiana.

Commissioner means the commissioner of insurance for the state of Louisiana.

* * *

Surplus Lines Insurers means insurers placed on the list of approved unauthorized insurers maintained by the Commissioner of Insurance for the State of Louisiana in accordance with LRS 22:1262.1.

* * *

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), LR 26:86 (January 2000).

Subchapter B. Admitted Insurers

§8713. Underwriting Standards

A. - A.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 26:86 (January 2000).

§8715. Monitoring of Market Conduct

A. ...

B. Any admitted insurer, which denies coverage or issues a reservation of rights letter to an insured based in toto or in part upon a Y2K exclusion in the policy must notify the LDOI. The notice must be provided to the LDOI within fifteen (15) days of the denial of coverage or issuance of the reservation of rights letter. A copy of the denial of coverage letter or reservations of rights letter is sufficient notice.

C. The LDOI will closely monitor the use of Y2K exclusions to make certain that they are not used inappropriately by admitted insurers in underwriting or claimshandling. Examples of inappropriate activity are: blanket use of Y2K exclusions; failure to individually underwrite except when authorized by this Regulation; denial of claims inconsistent with underwriting standards; canceling or nonrenewing coverage as a general business practice; widespread unavailability of "buy back" coverage; and, unsupported blanket denial of claims based upon "lack of fortuity", or the "known risk" and/or "expected or intended" exclusions.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3; LRS 22:1211 et seq., LRS 22:1301 and LRS 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 26:86 (January 2000).

§8717. Representations and Warranties

No representation or warranty may defeat coverage or be used to deny a claim by an admitted insurer unless the representation or warranty is (a) material (b) false) and (c) made with the intent to deceive. Questionnaires used to assess Y2K exposure are subject to this standard. Denial of coverage by an admitted insurer on the grounds that an answer in a questionnaire is erroneous or inadequate, in the absence of fraud, will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3, LRS 22:619.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 26:87 (January 2000).

§8719. Notice

A. No insurance policy may be issued or renewed, by an admitted insurer, with a Y2K exclusion unless the insured is provided with a copy of the Y2K Notice prepared by the LDOI. (The text of the Notice can be found in Section 8719.C.)

B. Notice for renewals must be provided by an admitted insurer not less than sixty (60) days in advance to the insured and the agent of record.

C. Below is the notice required by this Section.

C.1 - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 26:87 (January 1999).

§8721. Exemptions

A. ...

B. Individual Insureds. An exemption may be granted upon written notification to the LDOI by an admitted insurer regarding an individual policyholder which poses an extraordinary risk due to its failure to take any steps to remedy its Y2K problem. Documentation that demonstrates the necessity for the exemption must be maintained in the insureds file for a period of five (5) years from the date of issuance of the exclusion.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 26:87 (January 2000).

Subchapter C. Surplus Lines Insurers

§8723. Mandatory Policyholder Notice

A. Every insurance contract issued or delivered as a surplus line coverage in this state, as provided in Part XXVII., Chapter 1. of Title 22 of the Louisiana Revised Statutes, which has a Y2K exclusion shall have attached to it the Policyholder Notice found in Subsection C. of this Section. Insurers are not precluded from issuing their own notices in conjunction with the mandatory notice.

B. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

C. Policyholder Notice Text

IMPORTANT NOTICE FROM (COMPANY)
AND THE LOUISIANA DEPARTMENT OF INSURANCE
PLEASE READ IT!

A NEW ENDORSEMENT HAS BEEN ATTACHED TO YOUR POLICY. THE NEW ENDORSEMENT DEALS WITH THE "Y2K" PROBLEM.

USE OF THIS ENDORSEMENT IS GOVERNED BY LOUISIANA DEPARTMENT OF INSURANCE REGULATION 69.

IF YOU HAVE QUESTIONS ABOUT THE ENDORSEMENT OR THE REGULATION YOU MAY CONTACT THE LOUISIANA DEPARTMENT OF INSURANCE AT THE ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802
OR BY TELEPHONE:
342-5900, 342-0895 OR 342-0896
1-800-259-5300 OR 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000).

§8725. Claims Notice

A. Every surplus lines insurer which denies coverage of a claim on the grounds that the claim is excluded in whole or in part by the policy's Y2K exclusion shall provide the insured and the claimant, if the claimant is not an insured, the notice found in subsection C of this section.

B. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

C. Claim Notice Text

IMPORTANT NOTICE FROM LOUISIANA DEPARTMENT OF INSURANCE
PLEASE READ IT!

POLICY No. _____
CLAIMANT: _____
CLAIM No. _____

COVERAGE FOR THIS CLAIM HAS BEEN DENIED BECAUSE YOUR INSURER HAS DETERMINED THAT THE Y2K ENDORSEMENT ATTACHED TO THE POLICY EXCLUDES COVERAGE FOR THIS TYPE OF LOSS.

IF YOU QUESTION THE DENIAL OF COVERAGE, YOU MAY CONTACT THE LOUISIANA DEPARTMENT OF INSURANCE AT THE ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802
OR BY TELEPHONE:
342-5900, 342-0895 OR 342-0896
1-800-259-5300 OR 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000).

§8727. Issuance of Notices

Responsibility for the issuance of the notices required by Sections 8723 and 8725 of this subchapter may be delegated

to the local surplus lines broker responsible for placing the coverage. Notwithstanding the foregoing, the surplus line insurer, upon request of the Commissioner, must be able to show that it has procedures in place to assure compliance with this subchapter.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000).

Subchapter D. Administrative Actions

§8729. Hearings

Hearings, including investigatory hearings, which arise under the provisions of this regulation shall be conducted by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3, LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 26:88 (January 2000).

§8731. Penalties

Upon proof of noncompliance with any applicable provisions of this regulation by an insurer, such disciplinary actions and/or penalties as are authorized by law, and in the manner provided thereby, may be imposed by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3, LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 26:88 (January 2000).

James H. "Jim" Brown
Commissioner of Insurance

0001#033

RULE

Department of Public Safety and Corrections Board of Pardons

Hearing of Clemency
(LAC 22:V.109)

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(B), the Department of Public Safety and Corrections, Board of Pardons, hereby adopts amendments to rules and procedures dealing with the requirement for the publication of notice of application for clemency.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Applications

§109. Hearing Granted

A. After notice to a applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (document number), (date of birth), currently residing in (parish/county), (state), have applied for clemency for my conviction for (crime) which occurred (day/month/year), in (parish/county), (state). If you have any comments or wish to communicate with the Board of Pardons please call (225) 342-5421."

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 26:88 (January 2000).

Irvin L. Magri, Jr.
Chairman

0001#074

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Compulsory Insurance
(LAC 55:III.1777 and 1781)

The Department of Public Safety and Corrections, Office of Motor Vehicles, pursuant to the authority contained in R.S. 32:863.2, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., amends LAC 55, Part III, Chapter 17, Subchapter B, §§1777 and 1781.

Section 1777 is being amended to add a new transaction type in order to comply with Act No. 74 of the 1999 Regular Session which enacted R.S. 32:863(A)(6) to provide that there shall be no sanctions imposed when an insurance policy is canceled because of the rescission of the sale of the involved motor vehicle. Section 1781 is being amended to provide for an additional method by which security providers can report insurance coverage information.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

Subchapter B. Reporting of Initiation and Any Subsequent Change of Insurance Coverage

§1777. Transaction Types and How the Transaction Types are Used

A.1. - 5. ...

6. 7 = Termination of a motor vehicle liability policy that occurred as a result of the rescission or other cancellation of the sale of the motor vehicle on which the policy was issued. The insured shall not be required to pay any fees that otherwise may be required by R.S. 32:863 when the insurer uses this code to report a cancellation.

B.1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998), amended LR 26:88 (January 2000).

§1781. Reporting Methods

A. - C. ...

D. Section 1781.C shall also not apply to security providers who have:

1. received written approval from the Department to file reports via the Internet; and

2. entered into a written agreement with the Department to indemnify the Department against any loss which might arise out of transmitting the data over the Internet.

E. The reports submitted to the Department pursuant to Section 1781.D and E shall be formatted in the manner approved by the Department and shall include the following information:

1. the make, model, year and vehicle identification number to the subject vehicle;
2. the insurance company code;
3. the type of transaction;
4. the lessee, renter, or owner address, including city, state, and zip code;
5. the policy or binder number;
6. the termination, or change date, or the effective date and the issue date; and
7. the lessee, renter, or owner name, name indicator, and identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998), amended LR 26:88 (January 2000).

Nancy Van Nortwick
Undersecretary

0001#023

RULE

Office of Public Safety and Corrections Office of Motor Vehicles

License Plates (LAC 55:III.325 and 327)

Under the authority of R.S. 47:511 and R.S. 47:508, 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 Motor Vehicles (Department), hereby adopts new rules regarding the adoption of the International Registration Plan and the issuance of permanent metal plates to commercial motor vehicles registered under the International Registration Plan.

This rule adopts the International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

The other rule is pursuant to R.S. 47:508 and authorizes the Department to issue permanent metal plates to commercial motor vehicles registered pursuant to the plan. These plates are to be renewed without the issuance of renewal stickers, tabs, or emblems.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter A. Types of License Plates

§325. International Registration Plan

The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through February 15, 1999 by the member jurisdictions, and published by International Registration Plan, Inc. The Department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the February 15, 1999 revision and included in Appendix C of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this rule, but may be considered by the Department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000).

§327. Apportioned Plates

A. All commercial motor vehicles registered pursuant to the "International Registration Plan" and issued an apportioned license plate shall be issued a permanent metal license plate at the time of first issuance, or at the time of first renewal of the apportioned registration after the effective date of this rule.

B. The permanent metal plate issued pursuant to §321.A shall be renewed annually, but without the issuance of a renewal emblem, sticker, or tab by the Department of Public Safety and Corrections, Office of Motor Vehicles. The Department shall issue a renewed certificate of registration or other credential to indicate that the metal plate attached to, and displayed by, the commercial motor vehicle is still valid. The original or a copy of the renewed certificate of registration or other credential shall be kept with the commercial motor vehicle described in the certificate or other credential.

C. The initial certificate of registration or other credential, as well as all renewed certificates of registration or other credentials, shall not be issued until all fees and taxes, together with any applicable penalties and interest, as are required by statute, are paid by the applicant.

D. A permanent metal plate issued pursuant to this section may be used for a period of five years if properly and timely renewed. After the expiration of the fifth year, the registrant shall replace the old plate with a new plate issued by the Department. The registrant shall cause the old plate to be destroyed. The failure to comply with this paragraph may result in the imposition of a fine of \$25 per plate. The Assistant Secretary for the Office of Motor Vehicles may, for good cause, extend the replacement period provided in this section. Such a request for extension shall be in writing and shall state the reason for the extension of the replacement period. Only one extension pursuant to this section may be

granted, and the granting of an extension shall be in writing. An extension granted pursuant to this section shall not exceed two years.

E. For purposes of §327, the Department interprets the Interstate Registration Plan described in R.S. 47:508(H), to mean the "International Registration Plan" described in R.S. 47:511, and adopted by the Department by reference in §325.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:508(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000).

Nancy Van Nortwick
Undersecretary

0001#022

RULE

Department of Public Safety and Corrections Office of State Police

Explosive Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1472.1 et seq., amends LAC 55:I.Chapter 15 to provide authority for the Department's granting variances from the rules in addition to redefining certain terms used therein and clarifying certain technical requirements concerning the use of explosives.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosive Code

§1501. Scope of Rules and Regulations

A. - D. ...

E. The licensee, on specific approval in writing by the Deputy Secretary of Public Safety Services, as provided by this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in these Rules and Regulations. The Deputy Secretary of Public Safety Services may approve an alternate method or procedure, subject to stated conditions, when he/she finds that:

1. good cause is shown for the use of the alternate method or procedure;
2. the alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
3. the alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the State of Louisiana or hinder the effective administration of these Rules and Regulations.

F. Where the licensee desires to employ an alternate method or procedure, he/she shall submit a written application to the Deputy Secretary of Public Safety Services. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not

be employed until the application is approved by the Deputy Secretary of Public Safety Services. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Deputy Secretary of Public Safety Services, the effective administration of these Rules and Regulations is hindered by the continuation of the authorization. As used in this paragraph, alternate methods or procedures include alternate construction or equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 26:90 (January 2000).

§1503. Definitions

Deputy Secretary of Public Safety Services the deputy secretary for Public Safety in the Department of Public Safety and Corrections, or his designee.

Inhabited Building any building or structure regularly used in whole or part as a place of human habitation, also any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding buildings or structures occupied in connection with the manufacture, transportation, storage and use of explosives. A building, such as an office building or repair shop, which is part of the premises of an explosives licensee and is used in connection with the manufacture, transportation, storage, or use of explosives is not an inhabited building.

Oxidizer any material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.

Primary Licensee is the responsible party holding a valid manufacturer-distributor, dealer or user license.

Secured Area any location that is either locked or under the immediate control of a licensee.

Temporary no more than forty-eight hours.

Vessel any description of watercraft used or capable of being used as a means of transportation on water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 26:90 (January 2000).

§1507. Blasting Agents

A. - M. ...

N. Metal dusts (aluminum powder, etc.) peroxides, chlorates or perchlorates shall not be used unless such operations are conducted in a manner approved by the Deputy Secretary of Public Safety Services.

O. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 26:90 (January 2000).

§1509. General Storage Requirements

A. - C. ...

D. The ground around outdoor magazines shall slope away for drainage. The land surrounding outdoor magazines shall be kept clear of brush, dried grass, leaves, and other combustible materials for a distance of 25 feet in each direction.

E. - G. ...

H. When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways and highways; and in addition, they shall be separated from each other by not less than the distances shown for Separation of Magazines, (Table 1) except that the quantity of explosives contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified Separation of Magazines (Table 1) distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

1. All types of detonators in strengths up to and including No. 8 detonators shall be rated at 1.5 pounds of explosives per 1,000 caps. Detonating cord, 50 grains, shall be rated at 8 pounds of explosives per 1,000 feet. Detonating cords with larger or smaller grains per foot will be rated proportionately.

2. Explosive operations carried out on a vessel shall be required to comply with the distances shown for Separation of Magazines (Table 1) only as the physical limitations of the vessel will permit. Explosive magazines shall not be located under, over, or immediately adjacent to pressurized gas lines or high voltage power lines, or on levees constructed for major flood control.

I. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 26:91 (January 2000).

§1511. Magazine Construction Requirements

A. - B. ...

C. Magazine sites upon which (strickethrough: outdoor type) magazines are located shall be posted with signs reading "explosives-keep off" (or equivalent) legibly printed thereon in letters not less than two inches high. These signs shall be visible from any direction. A second sign shall be posted at the entrance of the facility and shall read "danger - never fight explosives fires -explosives are stored on this site - call (Emergency Phone Number)" legibly printed thereon in letters not less than two inches high. Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone should shoot at the sign. The name and address of the owner of portable magazines will be metal stamped on the door of the magazine. Portable magazines (trailer type) may be stamped on either the tongue or the door. No contrasting signs will be displayed on outside type magazines.

D. ...

E. Magazines constructed according to the following minimum specifications are approved as bullet-resistant and fire-resistant.

E.1-O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), LR 26:91 (January 2000).

§1513. Storage within Magazines

A. - E. ...

F. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside of or within 50 feet of magazines.

G. - H. ...

I. The keys to a primary licensee's magazine doors and covers must be available only to the primary licensee and one of his blasters. Variances to this requirement may be requested in writing to the Deputy Secretary of Public Safety Services. It is the primary licensee's responsibility to keep his magazine locked from all unauthorized persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 26:91 (January 2000)

§1531. General Requirements

A. - F. ...

G. When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat so constructed that it is capable of preventing fragments from being thrown. When such blasting is being carried out near a highway, the operator may, in lieu of using a mat, and with the permission of local authorities, block the road adjacent to the firing area while

such firing is in progress. The Deputy Secretary of Public Safety Services must be notified in advance, and approval received, prior to this type of blasting operation being conducted.

H. ...

I. Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, which may include but is not limited to warning signals, flags, barricades, or blasting mats approved by the Deputy Secretary of Public Safety Services, to insure the safety of the general public and workmen.

J. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), LR 26:91 (January 2000).

Nancy Van Nortwick
Undersecretary

00001#029

RULE

**Department of Public Safety and Corrections
Office of State Police**

Underground Utilities (LAC 55:I.Chapter 21)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, in accordance with R.S. 49:950 et seq., and R.S. 40:1749.23E, hereby adopts rules pertaining to the enforcement of the underground utilities statutes, R.S. 40:1749.11 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 21. Underground Utilities

§2101. Purpose

It is the purpose of these rules to promote the protection of property, workmen, and citizens in the immediate vicinity of an underground facility or utility from damage, death, or injury and to promote the health and well-being of the community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground facilities or utilities. The purpose of this rule is to further provide for the enforcement of the Louisiana Underground Utilities and Facilities Damage Prevention Law. An advisory committee composed of representatives from the relevant industries, state government, and the regional notification centers shall be formed to assist in implementation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:92 (January 2000).

§2103. Definitions

A. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this Section.

Damage any defacing, scraping, gorging, breaking, cutting, or displacement of, impact upon or removal of an underground facility or utility or its means of primary support.

Demolisher any person engaged in the act of demolishing as defined in R. S. 40:1749.12(2).

Demolition the total or partial wrecking, razing, rendering, moving, or removing of any building or structure, movable or immovable.

Department the Department of Public Safety and Corrections, Public Safety Services.

Emergency any crisis situation which poses an imminent threat or danger to life, health, or property and requires immediate action.

Excavation or Excavate any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means, including pile driving, digging, blasting, auguring, boring, back filling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing.

Excavator any person who engages in excavation operations.

Inclement Weather weather that prohibits or impedes a worker's use of his locating equipment or causes undue risk to himself or his equipment such as lightning, heavy rain, tornadoes, hurricanes, floods, sleet, snow, or flooding conditions.

Mark by Time the date and time provided by the regional notification center by which the utility operator is required to mark the location or provide information to enable an excavator, using reasonable and prudent means, to determine the specific location of the facility as provided for in R.S. 40:1749.14(D).

Operator any person, individual, governmental agency or political subdivision or their agents, joint venture, firm, partnership, association, or corporation who owns or operates, a public or private underground facility or utility which furnishes a service or material or stores, transports, or transmits electric energy, steam, oil, natural gas, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic communication systems, or water or water systems, or drainage, sewer systems, or traffic control systems or other items of like nature.

Person an individual, firm, partnership, association, corporation, joint venture, municipality, governmental agency, political subdivision, or agent of the state or any legal representative, thereof.

Regional Notification Center may be any one of the following:

a. an entity designated as nonprofit by the Internal Revenue Service under Section 501(c)(4) of the Internal Revenue Code and which is organized to protect its members from damage and is certified by the Department of Public Safety and Corrections in accordance with the Chapter; or

b. an organization of operators, consisting of two or more separate operators who jointly have underground facilities or utilities in three or more parishes in Louisiana, which is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter; or

c. an operator who has underground facilities or utilities in a majority of parishes in Louisiana and is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter.

Service Line or Lines underground facilities or utilities which provide power, gas, natural gas, communication or water capabilities to a building or structure of buildings or group of structures.

Underground Facility or Utility any pipe, conduit, duct, wire, cable, valve, line, fiber optic equipment, or other structure which is buried or placed below ground or submerged for the use in connection with storage, conveyance, transmission or protection of electronics communication system, telephone or telegraph system, or fiber optic, electric energy, oil, natural gas, gases, steam, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases or other substances of like nature or water or water systems, sewer systems, or traffic, drainage control systems, or other items of like nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:92 (January 2000).

§2105. Regional Notification Certification Process

A. The regional notification program must have or be able to demonstrate the following:

1. toll free nationwide telephone number;
2. specifically defined geo-political service area with a goal of no overlap;
3. mechanism for law enforcement to verify locate request information;
4. establish a formal member contractual agreement and submit for approval;
5. locate request tracking process that includes a specific numbering system for each locate request;
6. provide timely transmission of notifications to facility owner/operator;
7. provide locate request information upon inquiry by law enforcement;
8. establish a process to handle emergency locate requests;
9. validation process for owner/operator member's map data base;
10. agree to participate in the Underground Utilities/Facilities Damage Prevention Advisory Committee;
11. develop standard operating procedures and training manuals for routine and emergency operations;
12. voice recording of all incoming locate request calls and voice out calls;
13. ability to produce records of all outgoing notification calls;
14. record retention procedures in compliance with R.S. 40:1749.13;

15. establish a pro-active public awareness and damage prevention education.

B. Upon establishing its ability to meet the above requirements, the regional notification center shall be certified by the Department.

C. The Department may charge a fee for the certification process of two thousand five hundred dollars.

D. An entity operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall have six months from the date of final adoption of these rules and regulations to seek and obtain compliance certification from the Department of Public Safety and Corrections. Failure to obtain such certification shall result in the cessation of activities by the regional notification center.

E. Any entity not operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall obtain compliance certification from the Department of Public Safety and Corrections prior to performing the operations of a regional notification center in or for this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:93 (January 2000).

§2107. Citation

The citation issued to a party alleged to be in violation of R. S. 40:1479 et seq. or these rules shall be uniform as developed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:93 (January 2000).

§2109. Collection of Data by the Department

The Department shall collect such data that will allow law enforcement agencies to determine the number of existing violations and the results of the adjudication process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:93 (January 2000).

§2111. Establishment of Local Governmental Enforcement

Pursuant to R. S. 40:1749.11 et seq. and these rules, local government shall have the authority to enforce any and all provisions therein, except the certification process for the regional notification center and the establishment of the uniform citation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:93 (January 2000).

§2113. Civil Penalties

A. A person who is required by this Part to become a member of, participate in, or share the cost of, a regional notification center and who fails to do so shall be subject to a civil penalty of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for each subsequent violation. A subsequent violation shall be

deemed to have occurred if the person fails to become a member of, participate in, or share the cost of, a regional notification center as required within ninety days after issuance of a citation for the previous violation.

B. A Person who participates in a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities shall be subject to a civil penalty of not more than one thousand dollars. A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two years of the issuance of a prior citation for the same or similar conduct.

C. A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation, a civil penalty of not more than five hundred dollars;
3. for a third violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars.

D. An excavator or demolisher who is unable to provide to law enforcement the locate request number assigned by the regional notification center for the specific excavation shall be considered to be in violation of R.S. 40:1749.13, shall stop all excavations immediately and shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than five hundred dollars;
3. for a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;
5. for any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;

6. an excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this Part are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars for each such subsequent citation issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:93 (January 2000).

§2115. Report of Adjudication

A. Proceedings and adjudication for the levying of civil penalties under this law shall be conducted by the division of

administrative law in accordance with regulations adopted pursuant to the Administrative Procedure Act.

B. A local governmental subdivision, except justice of the peace courts, enforcing the provisions of this part may establish a procedure for adjudication of violations and levying of civil penalties in accordance with the provisions of this Part. Such procedure shall include:

1. the fixing of a schedule of civil penalties and costs for the various offenses within the limits of such penalties as are set by law;
2. providing that any person cited for a violation of the provisions of this Part may plead guilty or no contest before an officer designated by the local governmental subdivision;
3. that the adjudication shall conform to the requirements of the Administrative Procedure Act;
4. the final report of adjudication issued pursuant to R.S. 40:1749.23(D) shall be sent within 30 days to the Department by certified mail return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:94 (January 2000).

§2117. Collection and Distribution of Fines or Civil Penalties: Underground Damages Prevention Fund

A. All civil penalties shall be paid to the state treasury for credit to the Underground Damage Prevention Fund, and shall be disbursed as follows:

1. thirty-four percent shall be retained by the Underground Damages Prevention Fund;
2. upon request for disbursement by the agency, within one year of the civil penalty being deposited into the Underground Damages Prevention Fund, funds shall be disbursed as follows:
 - a. fifty percent shall be disbursed to the local law enforcement agency that issued the citation if the citation was adjudicated by the local governmental subdivision, or
 - b. fifty percent shall be disbursed to the state law enforcement agency that issued the citation if the citation was adjudicated by the state, or
 - c. twenty-five percent shall be disbursed to the local law enforcement agency that issued the citation and twenty-five percent retained in the fund if such citation was adjudicated by the state.

3. Upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damages Prevention Fund, sixteen percent shall be disbursed to the local governing authority of the area in which the violation occurred to be used solely for purposes of compliance with Louisiana Underground Utilities/Facilities Damage Prevention Law, if the local governing authority is a member of or participates in a regional notification center; otherwise, the amount shall be retained in the Underground Damages Prevention Fund.

4. If the local governing authority is not a member of nor participates in a regional notification center, but establishes and operates a violations bureau pursuant to R.S. 1749.23(D), then upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damage Prevention Fund, sixteen percent shall be disbursed to the local governing

authority for each violation adjudicated by the violations bureau of that local governing authority.

B. All funds received by the Department of Public Safety and Corrections under the provisions of this Part shall be retained in the Underground Damages Prevention Fund.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special fund hereby created in the state treasury to be known as Underground Damages Prevention Fund. After disbursements as authorized in this Section, the monies in this fund shall be used solely as provided by Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to this fund, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

D. The monies in the Underground Damages Prevention Fund shall be used by the Department of Public Safety and Corrections solely for enforcement of the provisions of the Louisiana Underground Utilities/Facilities Damage Prevention Law, and may include expenditure for information and programs designed to enhance awareness of duties and responsibilities of persons under the provisions of this statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:94 (January 2000).

Nancy Van Nortwick
Undersecretary

0001#031

RULE

Department of Public Safety and Corrections Office of State Police

User Fees for Louisiana State Police Facility (LAC 55:I.301)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1375 (F), amends LAC 55:I.301, the rule setting user fees for the State Police Training Facilities.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 3. Training and Education Section

§301. User Fees for Louisiana State Police Facility

The Louisiana State Police announces user fees effective January 20, 1999 for the Training Academy Facilities pursuant to R.S. 40:1375(F) according to the following schedules:

Academy Dorm Room		\$15.00 per day
VIP Dorm Room		\$20.00 per day
Large Flat Room	50 person capacity	\$75.00 per day
Large Tiered Room	50 person capacity	\$75.00 per day
Small Flat Room	40 person capacity	\$50.00 per day
Conference Room	15 person capacity	\$50.00 per day
Exercise Room	75 person capacity	\$150.00 per day
Auditorium	250 person capacity	\$250.00 per day
Gymnasium	250 person capacity	\$250.00 per day
Training Tank	50 person capacity	\$250.00 per day
Walker Firearms Range		\$250.00 per day
Firearms Range Classroom	50 person capacity	\$50.00 per day
Holden Small Classroom	25 person capacity	\$50.00 per day
Holden Large Classroom	45 person capacity	\$75.00 per day
Holden Facility Grounds		\$250.00 per day
Holden Site Usage		\$1,500.00 per day
Classroom Audio Visual Package*		\$40.00 per day
Computer Equipment		\$50.00 per day
Holden Cabin		\$20.00 per day
Video Production Service		\$2.00 - \$750.00 depending on requested service

*Audio Visual Package consists of: Overhead Projector, Slide Projector, Projection Screen, VHS Video Cassette Player, Television Monitor, Carts and Necessary Cabling

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February, 1986), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:95 (January 2000).

Nancy Van Nortwick
Undersecretary

0001#030

RULE

Department of Revenue Office of the Secretary

Refund Claims (LAC 61:I.4909)

Under the authority of R.S. 47:1621, 1623, and 1625 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 adopted LAC 61:I.4909 to provide for the manner of filing claims for refunds or credits of overpayments of tax, penalty or interest.

Revised Statute 47:1621 authorizes refunds of overpayments, R.S. 47:1623 pertains to prescription for filing claims for refunds or credits and authorizes the secretary of the Department of Revenue to prescribe the manner for filing refund claims, and R.S. 47:1625 pertains to appeals for disallowance of refund claims. This regulation establishes the procedures to be followed to properly submit claims for refunds or credits.

Title 61

REVENUE AND TAXATION

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

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by

R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:

- a. submitted on claims for refund/credit forms provided by the secretary; or
- b. written in a format substantially the same as that provided by the secretary; or
- c. submitted by timely filing an amended return.

2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall;

- a. contain a clear statement detailing the reason for the claim;
- b. indicate the appropriate tax and tax amount by tax period; and
- c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An "appropriate office, division, or representative of the Department of Revenue" means:
 - i. a Regional Service Center or Regional Audit Office;
 - ii. the appropriate division located at the department's headquarters in Baton Rouge;
 - iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
 - iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
 - v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;
 - vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

B. Claims for refund shall be approved or denied by the Secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623, and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 26:95 (January 2000).

Brett Crawford
Secretary

0001#024

RULE

Department of Social Services Office of Community Services

Maintenance of Information on Reports and Investigations (LAC 67:V.1105)

The Department of Social Services, Office of Community Services, is adopting a rule regarding the maintenance of information regarding reports of child abuse and/or neglect with investigation final findings of inconclusive. This rule is

based on Act 593 of the 1999 Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1105. Maintenance of Information on Reports and Investigations

A. The Office of Community Services will maintain information on reports of child abuse and/or neglect with final findings of inconclusive on the computer tracking and management system (TIPS) for three years after the determination of the finding. The information will be maintained for the exclusive use of child protection investigators in the course of investigations for the purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations. The information regarding the report and the inconclusive finding shall be confidential and will not be released to other persons or agencies outside of the Office of Community Services.

1. At the end of three years the information will be expunged unless there have been subsequent reports with final findings of inconclusive or valid. When there are subsequent investigations with findings of inconclusive, the information regarding all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which a previous inconclusive report was used as part of the basis for the valid finding, the information on inconclusive findings will be maintained until the information on the valid findings is expunged.

B. The case record file of information on the reports and investigations with inconclusive findings will be maintained in the local office for the parish in which the investigation was conducted. The file will be maintained for three years from the date of the determination of the inconclusive finding. At the end of three years the case record will be destroyed in accordance with the completion of state and federal audits.

1. When there are subsequent investigations with findings of inconclusive, the case records for all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which the information from the inconclusive report is used as part of the basis for the related valid report, the information on the report and investigation with the inconclusive findings will be included in the file on the valid findings.

AUTHORITY NOTE: Promulgated in accordance with Act 593 of 1999.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000).

J. Renea Austin-Duffin
Secretary

0001#055

RULE

**Department of Transportation and Development
Office of the Secretary
Crescent City Connection Division**

Bridge Toll Exemptions
Crescent City Connection
Law Enforcement Personnel
(LAC 70:I.513)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 70:I.513 to include enforcement division agents of the Louisiana Department of Wildlife and Fisheries within the definition of law enforcement personnel for purposes of toll exemptions.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

**§513. Crescent City Connection Exemptions
Law Enforcement Personnel**

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency for purposes of R.S. 40:1392 shall mean any agency of the State or its political subdivisions and the Federal Government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this State or similar federal laws and who are employed in this State. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 40:1392.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 23:84 (January 1997), amended LR 26:97 (January 2000).

Alan J. LeVasseur
Executive Director

0001#001

RULE

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

Black Bass Regulations
Lake Bartholomew
(LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby amends the following rule on black bass (*Micropterus spp.*) on Lake Bartholomew, located in Morehouse and Ouachita Parishes, Louisiana.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations-Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the Commission establishes special size and daily take regulations for black bass on the following water bodies

1. Concordia Lake (Concordia Parish), and Caney Creek Reservoir (Jackson Parish):

a. Size limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: eight fish of which no more than two fish may exceed 19 inches maximum total length.*

c. Possession limit:

i. On water - Same as daily take.

ii. Off water - Twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

i. On water - Same as daily take.

ii. Off water - Twice the daily take.

3. False River (Pointe Coupee Parish)
 - a. Size limit: 14 inch minimum size limit.
 - b. Daily Take: 5 fish.
 - c. Possession limit:
 - i. On water - Same as daily take.
 - ii. Off water - Twice the daily take.

*Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000).

Thomas M. Gattle, Jr.
Chairman

00001#47

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Freshwater Mullet Harvest (LAC 76:VII.193)

The Wildlife and Fisheries Commission hereby adopts the following rule on the harvest of mullet.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§193. Freshwater Harvest of Mullet

A. Recreational Limits. The daily take and possession limit for the recreational harvest of mullet shall be 100 pounds per person per day. No person shall take or possess mullet in excess of 100 pounds per day, except for legally licensed commercial fishermen. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange mullet taken or possessed recreationally.

B. Commercial; Freshwater Areas. The following provisions govern the commercial taking of mullet with hoop nets in the freshwater areas of the state.

1. Mullet caught in the freshwater areas of the state shall not be possessed by commercial fishermen in the saltwater areas of the state.

2. There shall be no lead nets on hoop nets used for the fishing of mullet.

3. No person shall take or possess mullet from hoop nets between the hours of official sunset and official sunrise.

4. No mullet shall be possessed on the water in the freshwater areas of the state between the hours of official sunset and official sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1.A(1) and R.S. 56:333.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:98 (January 2000).

Thomas M. Gattle, Jr.
Chairman

0001#050

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Records and Reports
(LAC 52:I.610, 1012, 1202, 1204, 1304,
1309, 1310, 1604, 1903 and 1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics pursuant to its authority in Section 1134A of the Code of Governmental Ethics (L.R.S. 42:1134A).

Title 52

ETHICS

Part I. Board of Ethics

Chapter 6. Advisory Opinions

§610. Finality

An advisory opinion rendered by the board shall be final on the date of mailing of the advisory opinion, if there has been no timely request for reconsideration of the advisory opinion in accordance with §609, or thereafter upon order of the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:

Chapter 10. Hearings

§1012. Consolidation of Public Hearings

When public hearings of two or more respondents involve similar or related circumstances, the board may, on its own motion, on motion of the trial attorney or on motion of a respondent, order a joint hearing of all respondents or may order separate hearings for specified respondents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997), amended LR 26:

Chapter 12. Penalties

§1202. Late Filing; Notice

A. The staff shall mail by certified mail a notice of delinquency within two business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:

§1204. Late Filing; Fee Schedule

A. Definitions. For purposes of §1204, the following definitions shall apply.

Amount of Activity means the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible means the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. The staff shall impose automatic late fees according to the following schedule:

1. the late filing fees for election campaign finance reports shall be as provided in R.S. 18:1505.4;

2. the late filing fees for any lobbyist reports shall be as provided in R.S. 24:58(D);

3. the late filing fees for any report required by R.S. 42:1119(B)(2)(a)(ii) shall be as provided in R.S. 42:1119(B)(2)(a)(ii);

4. the late filing fees for any report required by R.S. 42:1119(B)(2)(b)(ii) shall be as provided in R.S. 42:1119(B)(2)(b)(ii);

5. the late filing fees for any violation of R.S. 42:1114, 1114.1 or 1124 shall be as provided in R.S. 42:1124(C);

C. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the seven days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence;

D. If a report is filed more than ten days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or ten times the per day penalty, whichever is greater.

E. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:

Chapter 13. Records and Reports

§1304. Statements Filed Pursuant to Section 1114 and Section 1114.1 of the Code

A. Statements filed pursuant to Section 1114 of the Code shall:

1. be in writing on a form approved by the board;
2. be filed annually no later than May 1st and shall include the required information for the previous calendar year;
3. contain a statement by the filer that the information contained in the statement is true and correct to the best his knowledge, information and belief, and that no information required to be disclosed by Section 1114 has been deliberately omitted; and
4. be signed by the filer.

B. Statements filed pursuant to Section 1114(A) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the public servant, if applicable; and
4. the name and business address of the legal entity, if applicable.

C. Statements filed pursuant to Section 1114(B) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the legislator, if applicable; and,
4. the name and business address of the legal entity, if applicable.

D. Statements filed pursuant to Section 1114(C) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;
2. the nature of the business activity;
3. the name and address, and relationship to the elected official, if applicable; and
4. the name and business address of the political subdivision, if applicable.

E. The executive secretary shall maintain these forms suitably indexed.

F. Public servants who fail to accurately disclose information in statements filed pursuant to R.S. 42:1114 and R.S. 42:1141.1 may be assessed, by the board, a late fee of one hundred dollars per day, not to exceed a maximum late fee of two thousand five hundred dollars, until such information is disclosed by amendment to the appropriate report.

G. For purposes of R.S. 42:1114.1B(1)(b), "third parties" shall not include employees of the members of the legislature, his spouse or any business enterprise in which such member and/or his spouse owns at least ten percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 26:

§1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a)(ii) of the Code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than 30 days after the beginning of the school year;
3. be signed by the school board member or superintendent and contain:
 - a. the name, address, and position of the school board member or superintendent;
 - b. the name, relationship, and position of the immediate family member and the date of the family member's employment;
 - c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and
 - d. which of the following exceptions applies to the immediate family member:
 - i. classroom teacher certified to teach;
 - ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or
 - iii. served in public employment on April 1, 1980, the effective date of the Code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b)(ii) of the Code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than January thirtieth of each year;
3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:
 - a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;
 - b. the calendar year for which the disclosure statement is being filed;
 - c. the name, relationship, and position of the immediate family member and the date of the family member's employment;
 - d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and
 - e. which of the following exceptions applies to the immediate family member:
 - i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;
 - ii. served in public employment on April 1, 1980, the effective date of the Code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:

§1310. Disclosure Forms Filed Pursuant to R.S. 42:1114(D)(2) of the Code

Repealed

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. - C. ...

D. At the time that an out-of-state political committee, as defined by LSA-R.S. 18:1483(14)(b), files a copy of the of its current annual report, which reflects contributions or expenditures made in support of or in opposition to a candidate or a proposition in a Louisiana election, as required by LSA-R.S. 18:1491.9, the out-of-state political committee shall designate, in writing to the Supervisory Committee, an in-state agent together with the mailing address and phone number of said agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 (January 1999), LR 26:

Chapter 19. Lobbyist Disclosure Act

§1903. Registration and Reporting Forms

A. - B. ...

C. The method of signature shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999), amended LR 26:

§1905. Automatic Termination of Registration for Failure to Renew; Retroactivity

Repealed

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400 or (800) 842-6630, until February 9, 2000.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between February 24, 2000 and February 29, 2000.

R. Gray Sexton
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Records and Reports**

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

Implementation of the amendments to the Rules for the Board of Ethics will increase expenditures by \$280 for publishing the rules in the *Louisiana Register*. The costs will be absorbed in the Board's existing budget.

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

The amendments to the Rules for the Board of Ethics are not expected to have any significant fiscal impact on revenue collections of state and local government units. The rules make minor adjustments to the penalty provisions.

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

There will be no costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

R. Gray Sexton
Administrator
0001#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Proposed Amendments to Civil Service Rules

The State Civil Service Commission will hold a public hearing on Wednesday, February 2, 2000, to consider proposed amendments to rules related to details to special duty, job appointments and restricted appointments. Also discussed will be the attached Policy Standards for the use of these appointments. Rules proposed for change include the following: Rules 8.16(d); 1.18; 8.14; 1.38.1; 6.5(d); and 8.10. The hearing will begin at 9:00 a.m. and will be held in the Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

Amend Rule 8.16(d)

8.16 (a) ...

(b) ...

(c) ...

(d) Detail to Special Duty

1. When, in the discretion of the appointing authority, the services of an employee are temporarily

needed in a position within the department other than the position to which he is regularly assigned, he may be detailed to perform the duties of such position for a period not to exceed one month without change in title, status or pay.

2. An appointing authority may detail an employee for a period not to exceed one year. With the Director's prior approval, an appointing authority may detail an employee for a period(s) that exceeds one year. Written justification for all details except those referenced in subsection (d)1 of this rule shall be kept by the agency. Justification shall be submitted with all details requiring the Director's approval. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related details.

3. The Director may issue policy standards for use of details to special duty.

4. An appointing authority may terminate a detail at any time.

5. The Director may, at any time, cancel a detail to special duty and/or withdraw an agency's authority to make details to special duty other than those stated in subsection (d)1 of this rule.

Explanation

The rule proposal authorizes the Director to issue policy standards for the use of details. There will be less front-end review of details by Civil Service. Therefore, as an accountability measure, this amendment proposes that the Director may cancel a detail and/or withdraw an agency's authority to use details since the Director's approval will be required only for details that exceed a total of one year. It is also explicitly stated that an appointing authority may terminate a detail at any time. Rule 17.23.1 is not changed - details shall last a maximum of three months beyond the effective date of layoff when they are effected during the freeze period on appointments for jobs affected by the layoff. Also unchanged is Rule 17.25 relating to details that may be made when there is a department preferred reemployment list as the result of a layoff.

Justification for all details must be maintained by the agency and justification must be submitted to Civil Service for those details that exceed a total of one year, i.e., those that need the Director's approval. Civil Service will do post-audits of details, which will include checking for justification that is to be maintained by the agency.

Amend Rule 1.18

1.18 'Job Appointment' means a temporary appointment of an employee only for one of the following reasons: a) for work of a temporary nature; b) to substitute for another employee; or, c) for projects not expected to last longer than three years. A job appointment may last up to a maximum of three years.

Explanation

This proposed amendment states that a job appointment may last up to three years, instead of the current one year. This proposal limits use of these appointments to three reasons only.

Amend Rule 8.14

8.14 Job Appointment

(a) A job appointment is a temporary appointment made by the appointing authority that may last up to a maximum of three years; however, its duration shall not exceed its actual need. Such appointments may be used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; or, c) for projects not expected to last over three years. An employee shall not serve continuously on a job appointment(s) for over three years. An agency shall maintain written justification stating the reason for the temporary appointment. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related job appointments.

(b) Repeal

(c) ...

(d) ...

(e) The Director may issue policy standards for the use of job appointments.

(f) An appointing authority may terminate a job appointment at any time.

(g) The Director may, at any time, cancel a job appointment and/or withdraw an agency's authority to make such appointments.

Explanation

To better meet the needs of state agencies, and to prevent a job appointee from being appointed in temporary status for an unnecessarily long time, the following changes are proposed:

1. The rule proposal authorizes the Director to issue policy standards for the use of job appointments.

2. No employee would, under any circumstances, be kept on a job appointment(s) over three consecutive years. If the appointment is needed longer than originally thought, an extension(s) may be made; however, the cumulative total of these shall not exceed three years.

3. The proposal states only three reasons for which this appointment may be made. Job appointments have sometimes been used for reasons other than truly temporary work. This change seeks to make clear that uses other than those stated in the rule would be rule violations.

4. The employee would have to meet the selection requirements (e.g., be within reach on a certificate for a competitive appointment) for the job appointment only at the beginning of the appointment and not for any continuous extension(s), up to a total maximum of three years.

5. The current subsection (b) is proposed for repeal because its use is no longer applicable due to the proposed three-year maximum duration of job appointments.

6. An agency must maintain written justification for the temporary appointment and any extensions and it shall not employ the incumbent for a period longer than the actual need. Such justification will be checked during Civil Service audits.

7. The proposal explicitly states that an appointing authority may terminate a job appointment at any time.

8. The Director may, at any time, cancel a job appointment and/or withdraw authority for an agency to use job appointments.

The following would not change:

1. Job appointees will continue to earn leave and get paid holidays.

2. Job appointees would continue to be appointed subject to the regular Civil Service rules on hiring for their respective job titles.

Amend Rule 1.38.1

1.38.1 'Restricted Appointment' means a temporary appointment or combination of temporary appointments not to exceed a cumulative total of six months in a calendar year for a person.

Explanation

It is proposed that restricted appointments be allowed to last up to six months in a calendar year for a person. This will do away with the current multiple restricted appointments. Under no circumstances would an employee be able to serve on such an appointment over six months in a calendar year. Under the current rule, the maximum period for such an appointment(s) is calculated for a 12-month period. This change would make this calculation much easier.

Amend Rule 6.5(d)

6.5 Hiring Rate

(a) - (c)...

(d) Restricted Appointments. When an appointing authority makes a restricted appointment, he may set the pay of the employee at any rate in the range.

(e) - (g) ...

Explanation

Under the current rule, pay on a restricted appointment that is above the mid-point of the range must be fully justified in writing and approved by the Director. This change would allow more flexibility to agencies to recruit qualified individuals for temporary work by giving them authority to pay up to the maximum of the range.

Amend Rule 8.10

8.10 Restricted Appointment

(a) A restricted appointment, which is a temporary appointment or combination of appointments not to exceed a cumulative total of six months in a calendar year for any person, may be made by the appointing authority provided:

(1) It is used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; c) pending filling the position in a regular manner, or, d) to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the temporary appointment. This rule is subject to Rules 17.23.1 and 17.25 concerning layoff-related restricted appointments.

(2) This type of appointment shall be made only when it is not possible or appropriate to use a provisional, job, or probational appointment.

(3) The appointing authority may set the pay of the employee at any rate in the range.

(4) The person appointed must meet the minimum qualifications of the Civil Service job specifications.

(5) - (7) Repeal

(b) Repeal

(c) The Director may issue policy standards for the use of restricted appointments.

(d) An appointing authority may terminate a restricted appointment at any time.

(e) The Director may, at any time, cancel a restricted appointment and/or withdraw an agency's authority to make restricted appointments.

Explanation

Proposed changes in this rule include the following:

1. The rule authorizes the Director to issue policy standards for the use of restricted appointments.

2. There will no longer be multiple restricted appointments. A person would now serve on a restricted appointment for a maximum of six months in a calendar year, with no exceptions. This will be easier to administer than the current procedures and will give agencies greater ability to recruit quality temporary workers.

3. The proposal limits use of restricted appointments to four reasons only. There have been times when such appointments have been used for other than truly temporary reasons. This change makes it clear that this would be a rule violation.

4. The agency must maintain written justification for each such appointment. This will be checked during Civil Service audits.

5. The appointing authority may set the pay at any rate within the range, without having to submit justification to Civil Service. This will help recruit qualified temporary workers.

6. The person appointed must meet the Civil Service minimum qualification requirements.

7. The amendment explicitly states that an appointing authority may terminate a restricted appointment at any time.

8. The Director may, at any time, cancel a restricted appointment and/or cancel an agency's authority to use restricted appointments.

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

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

Attachment (Policy Standards for the use of these rules)

Policy Standards for Details to Special Duty

1) There must be written justification, maintained at the agency, as to why the assignment is temporary in nature, rather than permanent. If the detail lasts more than one year, justification must be sent for the Director's approval before it extends beyond one year. Examples of temporary need are as follows:

a) The regular incumbent is on leave, or is detailed to another position, or is on leave without pay from his classified job to serve in an unclassified job.

b) Pending filling a position in a regular manner. This would include the time necessary to receive and work a certificate of eligibles or the time needed to recruit for a shortage job. (See #2 below for restrictions on this reason.)

c) To double encumber a position for training purposes due to the pending retirement of the regular incumbent.

d) For a trial period prior to promotion as explained in General Circular # 1286.

e) Pending the reclassification of the position. It would not be wise to permanently appoint an employee to a position that is in the process of being reviewed for a possible job title change.

f) The detail is made to one of the few job titles established by Civil Service that can be filled only by detail to special duty.

2) The duration of the detail should fit the reason for the detail and not exceed the period of actual need. Example: A

detail pending the receiving of and working of a certificate of eligibles should not be longer than a few weeks (or months if a special announcement needs to be made). Normally, a detail is not to be used to "get the person qualified" and then tested, especially if there is an adequate certificate of eligibles or there are other acceptable, qualified employees who can be appointed to the position.

3) Explain the detailing of an employee who does not meet the Civil Service minimum qualification requirements, especially if other current employees are qualified and/or there is an adequate certificate of eligibles. Explain why this employee is the most logical and best person for the detail. (Also, refer to #2 above.)

4) Avoid detailing probational employees, especially if the detail would be a circumvention of the hiring rules. Example: A probational employee is hired in one job and then detailed into a job for which he/she could not make a competitive grade. Such a circumvention of regular hiring rules will be viewed as serious and will be monitored in audit practices by Civil Service.

5) The Director's approval must be obtained when a detail lasts over a year. It must be obtained each time there is an extension(s) past the original one year. Avoid manipulating the time limits of details to get around the Director's approval. For example, avoid the practice of detailing a person for less than a year and then re-detailing him after a short break so that the detail does not continuously last longer than a year. This practice will be viewed as a serious circumvention of the rules and will be monitored in audit practices by Civil Service.

Policy Standards for Job Appointments

1. There must be written justification, maintained at the agency, as to why this should be a temporary appointment, rather than a permanent one. Rules 1.18 and 8.14 state only three (3) reasons as acceptable justification for a job appointment. They are as follows:

a) For work of a temporary nature. This means there is a "temporariness" attached to the situation. Job appointments are not to be used to hire employees to "see if they work out" for an ongoing job. This is the purpose of probational appointments.

b) To substitute for another employee. The regular incumbent may be on extended sick leave (includes workers' compensation), or may be detailed to another position, or may be on leave without pay to serve in an unclassified job.

c) Job appointments may be made for projects funded by grants not expected to be renewed past three years or for other projects expected to be temporary. This does not include positions normally funded by federal money. Many state positions are federally funded and there is often not a guarantee of continued funding.

2. The duration of the job appointment should fit the reason for it and not exceed the period of actual need. Example: If the job appointment is for work of a temporary nature, e.g., a special project, the employee should be used only for that project and should be let go promptly at the conclusion of the project.

3. No employee can serve continuously on a job appointment for over three (3) years. Furthermore, agencies should avoid hiring an employee long-term by placing him on a further job appointment after only a short break in service. It is not the intent of the rule to have employees make a career of temporary appointments. This practice will

be viewed as a serious circumvention of the rules and will be monitored in audit practices by Civil Service. Normally, there should be significant breaks between job appointments. For example, after a three-year appointment, a good "rule of thumb" would be a break of at least one year before the employee is placed on another job appointment.

4. Job appointments must not be used to circumvent normal, competitive hiring. Example: An agency cannot reach a desired employee on a probational certificate of eligibles, so it asks for a job appointment certificate to reach the person. This is not a legitimate use of an appointment that is supposed to be temporary by its nature.

Policy Standards for Restricted Appointments

1. There must be written justification, maintained at the agency, stating the reason for the restricted appointment. Rule 8.10(a)1 states only four reasons for such an appointment: a) for work of a temporary nature, b) to substitute for another employee, c) pending filling the position in a regular manner, and d) to address an emergency or work overload situation.

2. A restricted appointment should not be made if it would be more appropriate to make a provisional, job or probational appointment.

3. The employee must meet the minimum qualification requirements for the job.

4. The intent of this rule is to limit an employee's appointment to a maximum of six-months. The following will be considered as a serious circumvention of this rule and will be monitored in audit practices: a) a pattern of carrying over appointments from the end of one calendar year to the beginning of the next calendar year, thus resulting in appointments longer than six months, and b) reappointing the person on another restricted appointment after only a short break from a previous one near the end of a calendar year. A good "rule of thumb" is if an appointee has served six months on a restricted appointment, he/she should not be hired again on such an appointment for six months.

Allen H. Reynolds
Director

0001#070

NOTICE OF INTENT

Department of Economic Development Office of Commerce and Industry Division of Business Incentives

Gaming Ineligibility (LAC 13.Chapter 3)

The Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, in accordance with the Administrative Procedure Act R.S. 40:950, et seq. adopts the following rules regarding the policies and procedures of the Commerce and Industry Board concerning Gaming.

The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve, or disapprove applications for tax exemption programs administered by the Office of Commerce and Industry.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 3. Gaming Ineligibility

§301. Gaming Ineligible

A.1. Any entity who has received or applied for a license to conduct gaming or is owned, controlled or managed by a company that has received or applied for a license to conduct gaming shall be ineligible to receive a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry.

2. If an entity who has received a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry, subsequently, during the term of such contract, applies for or receives a license to conduct gaming or becomes owned, controlled or managed by a company that has applied for or received a license to conduct gaming, the Board shall, after notice, terminate the contract, and the entity shall repay any tax exemption, credit, rebate or other benefit received pursuant to the contract. The entity shall notify the Board of its application for or receipt of a gaming license or change in ownership, control or management.

3. An entity who is owned, controlled or managed by a company that has received or applied for a license to conduct gaming may apply for a contract for a tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry if the business operated by that entity is not related to and does not provide support to the gaming activity. The burden shall be on the applicant to prove that the business is not related to and does not provide support to the gaming activity. If the Board determines that the entity has provided sufficient proof that the entity is not related to and does not provide support to the gaming activity the Board may, in its discretion, grant a contract for any tax exemption, credit, rebate or other benefit.

B. Definitions

Bingo the game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on such a card.

Economic Interest any interest in a contract, license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

Game any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. Game does not include a lottery, bingo, pull-tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event or racehorse wagering.

Gaming Device any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine, including but not limited to slot machines or video draw poker devices, used directly or indirectly in connection

with gaming or any game which affects the result of a wager by determining wins or losses. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game.

Gaming Operations or Gaming Activities

a. the use, operation, offering or conducting of any game or gaming device;

b. the conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruise ship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit;

c. the intentional conducting or assisting in the conducting of gaming activities upon a riverboat as defined and authorized in R.S. 4:501-4:562, whereby a person risks the loss of anything of value in order to realize a profit;

d. the intentional conducting or assisting in the conducting of gaming operations at the official gaming establishment as defined and authorized in Chapter 10 of Title 4 of the Louisiana Revised Statutes of 1950.

Pull Tabs single or banded tickets or cards each with its face covered to conceal one or more numbers or symbols, where one or more card or ticket in each set has been designated in advance as a winner.

Racehorse Wagering wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator.

Raffle the game of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, and by conducting the game or games accordingly.

Slot Machine any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

Video Draw Poker device any unit, mechanism, or device authorized pursuant to the provisions of this Part, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for merchandise or cash. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Part. The term does not include any device authorized to be used in the conducting of charitable gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:926, 51:1786(6), 47:4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 21:258 (March 1995), LR 26:

R. Paul Adams
Director

Family Impact Statement

The Department of Economic Development, Office of Commerce and Industry hereby issues its Family Impact Statement: The Gaming Ineligibility rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Gaming Ineligibility

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

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other than those one-time costs directly associated with the publication of these rules. Present staff in the Business Incentives Division can implement this rule change.

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

It is the estimate of this department that the failure of a few projects to become eligible for tax exemptions will not deter these projects from fruition. Therefore, no state or local governments will suffer any decrease in revenue due to this rule.

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

Businesses that are involved in gaming will not receive tax incentives granted by the Board of Commerce and Industry. No estimate of the number of ineligible businesses can be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that no significant affect on competition in the state will occur as a result of this rule. It is the belief of this department that the failure of a few projects to become eligible for tax incentives will not deter these projects from fruition.

R. Paul Adams
Director
0001#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

NSF Collection Fees (LAC 10:XV.505)

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950, et seq., and in accordance with the Collection Agency Regulation Act, LSA-R.S. 9:3576.1, et seq., and specifically, LSA-R.S. 9:3576.4, and pursuant to Louisiana Attorney General Opinion 98-257, the acting commissioner of financial institutions hereby gives notice of intent to promulgate the following rule to regulate the licensing, operations and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana, by clarifying the amount of fees which may be

collected by collection agencies and debt collectors for debts involving checks returned for nonsufficient funds.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 5. Debt Collection Agencies

§505. Collection of Nonsufficient Funds Fees

A. Purpose. In connection with the recovery of sums represented by returned checks for their clients, certain debt collection agencies are collecting service fees in excess of those allowed by law. The commissioner of the Office of Financial Institutions is statutorily mandated to implement the provisions of the Collection Agency Regulation Act, (CARA), LSA-R.S. 9:3516.1, et seq., as amended, to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana. This rule is being promulgated to clarify the amount of fees and charges which may be collected by debt collection agencies for debts involving checks returned for nonsufficient funds.

B. Definitions. The definitions for the terms utilized in this rule are the same as those provided for in the definitions section of the CARA, and specifically LSA-R.S. 9:3576.3.

C. Collection by a debt collection agency. In a debt collection agency's collection of claims represented by checks returned to its clients for nonsufficient funds, the debt collection agency may collect only those fees and charges allowed by Louisiana law, including but not limited to LSA-R.S. 9:2782.

D. Action. The commissioner may order a debt collection agency to return any fees and charges in excess of those allowed by Louisiana law. Failure to comply with this rule or the commissioner's order shall constitute a violation of the CARA and may subject the debt collection agency to administrative and/or enforcement action by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 9:3576.4

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

Any interested person may submit written comments regarding the contents of the proposed rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Blvd., Second Floor, Baton Rouge, Louisiana 70809; or by mail to: Louisiana Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana 70804-9095. All comments must be received no later than 4:30 p.m., February 20, 2000.

Doris B. Gunn
Acting Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: NSF Collection Fees

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

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

than those one-time costs directly associated with the publication of these rules.

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

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

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

Debt collectors will not incur additional costs or gain additional benefits as a result of this proposed rule. However, the proposed rule provides the commissioner with authority to order debt collection agencies to return any fees and charges in excess of those allowed by Louisiana law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn
Acting Commissioner
0001#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1794 State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.Chapter 1-3)

Editor's Note: *Bulletin 1794* was promulgated as a rule in LR 13:496 (September 1987), amended LR 14:227 (April 1988), LR 16:956 (November 1990), LR 16:957 (November 1990), LR 18:255 (March 1992), LR 18:955 (September 1992), LR21:201 (February 1995), LR21:551 (June 1995), LR21:1329 (December 1995), and LR 24:434 (March 1998) in uncodified format. This bulletin became a codified document in (June) 1999 and historical notes will reflect activity from that time forward.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement amendments to Bulletin 1794 promulgated in LR 25:1436-1458 (August, 1999) in codified format, referenced in LAC 28:I.919.A. The amendments reflect newly enrolled legislation that affects standards and procedures for the state textbook adoption process. The majority of revisions to the document are editorial. The bulletin is being reprinted in its entirety.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794 State Textbook Adoption Policy and Procedure Manual

Chapter 1. Purpose

§101. Introduction

A. The State Board of Elementary and Secondary Education (SBESE), in accordance with Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, Part I, Sections 7 (4), 8(A)(1)(a) and Part IV, Section 351(A)(1), has the responsibility to prescribe, adopt, control and supervise the distribution and use of free school books and other materials of instruction in elementary, secondary, special, post secondary and vocational-technical schools across the state of Louisiana. The Louisiana Legislature appropriates funds in accordance with Article VIII, Section 13(A) of the Constitution for the purpose of providing

school books and other materials of instruction free of charge to the children of this state at the elementary and secondary levels.

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request his or her name be placed on the mailing list for textbook adoption information (R.S. 17:415.1A) by writing to:

State Department of Education
Division of School Standards, Accountability
and Assistance
7th Floor, Room 740
Baton Rouge, Louisiana 70802
Attn: State Textbook Administrator

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Chapter 3. General Provisions

§301. Definitions

Ancillary materials shall be defined as materials that are intended and designed to be used with a comprehensive basal program submitted by the same publisher and may include materials such as workbooks, puzzles, assessment materials, black line masters, transparencies, etc. Ancillary materials will be added to the publisher's contract after the SBESE's approval of the basal textbook and teachers' edition.

Basal shall be defined as student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Content Standards for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the State standards and benchmarks and for the locally designed and aligned curriculum and course.

Core Subject Cycle refers to the adoption period for English/language arts, science, social studies, and mathematics.

Teachers' Edition shall be defined as materials used for informing teachers' instruction and are not designed or intended to be used by students. Teachers' editions may include teacher guides or instructors' manuals.

Textbook shall be defined as any medium or material (print or non-print), book, or electronic medium that constitutes the *principal source for teaching and learning* in a specified subject area. A textbook shall be a systematically organized core of *stand alone* instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved content standards or state curricular guides [e.g., home economics, foreign language, health, business education].

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§303. Textbook Approval

A. The State shall prescribe and adopt free school books and other materials of instruction for use in elementary and secondary schools.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B)

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§305. Textbooks and Materials of Instruction

A. State Screening of Textbooks and Materials of Instruction

1. The State shall assure that all school books, and materials for instruction submitted by State adoption are thoroughly screened, reviewed and approved as to their content by the SBESE and the local parish or city school board. Textbooks and teaching materials shall be available for public inspection at the Department's book depository and public libraries during regular office hours.

B. Adequate and Appropriate Instructional Materials Instruction [at the local level] shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted content standards.

C. Formal Adoption and Implementation of Textbooks

1. Each school district shall make a formal adoption of textbooks within *three months* from the date of State-level

approval by the State Board of Elementary and Secondary Education (SBESE) (Refer to Chapter 5, Local School System Representatives).

2. School systems shall implement the latest textbook adoption for core subject areas of English/language arts, science, social studies, and mathematics within a three year period, in accordance with locally determined levels of access to be provided to students (i.e. classroom sets, personal copy)(Refer to Chapter 5, Local School System Representatives).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§307. Louisiana State Adoption Cycle and Time Lines

A. Texts for specific subject areas shall be adopted every seven years. See appendix for adoption cycles.

B. Broad time lines governing the adoption process are listed in §307.C. The Department of Education shall annually specify dates to be followed in each adoption year, per the Invitation Circular Letter to Submit Textbooks and Materials of Instruction for State Adoption, which is issued annually to publishers.

C. Time Lines

Invitation to Submit Textbooks and Materials of Instruction Issued by SDE. Notice of Publisher's Intent to Participate Due to SDE. SDE Supplies Submission Packet and Forms to Requesting Publishers.	Early March End March End March
State Committee is Appointed (confidential letter).	April
SDE Informs Participating Publishers of State Committee Names/Publicly Names State Adoption Committee.	April
SDE Provides Publishers' Mandatory Orientation Program for Publishers.	April
Submission Forms are Due from Publishers to SDE; Manufacturing Standards on each Book are Due to SDE.	May
Detailed Specifications are Filed by Publishers with SDE Regarding Hardware, Software, and Special Equipment Needed to review to review any items included in the bid.	May
Detailed Correlations to State Content Standards/Curriculum Guides are Due to SDE from Publishers.	May
SDE provides the mandatory State Committee Orientation.	June/July
State Committee Files a List with SDE of Equipment Needed to Review Textbooks.	June/July
Publishers Supply Textbooks for Review to Designated Locations.	June/July
State Committee Reviews Textbooks.	June/July - Mid September
Public Reviews Textbooks.	June/July - Mid September
Final Date for State Committee Members to Submit Written Questions to Publishers on Books Under Consideration.	Mid September
Final Date for Publishers to Submit Copies to SDE of Answers to Written Questions from State Committee.	October 1
SDE to Forward to State Committee Publishers' Written Answers.	First Week October
SDE to Forward to State Committee All Written Public Comments.	First Week October
State Committee Makes Final Recommendations for Adoption; State Committee Files Affidavit Regarding Contact with or by Publishers.	Mid October
Pub Publishers File Affidavit Regarding Contacts with State Board of Elementary and Secondary Education Members, Textbook And Media Advisory Council and Members of the Statewide Adoption Committee.	End October
SBESE receives the Report on Public Comments by Textbook and Media Advisory Council.	End October
Publishers Submit Final Versions of Texts to Replace Initial Galley Proofs.	End October
SBESE Approval of Textbooks is Recommended for Current Adoption and Contact Affidavits.	End October
SBESE Approves Publisher's Contracts.	November/December
Final Publishers of Adopted Textbooks Comply with SDE Directives on Production of Braille Materials.	End March
Textbook Caravan	November - January
Local Adoption	November - End March
Local Ordering	March - Mid May

NOTE: Specific dates and timelines to be specified by SDE each year with Invitation Circular Letter.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351 -353; 361-365; 415.1; 463

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§309. Funding for Textbooks

A. The Constitution provides that the Legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education (SBESE) to the children of this state at the elementary and secondary levels. The SBESE annually develops and adopts a formula to determine the cost of a minimum foundation program of

education. Additional funds for textbooks may be awarded through state grants (e.g., 8g Quality Educators and K-3 Reading) and through federal grants.

B. State funds shall be used for the purchase of textbooks on the SBESE-adopted textbook list and academically related ancillary materials according to state guidelines (*Bulletin 741*, 3.026.13). Funds may also be used to purchase instructional materials that are manipulative and concrete in nature for grades Kindergarten - Three and appropriate special education classes in order to support the instructional program at these grade levels. Waivers for purchase of non-adopted textbooks/materials that exceed 10% of the state allocations may be granted to local school systems in special circumstances.

C. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

1. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

2. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials such as blocks, dramatic/housekeeping toys, manipulative (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

3. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math,

Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an *ad hoc* basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for here.

E. Public Schools

1. State and local funding for approved textbooks is generated through the Minimum Foundation Program (MFP) funding formula. The formula determines the minimum cost of total operational expenditures for each school system. Districts receive the State Board's share as part of a monthly allotment with provision for local flexibility that allows funds to be used as deemed appropriate by school systems. The amount of funding needed to supply an adequate number of new textbooks for any given adoption can be estimated using the following formula:

October 1 Student Membership (by Grade Level)	X	Textbook Unit Price (As Adopted by LEA)	=	Estimated Textbook Costs (Costs Shared State and Locally)
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2. It is required that districts take no more than three years to purchase newly adopted textbooks for core curriculum areas at all grade levels.

The following example provides a method for estimating minimum expenditures for any given adoption cycle. e.g., Mathematics Adoption Cycle:

Step 1	October 1 Membership	Unit Price	Estimated Costs	
	1,000 (Grades K-6)	X \$30.00	= \$30,000	Full Implementation
	+1,000 (Grades 7-12)	X \$40.00	= \$40,000	Full Implementation
	2,000 (Total)		= \$70,000	Full Implementation
Step 2	\$70,000/3	=	\$23,333	Estimated Minimum First Year <i>Math Implementation for a school district with student population 2,000</i>

F. Nonpublic Schools

1. Each nonpublic school receives a textbook allocation based on the number of K-12 nonpublic students enrolled in the SBESE and Brumfield-Dodd approved nonpublic schools. Reimbursement will be made to local school districts for purchases of nonsectarian books for nonpublic school students at the rate of \$27.02 per student.

All books (textbooks, library books, encyclopedias and encyclopedic references) that meet state standards and appropriate guidelines for selection are considered appropriate and may be purchased for nonpublic school students. *Orders for textbooks and materials of instruction must be delivered during each fiscal year (i.e., July 1 to June 30) in order to be eligible for reimbursement.*

October 1 Student Enrollment (Academically and Brumfield-Dodd approved schools)	X	\$27.02	=	State Nonpublic Textbook Allocation
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2. If materials and supplies are included in purchase orders, it will be the responsibility of the local school district to conduct audits to ensure that the materials and supplies are used to provide students with nonsectarian instruction. Furthermore, all textbooks must be purchased and distributed through the local school district for each eligible nonpublic school in its area. It is requested that reimbursement requests be submitted in a timely manner. Payments will be made from invoices only. *In no event should these funds be distributed directly to nonpublic schools.*

3. Payments for textbooks and textbook administration will be made upon receipt of the completed Nonpublic School Textbook Invoice form provided through the Division of Educational Finance Services.

G. Special Funding For Textbooks

1. 8(g) Quality Education Support Fund

a. School districts and approved nonpublic schools may use 8(g) Quality Education Support Funds to supplement state MFP and local funding for textbooks and materials of instruction. The purpose of these funds is to ensure an adequate supply of superior textbooks, library books, and/or reference materials for these approved schools.

b. Effective with the 1996-97 granting cycle, Consent Judgement 90-880-A enjoins the State Board of Elementary and Secondary Education from making grant awards for library books and/or reference materials to nonpublic agencies that are determined to be pervasively sectarian entities.

c. Guidelines, issued each year by the State Board of Elementary and Secondary Education, should be consulted for specific requirements related to expenditures and for funding allocations.

H. Availability of Prestige License Plates and Applicable Revenues. R.S. 47:463.46, enacted during the 1997 Legislative Session, provides for a prestige license plate to provide special funding for the purchase of textbooks in approved elementary and secondary schools. The plate, bearing the words "Helping Schools," is available for purchase from the Department of Public Safety and Corrections at an annual fee of \$25.00, in addition to the regular fee. Revenues must be invested by the State Treasurer, on behalf of the SBESE. Funds must be used solely for the purchase of textbooks.

I. Use of Federal Funds. School districts are encouraged to develop a consolidated plan, using all available funding streams, including federal funds, in order that adequate and appropriate textbooks and materials of instruction are available for students.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§311. Invitation Circular Letter

A. Specific dates are determined each year and are documented in the Invitation Circular Letter issued to publishers.

B. The Invitation Circular Letter shall be sent to interested publishers from the Office of Student and School Performance (tentatively set for *March 1 of each year; refer to specific guidelines issued by the SDE each year*). The

invitation will announce the subject and disciplines of materials being considered for adoption. Included in the invitation will be written guidelines and instructions covering the adoption process. The review of materials and adoption vote will be *limited to the student book (basal) and the teacher's edition*. Publishers are also required to list on appropriate forms all ancillary and free materials that will accompany the basal texts. (Refer to §301 for definitions of textbooks, basal, teachers= edition, ancillary, and core subject cycle.)

C. The SDE shall provide specific forms to be used for textbook submissions. Publishers must list *each* book separately, along with copyright, price, printing edition, and grade/subject area to be considered for adoption, even if the book is only part of a series.

D. *No substitutions* shall be allowed to the list of textbooks once publishers have submitted the response to Louisiana Textbook (LT) forms. Publishers *WILL NOT* be allowed to discuss upcoming editions or pending revisions of texts *at any meetings* of the State Textbook Selection Committee.

E. *EACH* book must be evaluated on the basis of its current content. Final bound galley proofs may be submitted under certain circumstances, providing that the final hardbound copy is submitted, received and approved by the SDE prior to the final vote of the State Board of Elementary and Secondary Education. (Refer to specific timelines issued by the SDE for each adoption cycle.) Unbound manuscripts *will not* be accepted.

F. Publishers must guarantee that textbooks and materials of instruction that are submitted for consideration in the "LT Submission" form will be made available for duration of a seven-year contract period. *Publishers cannot submit materials that cannot be guaranteed for the duration of the contracted period*. No substitutions of texts or prices are allowed (unless the price is lowered, per Favored Nations clause) once the Submission Form has been received by the SDE.

G. The Invitation Circular Letter shall also include an *Intent to Participate* form, which shall be returned to the SDE by all publishers interested in responding to the Invitation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§313. Establish State Textbook Adoption Committee

A. All textbook adoption committees appointed by the Superintendent of Education shall contain a membership of not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. For purposes of this section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

B. Nominations for membership may be made by the State Board of Elementary and Secondary Education, local school superintendents, and representatives of the SBESE Nonpublic School Commission, as well as the State Superintendent of Education. The Committee shall contain a

broad cross section in membership, to include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

C. Potential committee members shall be screened for potential conflict of interest with textbook publishers. Appointed members shall have no direct or indirect contact with publishers nor shall members have any business relationship, previous or planned, with any publisher. Committee members shall receive nothing of value from publishers or representatives in the state textbook adoption procedures, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, and also an affidavit attesting that no conflict of interest with textbook publishers exists.

D. Committee members and publishers shall be informed in writing of appointment to the State Selection Committee by the State Superintendent according to the time line specified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A *State-Approved Textbook* is defined as a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the State-approved content standards and state assessment as approved by the SBESE. This definition includes any medium or material (print or non-print), book, or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State content standards, State-approved curriculum guides, and State assessment program.

2. Textbooks and materials of instruction should promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values. (R.S. 17:351).

3. Textbooks and materials of instruction should accurately reflect the contributions and achievements of people of differing races. (R.S. 17:351).

4. Other criteria as specified in the SDE-developed evaluation instrument(s).

Note: The SDE shall establish an appropriate evaluation instrument(s) that shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state content standards/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§317. Provide for a Publishers' Orientation

A. The SDE shall schedule an orientation for all interested publishers. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the orientation or be eliminated*.

B. Publishers will receive information regarding expectations for content of state-adopted textbooks and materials of instruction. Procedures for submission, review and evaluation, and contracting will be discussed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

B. The SDE shall establish, in accordance with R.S. 17:415.1, a procedure that allows interested persons who are legal residents of Louisiana to inspect and review the books offered for adoption at the public review sites. Said procedure shall allow for written comments by citizens and written responses by publishers, and if requested, oral presentations by citizens and publishers.

C. *Interested citizens* who choose to make oral objections before the *State Textbook Adoption Committee* shall be allotted a maximum of ten minutes. Oral objections by citizens shall be limited to those objections that have been previously filed in writing with the Department of Education following review at the public display sites. Upon request, citizens may also request to state oral objections before the *Textbook, Media and Library Advisory Council* of the SBESE who will report findings to the Student Standards and Assessment Committee of the SBESE. Comments shall be limited to ten minutes and include only those previously filed in writing with the Department of Education.

D. *Publishers* shall provide a written response and shall have an option (maximum of ten minutes) to present a response before the State Textbook Selection Committee and the Textbook, Media and Library Advisory Council of SBESE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§321. Role and Responsibilities of the State Textbook Adoption Committee

A. Committee members shall receive nothing of value from publishers during the state textbook adoption process, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, as well as an affidavit attesting that no conflict of interest with textbook publishers exists.

1. Members shall be informed in writing that they shall have *no contact with publishers* once formal appointment to the State Adoption Committee has been received. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement may result in immediate disqualification of the publisher and committee member.*

2. State Committee members shall be provided orientation and training by the Department of Education on purposes of the adoption, criteria for evaluation, use of the evaluation instrument(s), and procedures to be followed if local subcommittees assist in the review process. Staff members of the Department of Education shall serve as consultants on curricular content and adoption procedures during all meetings of the Committee.

3. Committee members are required to be in attendance and participate in all *scheduled* activities of the Committee. Members must be in attendance at all scheduled meetings of the Committee in order to cast a vote for textbooks under consideration. The committee chair shall verify the attendance of the members.

4. State Committee members shall evaluate all titles submitted for adoption using the state-approved evaluation instrument(s). One evaluation form shall be completed by each State Committee member on each title reviewed. Evaluation forms are designed to assist the State Committee member in formulating a final decision and vote. *Forms shall in no way be considered as binding upon the final vote of the committee member.* In accordance with public records law, evaluation forms used for decision making will be collected by the SDE.

a. Part of the evaluation allows each State Committee member to formulate and prioritize relevant questions to be addressed by publishers on each book. Said questions shall be forwarded to the SDE by each Committee member by a date to be specified by the SDE.

b. The Committee may elect to move titles of textbooks from one subject area to another if they believe that the publisher placed the book inappropriately in a subject area.

B. Each State Committee member may select, with assistance of the local textbook supervisor, a local five-member subcommittee. The Department encourages local subcommittees be made up of a broad cross section in membership, that may include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption to assist in the evaluation process.

1. Each subcommittee should evaluate textbook materials using procedures and instruments that parallel those specified by the Department of Education for the State Committee. The evaluation instrument(s) include an area for written questions to be addressed by publishers on specific textbooks. The questions will then be submitted to the State Committee member for consideration.

2. Evaluation forms completed by local subcommittees are to assist the State Committee member. Only those forms used by the State Committee members for decision making will be collected by the SDE.

C. The final vote on each textbook under consideration shall be through a voice roll-call vote, by those seated and present, with written record, which shall be duly recorded by the SDE. The State Committee member shall have discretion and final authority in the vote on each textbook under consideration for adoption.

1. Each book must receive a favorable majority (defined as one vote over half of appointed committee members in attendance) of votes of the State Textbook Selection Committee in order to be placed on the state adopted list.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§325. Adopting Authority

A. The State Board of Elementary and Secondary Education (SBESE) is the official adopting authority in the state of Louisiana. The SBESE will receive the report from the Textbook, Media, and Library Advisory Council regarding public comments on textbooks proposed for adoption.

B. Oral objections shall be limited to those that have been previously filed in writing with the Department of Education following review at the public display sites. Persons choosing to make oral objections shall be allotted a maximum of ten minutes to address the full Board.

C. Publishers shall be allowed to provide a written response and or allotted a maximum of ten minutes to present relevant information before the full Board.

D. The Textbook, Media, and Library Advisory Council shall be composed of members appointed by the State Board of Elementary and Secondary Education. The Council's function is to review relevant legislation and proposed SBESE policy, to hear public comments regarding textbooks and materials of instruction proposed for state adoption, and to report findings to the Student Standards and Assessment Committee.

E. The Student Standards and Assessment Committee is made up of members of the State Board of Elementary and Secondary Education. The Committee may hear public comments which have been scheduled as a result of written comments received during the public review period. The Committee will in turn make recommendations to the full Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Chapter 5. Local School System Responsibilities

§501. Local Planning

A. Local school systems shall develop a plan for providing adequate and appropriate instructional materials for students. Such plans shall include formal adoptions and appropriate procedures, as well as plans for implementation of policies included in §505. *Districts must submit plans to SDE by June 30 of each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§503. Formal Adoption (see also, Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within three months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Note: will require a change in *Bulletin 741*

§505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within *three months* from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. Textbooks for Core Curriculum Areas

a. School systems shall implement the latest textbook adoption for *core subject areas* of English/language arts, science, social studies, and mathematics within a three-year period, in accordance with locally determined levels of access to be provided to students (i.e., classroom sets, personal copy, other specified arrangement).

b. *Currency* a school system shall implement the latest textbook adoption for *core subject areas within a three-year period*. Waivers of this policy shall be approved by the SBESE only upon extenuating circumstances as documented in the local Plan of Implementation to be submitted by June 30 of each year to the Department of Education.

c. *Quality* a school system shall annually provide students with textbooks *and materials of instruction that are useable and functional*. Upon initial adoption, textbooks and materials must conform to the Minimum Manufacturing Standards and Specifications for Textbooks as developed by the National Association of State Textbook Administrators (NASTA) in consultation with the American Publishers and Book Manufacturers=Institute.

d. *Access* a school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in *core subject areas* will

be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also *inform each parent/guardian in writing* at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include:

(a). textbooks provided for each student;

(b). textbooks provided via a classroom set;

(c). textbooks provided as both a classroom set and take home copy for each student; or

(d). other specified arrangement as deemed appropriate to the subject area by local officials.

3. Textbooks for Areas Other than Core Curriculum

a. Local school systems shall fully implement adoption in subject *areas other than core* as soon as funds will permit or as programmatic needs dictate. School systems must ensure that each child within the classroom will have equal access to any available instructional materials for non-core subject areas.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172;351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§507. Local Adoption Procedures

A. Purpose

1. To assure local public school systems have a defined procedure for textbook adoption.

2. To provide an opportunity for appropriate input in textbook selection.

3. To ensure curriculum content that reflects current national, state, and local standards of instruction.

B. Each local school system will hold a formal textbook adoption. The local textbook adoption process shall focus on those textbooks selected at the state level. *AFTER* the State Committee textbook recommendations have been approved by the State Board of Elementary and Secondary Education, within *thirty days* local school systems will be provided the list of State-approved textbooks. Additional information regarding cost items included with the basal text, as well as all items to be given at no cost to local school systems, shall also be made available.

C. Local Adoption Procedures

1. An Established Time Line

a. Local school systems *must* hold textbook adoption each year following SBESE approval of newly adopted texts. Districts are encouraged to hold local adoptions between *November and the end of March*. Participation in the State Textbook Caravan is optional but may be used as a part of the local adoption procedures (see §507 D).

b. The SDE must be notified as to the locally adopted textbooks and the school system's Plan for Implementation by *June 30* in the school year of the adoption.

2. Properly Constituted and Trained Local Adoption Committee

a. The local adoption committee will be composed of teachers, parents, and others with equitable representation by race, gender, and ethnic origin. For purposes of this

section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

b. Diverse membership is encouraged to include parents, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

c. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area content standards and assessments), voting procedure, and integrity of interaction with publishers.

D. Participation in State Textbook Caravan

1. School systems are encouraged to participate in the State Textbook Caravan as scheduled by the SDE. The State Textbook Caravan affords all school systems an equal opportunity to preview all State-adopted textbooks and ancillary materials with onsite availability of publishers to answer questions.

2. All school systems, public, private and parochial, are eligible to participate in the State Textbook Caravan.

E. Provision for Publishers= Contacts with Local School District; Optional Requests for Local Presentations

1. Local school systems are strongly encouraged to *establish a formal policy* regarding the method, time line, and procedure for publishers seeking to have contact with personnel at central offices and local school sites. Such policies may also address the provision of written materials to school and central office personnel as well as attendance of school and central office personnel at functions sponsored by publishers. Local school systems are further encouraged to *inform publishers* of local policy.

2. Local school systems may use the State Textbook Caravan as the single opportunity for publishers' presentations within the city/parish OR as a vehicle for identifying those publishers to be called for a local presentation.

3. *At the district's request, one* additional presentation by a publisher will be permitted at the local level for clarification of information on textbooks under consideration for adoption. However, such follow-up presentation *may not occur* prior to the conclusion of the State Textbook Caravan.

F. Sampling of Textbooks by Publishers; Violation will Disqualify Publisher

1. Publishers are to furnish examination copies *only at the written request* of the local school system textbook adoption coordinator after the State Committee review.

2. Samples are to be *limited to* sufficient quantities for the designated local adoption committee members only, as determined by the local system textbook adoption coordinator.

3. Other persons choosing to examine samples *must* use samples provided by the SDE at predesignated sites for public review.

4. No other examination copies will be permitted.

5. Publishers must notify local school systems, in writing, of the need to have samples returned. If notified by publishers, all samples received by local school systems must be picked up by the publisher within *thirty days* after the local adoption.

6. Publishers must make all necessary arrangements for sample returns at publisher's expense.

G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with State-adopted content standards and State and local curriculum objectives, where applicable, *shall* be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

2. An official summary report of local evaluation results is to be kept on file for a minimum of three years.

H. Notifying State of Local Textbook Selections

1. Local school districts shall notify the SDE of all textbooks selected by discipline and course via the local Plan of Implementation. Said notification must be made by *June 30* in the school year of the state adoption (Refer to §515 Records and Reporting Requirements).

I. Notifying Schools of Locally Selected Textbooks

1. Each school shall be provided a list of all components of the locally adopted basal textbook in each subject area, including those items which may be purchased with textbook funds and those items to be supplied by the publishers at no cost.

2. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§509. Ordering

A. All local systems must establish the amount of monies to be used for textbooks, library books, and school supplies from their MFP allocation. This breakdown shall be forwarded to the Office of Student and School Performance with its *Plan of Implementation* for the purchase of textbooks each year. The Plan of Implementation shall be submitted by *June 30* of each year.

B. Once the LEA determines the need of the schools based on the adoption schedule, orders may be placed with the SDE-designated textbook depository or directly with publishers.

C. When placing orders with the depository, the following schedule is suggested for ordering:

1. *March 15-May 15:* Initial Ordering (*suggested time for ordering textbooks to be placed in schools for the first time in the coming school year)

2. *May 15-October 15:* Second Ordering (*suggested time for revising initial order, ordering replacement or additional copies of texts already in use in the schools)

3. School systems may place orders in advance of the starting dates of each cycle.

D. All orders placed with the depository shall be delivered within ninety days of the end of each ordering cycle unless a later delivery date is requested by the LEA. Publishers and/or the state textbook depository may be fined 1% of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period, based upon complaints of local school districts and follow up review by the SDE. See §1901, Appendix.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§511. Direct Order of Textbooks

A. Effective January 1, 1998, HB 1057 of the 1997 Regular Session provides that any *governing authority* of a public elementary or secondary school may order and receive State-adopted textbooks directly from a textbook publisher. Textbooks purchased directly from the publisher must be either the same price or lower than that offered from any other source.

B. Publishers may be fined 1% of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, based upon complaints of local school districts and follow up review by the SDE. (See §519 and §1901, Appendix.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§513. Waivers

A. Purchasing Books not on the Approved State List

1. A local school system or school may use *up to but not exceed 10% of its textbook allotment* for the purchase of non-state adopted textbooks and materials of instruction. Approval by the State Board of Elementary and Secondary Education is not required.

B. Special Waiver to Exceed 10% of Textbook Allotment on Non-adopted State Textbooks and Materials of Instruction

1. A local school system, with the approval of its local school board or chartering authority, may petition in writing the State Department of Education for permission to spend *in excess of the 10%* allowance for non-adopted state textbooks. The Office of Student and School Performance will present the petition to the SBESE for action and notify systems of the results.

2. Requests shall be accepted from *March through May 31*. Textbook orders may not be processed until waivers have been approved. The last month for SBESE action on such waivers shall be *June*. Any extenuating circumstances shall be handled on an individual basis.

C. Purchase of Instructional Materials for Grades K-3

1. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow State textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

a. For classes K-3, the school district superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

b. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials, such as blocks, dramatic/housekeeping toys, manipulatives (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

c. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. Special Purchase for Gifted Programs

1. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts *and* other parish or city school boards with programs for *gifted students* to select and purchase textbooks *not included on the lists adopted* by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to *prior approval by the Board*. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§515. Records and Reporting Requirements (see also, Bulletin 741, 1.026.12-13; 3.026.12)

A. School systems shall maintain an inventory system for submitting records and reports as required by the Department of Education and include all textbooks on hand at the beginning of the session, as well as records of those added, worn out and in need of replacement.

1. Local Plan of Implementation

a. Local school systems shall submit an annual *Plan of Implementation* for textbook adoption to the SDE by *June 30 of each year*. Such plans shall document local implementation of adequate and appropriate instructional materials. *Specific forms for this purpose will be provided by the SDE. In addition, an ongoing textbook inventory system should be used to maintain records for a minimum of three years.*

b. The SDE must be notified of all textbook titles selected by discipline/course. This plan must address the number of books to be ordered by subject, course, and grade level. The school system shall *indicate which of the following options* will be applicable to the latest subject adoption:

- i. textbooks will be provided for each student;
- ii. textbooks will be provided via a classroom set;
- iii. textbooks will be provided as both a classroom set and take-home copy for each student;
- iv. other specified arrangements as deemed appropriate to subject area by local officials.

2. Textbooks Used By Blind and Visually Impaired Students

a. School systems in need of books and materials for use by blind and visually-impaired students should begin by contacting the school district's special education supervisor to ensure the student has an approved Individualized Educational Plan (IEP) that states the need for braille or large print materials. The local Textbook Implementation Plan submitted to the State Textbook Administrator each year should include a statement of need and a plan for securing textbooks for students who are blind or visually impaired. This plan should include the following:

- i. procedures for requesting/ordering from Louisiana Learning Resource System (LLRS);
- ii. procedures for securing textbooks not available from LLRS;

iii. number of students included on the census of students with visual impairments compiled by LLRS school code;

iv. number of students reported visually impaired and or blind to the Student Information System (SIS) at each school code.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§517. Textbooks for Home Study Program

A. The following procedures shall be used for ordering of textbooks to be used in approved home study programs. Parents and or guardians *must* proceed through the following steps in order to access textbooks for students in home study:

1. submit an application to the SDE and obtain approval for participation in the Home Study Program;

2. present a copy of the approved Home-Study application form to the local Textbook Supervisor or designee at local school board office;

3. select the textbooks and/or materials needed from the listing provided by the textbook personnel at each local school board office (only materials approved by the SBESE and adopted by local school districts are provided, *when available*);

4. provide a deposit equal to fifty percent (50%) of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

NOTE: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13 (A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236-236.1; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§519. Report on Status of Local Ordering of Late Delivery by Publishers

A. LEAs shall inform the SDE of any publisher who fails to provide textbooks within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period. Such notice shall be on forms prescribed by the SDE. (See §1901, appendix).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§521. Sale of Textbooks No Longer in Use

A. LEAs shall request permission of the SDE to dispose, sell, or donate out-of-date or unuseable or unsaleable textbooks. Limitation: Textbooks no longer in use may not be sold to anyone whose intent is to resell them.

B. In order to obtain the greatest utility from out-of-use textbooks and to assist local school districts and schools, the following options are available to local school districts.

1. If a textbook or library book has been *out of use for over six months*, or upon replacement by a new edition of books, a parish or city school board may, with the *approval of the [State] Board*, donate said book to any public hospital,

any jail or prison, or any public institution, or to any individual for private use free of charge.

a. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use *in excess of six months*, or upon replacement by a new edition of books, or any textbook or library book which is deemed by said board to be unusable or unsaleable, shall be *disposed of* in an appropriate manner.

b. A parish or city school board, with the *prior approval* of the State Board of Elementary and Secondary Education, may by the *debinding* and shredding method, dispose of any textbook or library book that has not been sold or donated and has been out of use parish wide in excess of six months. If the debinding and shredding method is chosen, the following procedures are to be followed:

i. the local district shall submit request(s) to the SDE between March - June 30 of each year;

ii. upon submission of request (s), the local school districts shall notify all SBESE and Brumfield-Dodd approved non-public schools within their district of the availability of these textbooks by disciplines, giving them *three weeks* to express their interest in securing any of these textbooks;

iii. the local school district may select a vendor and enter into a contract for the debinding and shredding of those books no longer in use;

iv. the local school district shall maintain appropriate records for *three years*;

v. the local school district shall derive all funds from the debinding. Funds derived from such sale shall be used by the parish or city school board *solely* for textbook or library book purchases.

c. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited, per R.S. 17:8.1.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction.

Note: This policy shall also be applicable to instructional materials, supplies, and equipment (See also *Bulletin 741*.)

A. HB 2175 of the 1997 Regular Session authorizes local school systems to establish methods by which responsibility for reasonable and proper care for and control over textbooks and other materials of instruction is ensured. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgment of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt

procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. School systems may withhold the grades of a student if a parent or guardian fails to compensate adequately the school or school system for lost, destroyed, or unnecessarily damaged books (through monetary fees or community/school service activities).

G. However, under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request.

H. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

I. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§525. Ongoing Inventory System

A. Schools are required to develop and maintain an ongoing textbook inventory system. Records should be kept

on file a minimum of three years. Data elements should include those requested for the district's Plan of Implementation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Chapter 7. Publishers- Responsibilities

§701. Requirements for Publishers- Participation in State Textbook Adoption

A. Publishers are *required to follow the procedures* below in order to be eligible to participate in any state textbook adoption process. Publishers *must* provide the required information to the Department of Education by the specified time each year in order for submissions to be accepted for consideration.

B. An *Intent to Participate* form shall be mailed during each adoption year to publishers whose names and addresses are on file in the Department of Education.

C. Publishers are required to file an Intent to Participate form with the SDE by the assigned date in March each year in order to receive a full textbook submission packet.

D. Publishers are required to provide proof of registration with the Louisiana Secretary of State's Office in order for contracts to be legally negotiated. It is the *responsibility of the publisher* to ensure that proper forms have been completed and that the company is registered according to state laws and regulations.

E. Publishers are encouraged to submit such documentation along with the return of the Intent to Participate form. However, publishers may submit the verification at a later date, but no later than October 1 of each year. Under no circumstances will a contract be negotiated with a publisher without such documentation.

F. Publishers are required to provide the name, address, telephone, fax number, and electronic mail address, if applicable, of one local representative and one corporate representative of the company. The designated representatives should be those officials who are authorized to speak on behalf of the company within the State of Louisiana and who, at the corporate level, are authorized to enter into contract agreements with the Department of Education/SBSE. Such information shall be *submitted with the Notice of Intent to Participate form* to be submitted each year by interested publishers.

G. Publishers are required to *provide written notification* to the Office of Student and School Performance of changes in agents or representatives, addresses or phone numbers. *No more than two (2) names and addresses may be designated to receive information at any one time for any one person, firm, corporation or organization.*

H. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the orientation* to be scheduled annually by the SDE. Failure to have representation will result in disqualification of the publisher.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§703. Publishers- Formal State Textbook and Materials of Instruction Submission

A. Publishers shall submit a formal response on SDE developed forms.

1. State Submission Forms for Textbooks and Materials of Instruction

a. Publishers must submit the *Intent to Participate* form by the prescribed deadline each year in order to receive the Invitation Circular Letter and accompanying SDE textbook submission packet.

b. All SDE forms must be fully and accurately completed. A publisher's submission form must clearly state each book or series of books the publishing company intends to offer in the appropriate subject area and for the appropriate grade level.

c. All submissions must be received in the Office of Student and School Performance, Department of Education building by 4:30 p.m. on the date specified each year. There will be no exceptions.

d. Failure to complete all required information on the submission form may result in disqualification of the publisher.

e. Publishers are required to submit detailed *manufacturing standards* on each book listed on the state submission forms. Manufacturing standards must be submitted *along with the submission forms*.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§705. Notification of Required Hardware, Software, Special Equipment Needed by State Textbook Adoption Committee Members to Review Textbooks and Materials Submitted by Publishers

A. Publishers are required to submit in writing to the SDE by the designated time each year a detailed list of *hardware, software, and any special equipment* which may be needed by State Textbook Adoption Committee members for review of textbooks and materials of instruction.

B. Publishers *will be* responsible for costs associated with rental of needed equipment by State Committee members, if other means are not available to the member. Publishers will be billed by the SDE for rental of such equipment.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§707. Submission of Correlations to State-Approved Content Standards/Curriculum Guides

A. Publishers are required to submit in writing detailed *correlations to State Content Standards/Curriculum Guides* for subject/content areas under adoption by the specified time each year.

B. Specific requirements shall be issued by the SDE regarding the format and methods to be used in preparing and reporting of correlations.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§709. Textbook Samples for Review by State Textbook Adoption Committee Members and State Citizens

A. Publishers are *required to place a fixed label on the outside of each book* to be mailed to Committee members or to Public Review sites. Each label shall clearly identify the following, in this order:

1. traditional; non-traditional; thematic;
2. subject area which corresponds to the state submission form;
3. applicable grade level;
4. title;
5. teacher or student edition;
6. publisher; and copyright date.

B. A *checklist of titles* should be enclosed with *each box*.

1. The checklist should include the following, in this order:

- a. book title,
- b. corresponding state adoption subject area,
- c. applicable grade level,
- d. teacher or student edition,
- e. publisher, and
- f. copyright date.

2. In addition, a list of *all textbooks* submitted for State adoption is required in order to determine whether total shipments from the publisher have arrived.

C. Publishers *shall not provide any item of value*, no matter how insignificant, to State Committee members (i.e., no mugs, book bags, pens, or other token of appreciation) when samples are distributed. *No brochures or marketing information shall be included with shipments*.

D. Publishers shall send appropriately labeled samples of all basal and teachers' editions listed on submission forms to *location(s) designated by the Department of Education*.

E. Publishers should obtain a returned signed receipt as verification that *all titles* submitted for State Textbook Adoption Committee review have been received at designated location(s). Publishers shall be responsible for ensuring that books are received at designated location(s) for subsequent review by State Textbook Adoption Committee members. A summary check list that corresponds with materials submitted for review is required in addition to individual packing lists.

F. If samples are *not received* by the SDE-specified deadline, or are not of sufficient quantity for distribution, the book *shall be disqualified* from the adoption process.

G. The publisher will have the responsibility of making arrangements to have materials picked up from the Committee members at the conclusion of the voting process. If the publisher fails to make the necessary arrangements within thirty days after the adoption, the materials will become the property of the Committee members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§711. Submission of Galley Proofs

A. Galley proofs may be submitted to designated location(s) as samples for review by State Committee members *provided that the finished books will be available by the date specified by the SDE each year.*

B. A *galley proof* shall be defined as the *final bound* manuscript set in type with all corrections made and the elements of the pages arranged in their final form [i.e., only book binding required for completion].

C. In the case of galley submissions, publishers *must* also submit detailed manufacturing standards that will be used when the final book is published.

D. Publishers shall pick up galleys from the designated public review sites and replace them with finished books prior to the State Caravan.

E. Any new or updated editions of the originally adopted book must be provided to the SDE at the same price and terms as stipulated in the submission form and State contract. *Updated editions or additions to complete a series previously adopted must be submitted to the SDE for review and recommendation to the SBESE by the specified time each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§713. Samples for Public Review

A. *Publishers* are required to supply an adequate quantity of textbooks/materials of instruction for placement at the public review sites.

B. The SDE shall arrange sites for public display of proposed textbooks and shall provide a written form for public comment. Copies of basal textbooks being considered for adoption shall be placed in cooperating public libraries in those cities named in La. R.S. 17:415.1: New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette and Houma. Public libraries must be contacted initially for use of their facilities for public display; and if they are unable to accommodate the display, the State Department of Education may select an alternate site.

C. Publishers shall pick up galleys from the designated regional library/public review sites and replace them with finished books prior to the State Caravan.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§715. Role of the Publisher During State Committee Review

A. The SDE shall inform all publishers submitting an Intent to Participate form of the names of appointed State Committee members. Publishers shall have *no personal contact* with the State Committee members once names of Committee members have been released by the SDE *and until such time as the State adoption process has been completed.*

B. Personal contact shall be defined as any one-on-one, written, or third parties contact, other than the presentation of materials or provision of SDE requested materials at State-requested or conducted textbook adoption proceedings.

C. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement will result in immediate disqualification of the publisher.*

D. Publishers shall provide nothing of value to any Committee member at any time during, or after the adoption process.

E. Publishers shall be required to file written affidavits regarding any contact with State

Textbook Adoption Committee members AND with State Board of Elementary and Secondary Education members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration

A. Each State Textbook Adoption Committee member may formulate and prioritize relevant questions to be addressed by publishers on each book under consideration for adoption. Questions shall be forwarded to the SDE by each Committee member on forms prescribed for such purpose by a date to be determined by the SDE.

B. *Questions* may address the physical characteristics and layout; factual content of the book; relationship to State content standards and assessment; organization, presentation and sequencing of content; and any other area specified for evaluation on the State evaluation form. Questions *may not address* items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings. Questions will be forwarded to publishers.

C. Written responses shall be developed by publishers according to SDE instruction. Failure to respond according to the specified time line will disqualify the book for consideration of adoption.

D. *Responses* by publishers *may not address* items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings.

E. Sufficient copies of the *written responses* shall be forwarded to the SDE by respective publishers according to the specified time each year. The SDE shall be responsible for forwarding copies of the written responses to State Committee members.

F. All meetings of the State Textbook Adoption Committees *shall be open to the public.* The SDE shall post official public notice of all meetings of the Committee.

G. Each publisher shall be invited to a question/answer session during which time State Committee members may seek further clarification to written responses provided by publishers or may pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher= editions align with the state content standards and assessment program. *Publishers may not address ancillary or free materials proposed for addition after SBESE approval of the basals.*

H. Publishers shall be allocated a maximum time period for the question/answer session, as specified by the SDE .

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§719. Publisher Conduct During the State Caravan

A. Publishers *shall NOT* provide any item of value, no matter how insignificant to local committee members (i.e., NO mugs, book bags, pens, or other tokens of appreciation) when samples are distributed.

B. Publishers shall NOT solicit names or make requests related to samples.

C. No sample books are to be removed from the Caravan.

D. Publisher fees will be collected to cover costs of refreshments at each location.

E. Folders of related product information may be offered.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§721. Obligations to Provide Textbooks and Materials of Instruction within Prescribed Time Periods

A. Publishers must ensure that textbooks are delivered to local school systems within ninety days of the end of the appropriate ordering cycle as specified. The SDE may authorize fines on textbook publishers who fail to deliver ordered materials within the ninety day time line. Said fine shall equal 1% of the outstanding balance for any order that has not been received by the local school system within ninety days after the closing date of the appropriate ordering cycle.

1. State Contract for Adopted Textbooks and Materials of Instruction

a. The State Board of Elementary and Secondary Education, at its meeting of June 28, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and approved the following amendments to textbook adoption procedures, *effective June 28, 1990*:

Note: In the 1990-91 adoption and all other adoptions thereafter, all titles approved through the State textbook adoption process will carry a definite contract not to exceed seven years.

b. The State textbook adoption process shall be limited to basal textbooks and Teacher's Editions only. Ancillary materials will carry a fixed cost for the life of the contract. Free materials included in the formal submission by publishers must clearly indicate period of availability, if other than the seven-year contractual period.

c. Publishers with materials under contract with the State of Louisiana may add materials during the specified time each year. The *addition* can be only textbooks that complete an adopted series, ancillary materials that accompany an adopted basal program, or a new copyright edition of an adopted textbook. If a new copyright edition is requested for addition it, *must* be priced as the same cost of the copyright edition under contract. At any time during the life of this contract, if the publisher should charge less to others for materials under contract, the publisher must agree to reduce the price to the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§723. Braille Accessibility (R.S. 17:1985; SCR 15 of 1997; SCR 149 of 1997)

A. SCR15 of the 1997 Regular Session requires the State Board of Elementary and Secondary Education (SBESE) to coordinate a statewide system of providing braille books to visually-impaired students by tracking braille books already available and supplying funds for those needed. In addition, SCR 149 of the 1997 Regular Session provides for *access and use of technology* by blind and visually impaired students.

B. Publishers shall furnish, within ninety days of state adoption, to the American Printing House for the Blind computer diskettes for State-adopted literary subjects in an electronic text file from which braille or large print versions can be produced. Files will be used by blind or visually impaired students in Louisiana. Electronic text files for nonliterary subjects - including natural science, computer science, mathematics, and music - must be provided when braille specialty code translation software is available.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Chapter 9. Appendix A

§901. Adoption Cycle

Note: Forms contained in the Appendix are subject to revision by SDE.

**Louisiana State Textbook Adoption Cycle:
Core Subject Areas Are Adopted Every Seven Years**

1998-99	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Social Studies K-12	Language Arts K-8	Language Arts 9-12	Vocational Agricultural	Science K-12	Foreign Language	Mathematics K-12
	Grades 6-12 Literature	Reading K-8	Business Education	Health and Physical Education	Handwriting Music/Fine Arts	Computer Science
	Computer Literacy		Home Economics	Computer Literacy		
			Health Occupations			

Note: Separate categories for special education are no longer adopted.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

State of Louisiana
Department of Education
State Textbook Adoption

PUBLISHER’S AFFIDAVIT

I, _____ (printed name), an authorized representative of the publishing company (printed name), do hereby certify the following:

- A) No representative of my company or affiliate company will try to influence the vote of a State _____ Adoption Committee member, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be given to any *State Committee member* by my company after the State Department of Education (SDE) publicly discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens, and any other item of value or token of appreciation.

In the event that my company has within *the last year* given any item of value to a person named as a State Committee member, I shall immediately (*within ten days* of the naming of the State _____ Adoption Committee) inform the SDE in writing of such gift. The written correspondence shall describe the nature of such gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure that my company has no affiliation or business arrangement with any State Adoption Committee member.

In the event that my company has within the *last year* had an affiliation with or any business arrangement with a person named as a State Committee member, I shall immediately [(*within ten days*) of the naming of the State _____ Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and will be mailed to the LDE Textbook Administrator.

- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the SDE regarding materials to be provided and procedures to be followed during the State _____ adoption process.

Signature of Authorized Local Representative

Date

Note: *REQUIRED FORM* -- Must be returned to SDE by _____
Date

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

State of Louisiana
Department of Education
State Textbook Adoption

STATE ADOPTION COMMITTEE MEMBER-S AFFIDAVIT

I, _____(printed name), do hereby certify the following:

- A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party.
- B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once the Louisiana Department of Education (SDE) discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately [*within ten days*] of naming the State Textbook Adoption Committee] inform the SDE of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the SDE Textbook Administrator.

- C) I assure the Department that I have no affiliation or business arrangement with any publisher or its affiliated company. In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately [*within ten days* of naming the State Textbook Adoption Committee] inform the SDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the SDE Textbook Administrator.
- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be followed during the state textbook adoption process.
- E) I assure the Department that I will attend two mandatory meetings, the orientation to be held _____ and full committee review _____.
(Date) (Date)

Signature of State Adoption Committee Member

(Date)

Note: REQUIRED FORM: Return to SDE by _____.
Attn: Jackie Bobbett
Baton Rouge, LA 70802
FAX: (225) 342-3463

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 25

State of Louisiana

Department of Education
Division of School Standards, Accountability, and Assistance
____ State Textbook Adoption
PUBLIC COMMENT FORM

Forms must be typed or neatly printed. A separate form should be completed for each textbook.

The State is currently considering textbooks and materials of instruction for _____ classrooms, grades _____. This form is intended to allow Louisiana citizens to make comments regarding those textbooks under consideration.

Publisher: _____ Subject Area: _____
Title: _____ Author: _____
Grade Level: _____ Copyright: _____ Name of person making comment:
Address: _____ Area Code/Telephone No.: Home () Work: ()
Parish of Residence: _____

Do you represent: ? Yourself An Organization (Name): _____

Do you have children of school age? ? Yes ? No;

If yes, what type of school do they attend? ? Public ? Non-Public (Receive State Funds) ? Non-Public (Does not Receive State Funds)

? I would like to present my comments in the form of an oral presentation before the State Committee(s) involved with adoption.

The following information must be completed:

I object to the following materials in this textbook. Please be specific: i.e., cite passages, pages, ideas, pictures, chart, copyright, etc. (Please use additional sheets if nee

Have you personally reviewed the material in its entirety? ? Yes ? No ? Segments Only

Is your objection to this material based upon: ? Personal exposure? ? Reports you have heard? ? Both?

Are you in anyway affiliated with a publishing company presenting material for adoption? ? Yes ? No

Would the publication have merit if the objectionable pages were removed? Explain

Signature Date

Form must be returned by 4:30 p.m. MMDDYY, to Jackie Bobbett, State Textbook Administrator
Division of School Standards, Accountability, and Assistance Louisiana Department of Education
P. O. Box 94064
Baton Rouge, LA 70804-9064
FAX: (504) 342-5736

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

STATE OF LOUISIANA
DEPARTMENT OF EDUCATION

NOTICE OF PUBLISHER'S FAILURE TO DELIVER
STATE ADOPTED TEXTBOOKS AND MATERIALS OF INSTRUCTION IN
ACCORDANCE WITH STATE CONTRACTS

School districts should complete the following form and submit an original signed copy to the State Textbook Administrator in the event that State-adopted textbooks and materials of instruction are not delivered within ninety days of the last ordering cycle. Upon approval by the State Department of Education, local school systems may fine a publisher 1% of the outstanding balance of delinquent order. State contracts stipulate that failure to deliver textbooks and materials of instruction within ninety days of the last ordering cycle may render state contracts null and void.

Date

Name of Publisher

(Mo/Day/Year)

Briefly explain steps taken to date to trace/recover State adopted textbook order:

Signature District Superintendent

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Chapter 21. Appendix , State Laws

§2101. Free School Books

The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels. [Article VIII, Section 13(A) of the Louisiana Constitution of 1984]

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2103. Duties, Functions, And Responsibilities Of Board [R.S. 17:7(4)]

The Board shall prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2105. School Books Prescribed By Board; Contracts With Publishers [R.S. 17:8]

A.1.a. The Board shall prescribe and adopt and shall exercise control and supervision over the distribution and use of free school books and other materials of instruction for use in elementary and secondary schools and special schools, as provided by Part IV of Chapter 1 of Title 17 of

the Louisiana Revised Statutes of 1950, and shall adopt necessary rules and regulations governing their use by schools, parish and city school boards, and parish and city superintendents of education. Such rules and regulations shall include but not be limited to a requirement that each parish and city school board shall adopt by not later than the beginning of the 1991-1992 school year procedures permitting any public school student to have use after regular school hours during the week and on weekends of any school book used to teach reading. Any public school student using any school book pursuant to the provisions of this Subsection shall be responsible for such school book. These procedures shall not be applicable to basal readers and programs.

b.i. All school students and persons responsible for a student's school attendance shall be accountable for exercising reasonable and proper care for and control over school books and other instructional materials, supplies, and equipment.

ii. Notwithstanding any law or rule or regulation to the contrary, the governing authority of an elementary or secondary school may withhold the grades of a student who does not reimburse the school or school system for the student's failure to exercise reasonable and proper care for and control over school books or other instructional materials, supplies, and equipment.

iii. In accordance with the authority granted to the State Board of Elementary and Secondary Education by the provisions of this Subsection, the Board shall formulate, develop, adopt, and provide for implementation by not later than January 1, 1998, by each governing authority of a public elementary or secondary school of appropriate policies and procedures consistent with the provisions of this Subparagraph, including meaningful sanctions and penalties, to enable school administrators to hold public school

students and persons responsible for a student's school attendance accountable for failing to exercise reasonable and proper care for and control over any public school book or other instructional materials, supplies, and equipment.

c. The Board shall adopt lists of basic textbooks and shall adopt one or more lists thereof. It may authorize and approve revised editions of any school book it adopts.

2. The Board may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the legislature for the purchase of textbooks as provided for herein.

B. The Board shall prescribe and adopt and shall exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for post secondary and vocational-technical schools and programs.

C. Each contract with a publisher for school books shall be awarded on a competitive basis. Each such contract shall be made for a term to be determined by the State Board of Elementary and Secondary Education. Each contract shall be so made as to authorize the Board to terminate it upon ninety days notice. The procedure for the announcement of school book adoptions, examining books, and awarding contracts shall be under the control of the board and in accordance with any applicable law. The Board shall have authority to set and collect fees from publishers participating in the State school book adoption procedures.

D. Each contract shall stipulate that the publisher shall automatically reduce the net cost of textbooks in the state when the net cost of the publisher for books covered by the contract are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in this state at a higher net cost than that received for that book elsewhere in the United States.

E. Each contract with a publisher shall stipulate that the book or books covered by the contract to be sold in this state shall be identical with the official samples filed with the Board with respect to size, paper, binding, print, illustrations, subject matter, and all other particulars which may affect the value of said books. However, during the period of the contract, the Board may approve revised editions of an adopted textbook or service at the bid price, which will authorize a publisher to provide such revisions.

F. Each contract with a publisher shall stipulate that, whenever five thousand or more copies of a textbook of a single title and edition are to be purchased by the State from a single publisher during a twelve month period which shall be established by the Board by rule, not less than eighty percent of the total number of the copies of such book purchased by the state shall be printed and bound by a printer licensed to do business and doing business within the state, provided that the publisher receives a timely bid made according to the publisher's bid-making requirements from such a printer and provided that the printer is able to print and bind such book in accordance with the manufacturer's specifications for state textbooks as promulgated by the State Department of Education and at a cost equal to or less than the unit cost per book for the same number of books made in

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a otherwise qualified bid by any out-of-state printer bidding on the same work. Whenever two or more printers in this state submit bids which would qualify all of them to print and bind textbooks pursuant to this Section and one such printer is a minority-owned business as defined in R.S. 39:1952(13), the minority-owned business shall be awarded not less than ten percent of the printing and binding required by this Section to be done in this state.

G. The State Department of Education shall be the depository in the state for books for the schools. The superintendent may do all things necessary and proper for the Department to function as such depository, including but not limited to the power to enter into contracts or agreements and to acquire property, through lease or purchase, in which the depository is to be located, and to determine the location or locations of the depository. The superintendent may require publishers to maintain a depository in the state or may contract, in accordance with the procedures for the letting of contracts set forth in applicable provisions of the Louisiana Procurement Code particularly R.S. 39:1593 with any other public or private agency to act as the depository.

H. The State Department of Education shall require any depository with whom the Department does business to provide the Department a written summary of all purchase orders for textbooks received by the depository from the Department. The depository shall transmit such summary within three business days whenever the Department requests it to do so and the Department shall make such a request upon the written request of any printer licensed to and actually doing business in Louisiana. Such a summary shall be a public record. The summary shall itemize the total number of copies of each book which is the subject of a purchase order, the unit price of each book, the commissions paid to or the discounts received by the depository, and the publishers of each book.

I. The books shall be distributed to the several parish and city school boards from the depository on requisition of the superintendent of education for public elementary and secondary education.

J.1. The Board shall establish a procedure enabling any governing authority of a public elementary or secondary school, effective January 1, 1998, and thereafter, to order and receive textbooks approved by the board directly from textbook publishers. The procedure shall include but not be limited to permitting a public elementary or secondary school governing authority to contract with a textbook publisher and receive any applicable publisher's discount. However, any textbook purchased under the provision of this Paragraph shall be purchased at the same or lower price than such textbook can be purchased from any source other than the publisher.

2. The Board shall adopt necessary rules and regulations in accordance with the Administrative Procedure Act to implement the provision of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2207. Sale of Schoolbooks no Longer in Use [R.S. 17.8.]

A. A parish or city school board with the prior approval of the State Board of Elementary and Secondary Education

may sell any textbook or library book no longer in use in the school system to any person or entity for private use at a fee established by the parish or city school board. Funds derived from such sale shall be used by the parish or city school board solely for textbook or library book purchases.

B. If a textbook or library book has been out of use for over six months, or upon replacement by a new edition of any such books, a parish or city school board may, with the approval of the [State] Board, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

C. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use in excess of six months, or upon replacement by a new edition of any such book, or any textbook or library book which is deemed by said Board to be unuseable or unsaleable, shall be disposed of in an appropriate manner. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2209. Operation of Public Elementary and Secondary Schools in Accordance with State Law or Policy: Penalties for Violation [R.S. 17:172]

No free school books or other school supplies shall be furnished nor shall any state funds for the operation of school lunch programs, or any other school funds be furnished or given to any elementary or secondary school which violates the provision of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2211. Free school books and other materials of instruction [R.S. 17:351]

A.1.The State Board of Elementary and Secondary Education shall prescribe and adopt school books and other materials of instruction, which it shall supply without charge to the children of this state at the elementary and secondary levels out of funds appropriated therefore by the legislature in accordance with the requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

2. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which accurately reflect the contributions and achievements of people of differing races.

3. The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties values, and traditional standards of moral values.

B. The Board also shall prescribe and supply school books and other materials of instruction for use by students attending vocational-technical schools and programs under the jurisdiction of the board.

C.1. The Board shall establish rules and procedures for supplying schoolbooks and other materials of instruction approved by the State Board of Elementary and Secondary Education as required by this Section for children participating in any home-study program approved by the board when available. Such rules and procedures shall include but not be limited to a requirement that any school books and other materials of instruction provided pursuant to this Subsection shall be made available only to the child or children of the parent or legal guardian obtaining approval for a home study program.

2. The board shall provide a copy of such rules and procedures to any parent or legal guardian applying for approval of a home study program.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2213. Books, Films, Other School Materials; Screening Required [R.S. 17:352]

A.1.The State Board of Elementary and Secondary Education, the State Department of Education or either of these shall take such action as is necessary to assure that all school books and materials of instruction submitted for state adoption are thoroughly screened, reviewed and approved as to their content by the State Board of Elementary and Secondary Education and the local parish or city school board concerned.

2. The State Board of Elementary and Secondary Education or the State Department of Education shall take such action as is necessary to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction and computer and related technological equipment and supplies, including but not limited to any group created pursuant to the provision of R.S.17:415.1, shall contain a membership not less than one-third of which are teachers as defined in R.S. 17:415.1.

B. The State Board of Elementary and Secondary Education shall maintain a copy of all approved textbooks and teaching materials. Such textbooks and teaching materials shall be maintained in the Department of Education for a period of one year following their initial approval and thereafter shall be maintained in the Department's book depository during the time they are approved for use in Louisiana's public schools. Such textbooks or teaching materials shall be available for public inspection during regular office hours.

C. The State Board of Elementary and Secondary Education shall adopt rules and regulations to carry out the provisions of this Section.

D. Whoever intentionally violates any provision of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not to exceed six months, or both.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1;172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2215. Costs of Administration; Textbooks and Instructional Material Distribution to Nonpublic School Students [R.S. 17:353]

A. Beginning with the 1993-1994 school year, each city and parish school board which disburses school library books, textbooks, and other materials of instruction to nonpublic school students shall submit to the Superintendent of Education such documentation as he may require to verify the administrative costs incurred by the school board in the disbursement of such books and instructional materials.

B. The verified costs of administration incurred by each city and parish school board shall be paid by the State.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2217. Required Reports and Records; Cost Reimbursement to Approved Nonpublic Schools (Reimbursement of Required Costs) [R.S. 17:361]

The Superintendent of Education, in accordance with rules and regulations adopted by the State Board of Elementary and Secondary Education, shall annually reimburse each approved nonpublic school, for each school year beginning on and after July, 1979, an amount equal to the actual cost incurred by each such school during the preceding school year for providing school services, maintaining records and completing and filing reports required by law, regulation or requirement of a state department, state agency, or local school board to be rendered to the state, including but not limited to any forms, reports or records relative to school approval or evaluation, public attendance, pupil health and pupil health testing, transportation of pupils, federally-funded educational programs including school lunch and breakfast programs, school textbooks and supplies, library books, pupil appraisal, pupil progress, transfer of pupils, teacher certification, teacher continuing education programs, unemployment, annual school data, and any other education-related data which are not or hereafter shall be required of such nonpublic school by law, regulation or requirement of a state department, state agency, or local school board.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2219. Applications For Reimbursement [R.S. 17:362]

Each school which seeks reimbursement pursuant to this Part shall submit to the superintendent an application therefore, together with such additional reports and documents as the superintendent may require, at such times, in such form, and containing such information as the superintendent may prescribe in order to carry out the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:

§2221. Maintenance of Records [R.S. 17:363]

Each school which seeks reimbursement pursuant to this Part shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services

for which reimbursement is authorized by R. S. 17:361. Such records and accounts shall contain such information and be maintained in accordance with regulations adopted by the Board, but for expenditures made in the school year 1979-1980, the application for reimbursement made in 1980, pursuant to R.S. 17:361 shall be supported by such reports and documents as the Superintendent shall require. In promulgating such regulations concerning records and accounts and in requiring supportive documents with respect to expenditures incurred in the school year 1979-1980, the Superintendent shall implement the audit procedures provided in R.S. 17:365. The records and accounts supporting reimbursement for each school year shall be preserved at the school until the completion of such audit procedures.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 72; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2223. Payment [R.S. 17:364]

No payment to a school shall be made pursuant to this Part until the Superintendent has approved the application submitted pursuant to R.S. 17:362.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2225. Audit [R.S. 17:365]

A. No application for reimbursement under this Part shall be approved except upon such audit of vouchers or other documents by the Superintendent as is necessary to insure that such payment is lawful and proper.

B. The legislative auditor may from time to time examine, in accordance with the provision of R.S. 24:513, any and all accounts and records of a school which have been maintained pursuant to this Part in support of an application for reimbursement for the purpose of determining the cost to such school of rendering the services referred to in R.S. 17:361. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, such school shall immediately reimburse the state in such excess amount.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2227. Materials; Adoption Procedures [R.S. 17:415.1]

A. Any interested citizen may request that his name be included on the mailing list for textbook adoption information by writing to the Director of the Bureau of Materials of Instruction and Textbooks; State Department of Education; Capitol Station; Baton Rouge, Louisiana. Any person who has made this request shall be timely notified of the name and address of each member of all textbook adoption committees and the Textbook and Media Advisory Council; the times, places, and agenda of all committee and council meetings; and the titles, authors, and publishers of all textbooks proposed for adoption.

B.1. All textbook adoption committees appointed by the superintendents of elementary and secondary education shall contain a membership not less than one-third of which are

teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. All meetings of textbook adoption committees and the Textbook and Media Advisory Council shall be open to the public. Any member of the public may attend and file written or make oral objections to any textbook under consideration. The State Board of Elementary and Secondary Education shall adopt a form whereby any member of the public may file written objections to any textbook being considered for adoption.

2. For purposes of this Subsection, the term **Teacher** shall mean any persons employed by a city or parish school board who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education.

C. The State Department of Education shall ensure that, all textbooks being considered for state adoption are placed prior to State adoption and for a period of at least sixty (60) days in a cooperating public library in New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma, and any other city designated by the Superintendent of Elementary and Secondary Education. Any interested person may inspect and review the books during the period when they are on display.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2229. SCR 15 of 1997, Regular Session

The Legislature of Louisiana urges and requests the State Board of Elementary and Secondary Education to coordinate a statewide system of providing Braille books to visually impaired students by tracking the Braille books already available and providing funding for those books which are needed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

§2231. SCR 149 of 1997, Regular Session

A. The Legislature of Louisiana hereby urges and requests that information technology programs and activities of the state which are supported in whole or in part by public funds incorporate aspects which facilitate access to and use of such technology by the blind and visually impaired. In addition, the Louisiana Data Base Commission and other state entities involved in the development of information technology adopt guidelines which shall ensure the following, to the extent feasible,

1. That information technology, equipment, or software used by employees or program participants who are blind or visually impaired can present information for effective, interactive control and use by both visual and non-visual means; is compatible with equipment and software used by other individual with whom the blind or visually impaired must interact; and can be integrated into the network or networks used to share communications among employees or program participants.

2. That information technology used in the dissemination of services to the public provides blind or visually impaired individuals with access, including

interactive use of equipment and services, which is equivalent to that provided to individuals who are not blind or visually impaired; and that such information technology is designed to present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use.

3. That the procurement of information technology, whether through contract or agreement, shall be accomplished so as to provide equivalent access for effective use by both visual and non-visual use; and can be integrated into networks for obtaining, retrieving, and disseminating information used by individual who are not blind or visually impaired.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:

§2233. R.S. 39:1615 Multiyear Contracts

Note: This section refers to R.S. 39:1615(D).

A. Educational Institutions Excepted

1. An educational institution may enter into a multiyear nonexclusive contract, not to exceed ten years, with a vendor who has made a gift to the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

2. The State Superintendent of Education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the depository in the state for school books.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:

§2335. Books for School; Special Plates [R.S. 47:463.46]

A. The Secretary of the Department of Public Safety and Corrections shall establish a prestige license plate for motor vehicles, restricted to passenger cars, pickup trucks, and vans for the purpose of promoting support for elementary and secondary education. The Secretary shall determine the design of the special prestige license plate issues under the provisions of this Section, provided such design shall bear the words "Helping Schools" and include a logo which is a symbol for reading programs in education.

B. The prestige plate shall be issued upon application to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The charge for this special license plate shall be \$25.00 annually in addition to the regular fee charged under the provisions of R.S. 47:463.

D. The revenue from the additional \$25.00 fee imposed by Subsection C of this Section, shall be deposited immediately upon receipt into the state treasury. After compliance with the requirements of Article 7, Section 9(B) of the Constitution of Louisiana relative to the Bond, Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited shall be credited to the State Board of Elementary and Secondary Education and shall be used solely for the purchase of textbooks to be used in approved elementary and

secondary schools of the state. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

E. The Superintendent of the Department of Education shall promulgate rules and regulations as necessary to implement the provisions of this Subsection relative to the purchase and distribution of textbooks.

F. The secretary shall promulgate rules and regulations to implement the provisions of Subsections A, B, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:

Interested persons may submit written comments until 4:30 p.m. March 10, 2000 to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064, or fax to 225-342-5843.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1794 State Textbook Adoption
Policy and Procedure Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated effects on revenue collections are expected to be revenue neutral.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Estimated costs to directly affected persons or non-governmental groups is expected to be cost neutral. Teachers and students benefit directly from having access to the latest instructional materials/information and benefit indirectly from methods that improve selection, acquisition and distribution of such materials. School districts will benefit directly from improved communication via reporting requirements that will also help decision making at the local level.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No estimated effect on competition and employment is expected as a result of the proposed rule.

Marlyn Langley
Deputy Superintendent
Management and Finance
0001#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.301, 705, 805, 907)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program for
Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
TOPS applicants will be provided more specific information concerning the academic year credit hour requirement.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0001#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program
for Students (TOPS) Eligibility
(LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS) Eligibility

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

The implementation cost associated with publishing these rule revision in the *Louisiana Register* as emergency, notice and rule is approximately \$100. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change. There are no costs inconsistent with current budgetary appropriations for this purpose.

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

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

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

TOPS applicants who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Mark S. Riley
Assistant Executive Director
0001#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Formula Distribution of Federal Grant Funds
(LAC 22:III.Chapter 57)

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 15:1201, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, hereby gives notice of its intent to promulgate rules and regulations regarding the formula for the distribution of federal funds.

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

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

Subpart VI. Grant Applications or Subgrants Utilizing Federal, State, or Self-Generated Funds

Chapter 57. Formula for Distribution of Federal Grant Funds

§5701. Adoption

The proposed distribution formula will be adopted by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

§5702. Introduction

The Commission distributes federal grant funds to the state's local law enforcement agencies through law enforcement planning districts via a formula initially devised in 1977. Neither the formula nor the data that support it have been revised since 1977.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

§5703. Distribution Formula

A. Included in the 1977 distribution formula was a variable base of funding for each law enforcement planning district based on the percentage of the district's crime rate to that of the entire state, as well as a rural adjustment for those areas of the state facing unique fund distribution problems given their population and criminal justice manpower percentage deviations. The rural adjustment allowed these rural districts to have sufficient funding for meaningful programs. Once the variable base and adjustments have been determined, the formula uses the following variables to determine how the remaining funds are distributed to each law enforcement planning district.

1. Planning district's percentage of the state's total Uniformed Crime Reporting Part 1 Offenses.

2. Planning district's percentage of state's total criminal justice manpower.

3. Planning district's percentage of state's total population.

B. Given the changes in the state's crime, population, and manpower figures since 1977, the Commission collected data on the aforementioned variables for the year 1997, the most recent year for which complete data was available. The distribution formula devised for the years 2000 through 2010 maintains the variable base and modifies the rural adjustment to reflect current conditions, and adds an urban adjustment for Orleans Parish-given the demographic changes that have occurred in Orleans Parish over the last twenty years-in order for that district to have sufficient funding for meaningful programs.

C. The proposed distribution formula percentage for each Law Enforcement Planning District for the years 2000 through 2010, as based on the 1997 data, is as follows:

Law Enforcement Planning District	Formula Distribution Percentage
Northwest	11.11
North Delta	7.82
Red River	9.54
Evangeline	10.50
Capital	15.60
Southwest	10.16
Metropolitan	15.88
Orleans	19.39

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1201, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

Interested persons may submit written comments on this proposed rule no later than February 1, 2000 at 5 p.m. to Judy Mouton, Deputy Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

A public hearing will be held on February 2, 2000 at 10 a.m. at the Louisiana Municipal Association Office, 700 North Tenth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed rule.

Family Impact Statement

The proposed amendments to LAC 22:III.Chapter 57 regarding the distribution of federal funds should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. The Stability of the Family;
2. The Authority and Rights of Parents Regarding the Education and Supervision of their Supervision;
3. The Functioning of the Family;
4. Family Earnings and Family Budget;
5. The Behavior and Personal Responsibility of Children;

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule.

Michael Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Formula Distribution of Federal Grant Funds**

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

There are no implementation costs to state or local governmental units for the proposed rule. The Programs affected are already in existence. The proposed rule revises the formula for the distribution of federal grant funds to the state's eight (8) law enforcement planning districts. The eight law enforcement districts received a total of \$16,548,563.00 in federal grants funds in federal fiscal year 1999-2000.

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

The effect the implementation of the proposed rule will have on state or local governmental units is indeterminable. The availability and amount of the federal funds affected by the proposed rule is unknown at this time. The federal appropriation, if any, will be effective October 1, 2000.

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

There are no costs associated with the proposed rule that directly affected persons or non-governmental groups. The economic benefits of the proposed rule directly affecting persons or non-governmental groups are indeterminable because the availability and amount of the federal funds affected by the proposed rule is unknown at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is indeterminable because the availability and amount of the federal funds affected by the proposed rule is unknown at this time.

Michael A. Ranatza
Executive Director
0001#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Data Base Commission**

Louisiana Data Base (LAC 4:XI.Chapter 1)

Under the authority of R.S. 39:292, et seq., the Louisiana Data Base Commission proposes to promulgate a rule concerning the Louisiana Data Base. This rule defines the Louisiana Data Base and the associated procedures for identifying and incorporating information in the Louisiana Data Base.

Title 4

ADMINISTRATION

Part XI. Office of Data Base Commission

Chapter 1. Definition of the Louisiana Data Base

§101. Policy

A. The Louisiana Data Base consists of the official databases and related information services required to support the policy, planning, and administrative needs of the state. This includes needs of state government personnel, as well as needs for access to official state databases and services by local government, the business community, and private citizens. The Louisiana Data Base may incorporate databases outside state government that are determined to be sources of official information for state policy, planning, or administration.

B. The Louisiana Data Base is defined in a catalog that contains relevant information identifying the existence, location, scope, format, access, and other information as determined by the Commission and electronic information services required to support the policy, planning, and administrative needs of the state. The catalog is hosted on a Commission data server; however, each database and service identified in the catalog is hosted by, and remains the responsibility of, the provider of the database or service. The catalog will be available electronically to all users; however, the entry identifying the database will not include any information declared confidential or otherwise exempt from disclosure as a public record by law or that is protected by a valid license agreement or contract and no access shall be provided to such information through the Louisiana Data Base. The catalog entry will contain a notation as prescribed by the Commission that the data is confidential or otherwise protected from further disclosure.

C. The Louisiana Data Base is driven by the policy, planning, and administrative needs of the state. It incorporates both current and historical information. Its structure supports the inclusion in its catalog of, and access to, databases for recurring, ongoing information needs as well as predictable and random ad hoc information requests. Its design is flexible to support dynamic, changing information needs. To ensure that the Louisiana Data Base remains a viable resource for policy, planning and administration, the Commission will continuously evaluate the state's needs through personal contact and surveys. The Louisiana Data Base will also permit its users to electronically record their problems, comments, suggestions and satisfaction.

D. Information services that increase usability are valuable components of the Louisiana Data Base. Value-added services such as geographic reference, format translation, and electronic commerce are evaluated, based on user need, to determine if they are appropriate for inclusion in the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

§103. Purpose

To define the Louisiana Data Base, to specify criteria for its content and associated information services, and to define procedures for its establishment, operation, and maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

§105. Applicability

Applies to all agencies, organizations, entities, and individuals, either within or outside Louisiana state government, who are involved in the establishment, use, operation, or maintenance of the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

§107. Procedure

A. Establishment. The Louisiana Data Base is initially established by creating the central catalog and implementing the electronic capability to logically access databases and information services that reside at the provider locations. Thereafter, the database is populated incrementally with official databases and information services following a four-step process.

1. The first step is identification of candidate databases and services for incorporation in the Louisiana Data Base. This step is generally user driven and is based on nominations from personal interviews, surveys, electronic feedback, legislation review, and ad-hoc inputs.

2. Next, nominations from the first step are analyzed and evaluated to determine if they address the policy, planning, and administration needs of the state and whether they can be made available to all departments and branches of state government. Where legislation mandates information responsibility for specific areas, such as Consensus Estimating Conferences, the Commission will coordinate the determination of official information and sources with those legislated entities. The final analysis activity is to develop a work plan to integrate catalog information for the nominations that qualify as official databases and services into the Louisiana Data Base.

3. The third step involves obtaining formal approval to proceed and commitment of resources from the provider. This approval and commitment is based on the contents of the work plan developed in the analysis step.

4. The approved work plan is then executed, integrating the catalog information for the approved databases and information services into the Louisiana Data Base catalog and providing access to the data bases and information services.

B. Operation. The components of the Louisiana Data Base include the central catalog and access to the individual databases and services distributed, maintained, and provided by the providers. The Commission is responsible for operation of the electronic catalog, and each provider is responsible for operation of its respective databases and services. Operations may be performed under the provisions of Service Agreements executed between the Louisiana Data Base Commission and each provider.

C. Maintenance. Each database and service cataloged in the Louisiana Data Base is maintained by the respective provider. The Commission maintains the catalog with a focus on uniformity, accuracy, format, and timeliness; however, each provider is responsible for supplying the

Commission catalog updates to reflect changes to its database or service in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

§109. Definitions

Catalog an electronic index that contains information that defines the databases and information services contained in the Louisiana Data Base.

Commission the Louisiana Data Base Commission.

Consensus Estimating Conferences six forecasting conferences established by the Louisiana Legislature under R.S. 39:2 and R.S. 39:21 to provide for official information to be universally used across state government for budget and planning purposes. The six conferences are Economic Estimating, Demographic Estimating, Education Estimating, Criminal Justice Estimating, Health and Social Services Estimating, and Transportation Estimating.

Current Data data that are updated to reflect the most recent actions or status.

Geospatial the geographic location and extent of an individual, agency, organizational, or physical entity or event.

Official Data a database that has been identified by the designated entity as the best possible source for information determined to qualify for incorporation in the Louisiana Data Base catalog.

Official Information data, forecasts, estimates, analyses, studies, and other information adopted by the principals of a Consensus Estimating Conference.

Provider an agency, organization or entity that owns a database or service that is incorporated in and made available to users of the Louisiana Data Base.

User any individual who physically accesses the Louisiana Data Base on behalf of himself or another person, agency, organization, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

§111. Responsibility

A. The Commission has overall responsibility for establishing and maintaining the Louisiana Data Base catalog and providing access to the included databases and information services. The Commission achieves its objectives for the Louisiana Data Base through cooperative efforts with other entities who have a vested interest in the Louisiana Data Base or the benefits it provides. Following is the allocation of responsibilities for establishing and maintaining the Louisiana Data Base.

1. The Commission is responsible for:
 - a. determination of the data needs for state policy, planning and administration;
 - b. selecting the contents to be included in the Louisiana Data Base;
 - c. providing the catalog and the capabilities for users to access the catalog to discover relevant databases and services;
 - d. providing capabilities to link to access specific provider databases and services using the electronic catalog;

- e. determination of appropriate value-added services that improve use of the database or enhance the analytical tools available to users;

- f. providing specific direction for establishment, maintenance and use of the Louisiana Data Base;

- g. reporting database use information;

- h. collection of and response to user feedback;

- i. ensuring that official data is accessible to all departments and branches of state government;

- j. providing for the uniformity, accuracy, format, and timeliness of the catalog.

2. The Office of Data Base Commission is responsible for:

- a. providing technical and administrative support to the Louisiana Data Base Commission for performance of all Commission responsibilities;

- b. establishment, operation and maintenance of the catalog on behalf of the Commission;

- c. providing technical support to providers as required for establishment and maintenance of their components of the Louisiana Data Base;

- d. providing technical support to users regarding use of the Louisiana Data Base.

3. Providers are responsible for:

- a. providing access to their databases and information services that are determined to be official data and services for state policy, planning and administration;

- b. operating and maintaining the currency and accuracy of their components of the Louisiana Data Base;

- c. ensuring that the information regarding its databases and services contained in the catalog is current and accurate.

4. Consensus Estimating Conferences and other officially designated entities are responsible for:

- a. determination of the information needs and official databases for their respective areas of responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:

A public hearing will be held on these rules on Tuesday, February 29, 2000 at 10:00 a.m. in Room 404, State Office Building, Baton Rouge, Louisiana. All interested parties will be afforded an opportunity to submit data, views or arguments orally at the hearing. Written comments may also be submitted prior to the hearing to Edwin M. Leachman, Director, Office of Data Base Commission, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Jerry Guillot
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Data Base

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

This rule defines processes that have been established and implemented by the Louisiana Data Base Commission to conform to legislative mandate, therefore, the only anticipated cost will be publication costs for a Notice of Intent and a Rule.

State and local governmental entities will be informed of the proposed rule via the Louisiana Data Base Commission's web page, which is already a budgeted cost of the Division of Administration.

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

There will be no effect on revenue collections of state or local governmental units resulting from this proposed rule.

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

Because this rule defines processes already in place, there will be no costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule because the processes contained in the rule have already been established and implemented by the Louisiana Data Base Commission.

Whitman J. Kling, Jr.
Deputy Undersecretary
0001#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning and Control

(Editor's Note: The following notice, which appeared on pages 2305 through 2310 of the November 20, 1999 *Louisiana Register*, is being republished to include changes to §511.)

Rental and Lease Procedure and Regulations (LAC 34:III.511)

The Division of Administration, Office of Facility Planning and Control, in accordance with R.S. 49:950, et seq. gives notice that in order to be in conformity with law intends to amend and reenact the following rules governing the Office of Facility Planning and Control's Real Estate Leasing Section.

LAC 34:III.501 is being amended to reflect changes to La. R.S. 39:1641. More specifically, Acts 1988, No. 919, Section 3 repealed subsec. E of Section 1641, thus removing all but one of the exceptions found in LAC 34:III.501. Acts 1997, No. 600, Section 1 repealed subsec. F of Section 1641, thus removing the remaining exception in LAC 34:III.501.

LAC 34:III.503 is being amended to reflect changes by Acts 1995, No. 635 to La. R.S. 39:1643 (A), increasing from 2,500 square feet to 5,000 square feet as the amount of square feet requiring advertising and competitive bidding.

LAC 34:III.505 is being amended to require a bidder "control" the offered properties and parking areas on the date of the bid opening and throughout the term of the lease and option period.

LAC 34:III.506 is being promulgated to merely reflect the law contained in La. R.S. 39:1599.

LAC 34:III.507 has been incorporated into the proposed LAC 34:III.503.

LAC 34:III.508 is being promulgated to merely reflect the law contained in La. R.S. 39:1594.

The proposed LAC 34:III.509 contains only a few minor changes.

LAC 34:III.510 is being promulgated merely to reflect provisions contained in state leases.

LAC 34:III.511 is being re-promulgated.

LAC 34:III.512 is being promulgated to reflect the law as contained in La. R.S. 39:1661.

LAC 34:III.513 is being amended to clarify that the emergency procurement provisions apply only to leases of 5,000 square feet or more because emergency procurements relieve the State of the need to advertise for bids. For smaller leases, the State is not required to advertise for bids.

LAC 34:III.514 is being promulgated to reflect the law as contained in La. R.S. 39:1598.

LAC 34:III.515 is being amended to reflect the changes to La. R.S. 39:1643(A) by Acts 1995, No. 635.

LAC 34:III.516 is being promulgated to reflect current procedures followed by the Real Estate Leasing Section and what is contained in La. R.S. 39:1644(A).

LAC 34:III.517 is being amended to add what is implicit in the law, i.e. that the rules for the Office of State Purchasing apply if they are not in conflict with the rules for Rental and Lease Procedure.

Family Impact Statement

Furthermore, in accordance with La. R.S. 49:972 (as enacted by Acts 1999, No. 1183), the following Family Impact Statement is made. It is not anticipated that the proposed rules will have any effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. the family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL Part III. Facility Planning And Control Chapter 5. Rental and Lease Procedure and Regulations

§511. Resolution of Controversies

A. Right to Protest. Any prospective lessor who is aggrieved in connection with the solicitation or award of a contract may protest to Facility Planning and Control. Protests with respect to a solicitation shall be submitted in writing no later than 10 days prior to the opening of bids. If a person protests a solicitation, an award cannot be made until said protest is resolved. Protests with respect to the award of a contract shall be submitted in writing within 14 days after contract award. Said protest shall state fully and in particular, the reason for protest if a protest is made with respect to the award of a contract. Work on the contract cannot be commenced until it is resolved administratively.

B. Decision. Facility Planning and Control, must notify the protesting party in writing and the legal counsel of the Division of Administration within 14 days after receipt of said protest whether or not the protest is denied or granted. If the protest with reference to the solicitation is granted, an

addendum can be issued or the solicitation can be canceled and reissued. If the protest with reference to the award is granted, then the lease will be voided and the remaining bids may be re-evaluated for another selection. If another selection cannot be made or if it appears to be in the best interest of the state, a new solicitation will be issued.

C. Appeal. If an aggrieved party is not satisfied with the rendered decision, then that party may appeal said decision in writing to the commissioner of administration within seven days of the decision. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 14 days of receipt of the appeal. The commissioner's decision is final and an aggrieved party may bring judicial action within two weeks from receipt of said decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 11:945 (October 1985), amended in LR 22:345 (May 1996), repromulgated LR 26:

Roger Magendie
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Rental and Lease Procedure and Regulations**

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

It is not anticipated that the proposed rule changes will have any implementation costs or savings to the State or to local governmental units because the changes were required by changes in the law itself.

For example, Acts 1988, No. 919, Section 3 repealed subsec. E of La. R.S. 39:1641 and amended subsec. F of the same statute. As a result, certain agencies were no longer exempt from the Procurement Code's provisions regarding the acquisition of housing space. In addition, Acts 1997, No. 600, Section 1 repealed subsec. F of La. R.S. 39:1641. As a result, leases for the storage of voting machines are now administered by the Office of Real Estate Leasing of the Office of Facility Planning and Control. These changes are reflected in the proposed changes to the *Louisiana Administrative Code*, Title 34, Part III, Chapter 5, Section 501, Authority, Policy, Purpose, and Application.

Another statutory change was the increase in the amount of square feet necessitating advertisement and competitive bidding. Acts 1995, No. 635 amended La. R.S. 39:1643(A), increasing from 2,500 to 5,000 square feet the amount of square feet in a lease that must be publicly advertised and bid. This change is reflected in Sections 503 and 515 of the proposed rules.

Section 505 of the current rules is now incorporated in Section 515 of the proposed rules.

Section 507 of the current rules is now incorporated in Section 503 of the proposed rules.

Other than the above-cited substantive changes necessitated by changes in the law itself, the proposed rules are basically the same, but re-written and organized in a format easier to comprehend.

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

It is not anticipated that the proposed rules will have any effect on revenue collections of state or local governmental units.

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

It is not anticipated that any changes in the rules will increase costs or benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any effect on competition and employment.

Roger Magendie
Director
0001#076

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Advertising and Soliciting by Dentists
(LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301 "Advertising and Soliciting by Dentists." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - I. ...

J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. - 3. ...

4. Repealed

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January

1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising and Soliciting by Dentists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden Executive Director 0001#002	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Expanded Duty Dental Assistant Certification
(LAC 46:XXXIII.506)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly

R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to rescind LAC 46:XXXIII.506 "Dental Assisting National Board Examinations For Expanded Duty Dental Assistant Certification." No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XXXIII. Dental Health Professions
Chapter 5. Dental Assistants
§506. Dental Assisting National Board Examinations
for Expanded Duty Dental Assistant
Certification**

Repealed

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Expanded Duty Dental Assistant
Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden Executive Director 0001#006	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Licenses, Permits, and Examinations of Dental Hygienists
(LAC 46:XXXIII.419)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.419 "Licenses, Permits, and Examinations." No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits, and Examinations (Dental Hygienists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental hygienist applicant \$250.00
- 2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

RULE TITLE: Licenses, Permits, and Examinations of Dental Hygienists

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

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

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

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

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

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0001#005

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Licenses, Permits, and Examinations of Dentists
(LAC 46:XXXIII.415)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.415 "Licenses, Permits, and Examinations." No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental applicant 600.00
- 2. - 12. ...
- 13. Application and permit for mobile or movable dental office 250.00
- 14. Yearly renewal of mobile or movable dental office permit 400.00

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health & Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR, 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130.

Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licenses, Permits, and
Examinations of Dentists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0001#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Requirements of Applicants for Licensure by Credentials
(LAC 46:XXXIII.306)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, "Requirement of Applicants for Licensure by Credentials." No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

**§306. Requirements of Applicants for Licensure by
Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition;

A.20. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Requirements of Applicants for
Licensure by Credentials**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by

examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0001#003

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Requirements of Applicants for Licensure by Credentials
(LAC 46:XXXIII.706)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.706 "Requirements of Applicants for Licensure by Credentials."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

**§706. Requirements of Applicants for Licensure by
Credentials**

A. ...

1. - 17. ...

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. - 24. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice. No preamble has been prepared.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Requirements of Applicants for
Licensure by Credentials**

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

A cost of \$2,200 is estimated to implement these rule changes. Notification of these rule changes will be provided to our licensees via mass mailing with substitute pages for inclusion in Louisiana Dental Practice Act booklets.

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

Revenue collections by the Louisiana State Board of Dentistry will increase by approximately \$18,000 per year. There will be no effect on any other state or local governmental units.

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

Dentists applying for licensure by examination will pay an additional \$100, and dental hygienists seeking licensure by examination will pay an additional \$50. Persons seeking an application to operate a mobile or movable dental office will pay a fee in the amount of \$250, and a yearly fee of \$400 to maintain said permit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0001#007

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Board Member Per Diem (LAC 46:XLIX.307)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, LA Board of Examiners of Nursing Facility Administrators proposes the following rule regarding per diem payments to board members of the LA Board of Examiners of Nursing Facility Administrators. This rule shall be enforced retroactively to September 7, 1999. This rule complies with and is enabled by R.S. 37:2504.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

Chapter 3. Board of Examiners

§307. Board Member Per Diem

Board members shall be paid \$75 per day during which board business is conducted. This rule shall not apply to board members who represent agencies of the State of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing facility Administrators, LR 26:

Kemp Wright
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Board Member Per Diem**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The only cost associated with the implementation of the proposed amendment of 46:XLIX.307 will be the cost of printing the new regulation and the \$25 increase in board member per diem. The estimated cost of publication in the *Louisiana Register* is \$300, and it is estimated the Board will expend an additional \$1,900 for the net increase in board member per diem.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed amendment would have no effect on any revenue collections for this board or any other state or local government entity.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed amendment would provide board members of the LA Board of Examiners of Nursing Facility Administrators with an additional \$25 dollars in per diem payments for every board meeting.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The Board does not anticipate any effect on competition or employment.

Kemp Wright
Executive Director
0001#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sanitary Code Commercial Seafood Inspection Program
(Chapter IX)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, intends to adopt the General Hazard Analysis Critical Control Points (HACCP) Requirements of the National Shellfish Sanitation Program (NSSP) manual to Chapter IX of the Louisiana State Sanitary Code. The General HACCP Requirement would make it mandatory for every oyster processor or dealer to conduct a Hazard Analysis and Hazard Analysis Critical Control Point Plan. This hazard analysis is to determine whether there are food safety hazards that are reasonably likely to occur and to identify the preventive measures that the processor or dealer can apply to control those hazards. Every processor or dealer shall have and

implement a written HACCP plan whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur. The following sections and text will be added to Chapter IX of the Louisiana Sanitary Code:

Chapter IX. Seafood

9:027-1 General Hazard Analysis Critical Control Points (HACCP) Requirements for Dealers

A. Hazard Analysis. Every dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventive measures that the dealer can apply to control those hazards. Such food safety hazards can be introduced both within and outside the processing plant environment, including food safety hazards that can occur before, during, and after harvest. A food safety hazard that is reasonably likely to occur is one for which a prudent dealer would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the particular type of shellfish product being processed in the absence of those controls.

B. HACCP Plan. Every dealer shall have and implement a written HACCP plan. A HACCP plan shall be specific to:

1. each location where shellfish products are processed by that dealer; and

2. each kind of shellfish product processed by the dealer. The plan may group kinds of shellfish products together, or group kinds of production methods together, if the food safety hazard, critical control points, critical limits, and procedures required to be identified and performed in §1C. are identical for all shellfish products so grouped or for all production methods so grouped.

C. Contents of the HACCP Plan. The HACCP plan shall, at a minimum:

1. list the food safety hazards that are reasonably likely to occur, as identified in accordance with §1A. and that thus must be controlled for each shellfish product. Consideration should be given to whether any food safety hazards are reasonably likely to occur as a result of the following:

- a. natural toxins;
- b. microbiological contamination;
- c. chemical contamination;
- d. pesticides;
- e. drug residues;
- f. unapproved use of direct or indirect food or color additives; and
- g. physical hazards;

2. list the critical control points for each of the identified food safety hazards, including as appropriate:

a. Critical control points designed to control food safety hazards introduced outside the processing plant environment, including food safety hazards that occur before, during, and after harvest. As an alternative, the dealer may establish other critical control points which the dealer can demonstrate that provides equivalent public health protection. If the dealer can demonstrate through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required with the exception of receiving which shall always be considered as a critical control point.

b. Critical control points designed to control food safety hazards that could be introduced in the processing plant environment. As an alternative, the dealer may establish other critical control points which provide equivalent public health protection. If the dealer can demonstrate to the authority through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required.

3. List the critical limits that must be met at each of the critical control points. As an alternative the dealer may establish other critical limits which the dealer has demonstrated provide equivalent public health protection with the exception of receiving which shall always be considered as a critical control point.

4. List the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits.

5. Include any corrective action plans that have been developed in accordance with §1F.(2), to be followed in response to deviations from critical limits at critical control points.

6. Provide for a record keeping system that documents the monitoring of the critical control points. The records shall contain the actual values and observations obtained during monitoring.

7. List the verification procedures, and frequency thereof, that the dealer will use in accordance with §1G.(1).

D. Signing and Dating the HACCP Plan.

1. The HACCP plan shall be signed and dated, either by the most responsible individual on site at the processing facility or by a higher level official of the dealer. This signature shall signify that the HACCP plan has been accepted for implementation by the dealer.

2. The HACCP plan shall be signed and dated:

- a. upon initial acceptance;
- b. upon any modification; and
- c. upon verification of the plan in accordance with §1G.(1)(a).

E. Sanitation. Sanitation controls may be included in the HACCP plan. However, to the extent that they are monitored in accordance with §2 they need not be included in the HACCP plan, and vice versa.

F. Corrective Actions.

1. Whenever a deviation from a critical limit occurs, a dealer shall take corrective action either by:

- a. following a corrective action plan that is appropriate for the particular deviation, or
- b. following the procedures in §1F.(3).

2. Dealers may develop written corrective action plans, which become part of their HACCP plans in accordance with §1C.(5), by which they predetermine the corrective actions that they will take whenever there is a deviation from a critical limit. A corrective action plan that is appropriate for a particular deviation is one that describes the steps to be taken and assigns responsibility for taking those steps, to ensure that:

- a. no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation; and
- b. the cause of the deviation is corrected.

3. When a deviation from a critical limit occurs and the dealer does not have a corrective action plan that is appropriate for that deviation, the dealer shall:

a. segregate and hold the affected product, at least until the requirements of §1F.(3)(b) and (c) are met;

b. perform or obtain a review to determine the acceptability of the affected product for distribution. The review shall be performed by an individual or individuals who have adequate training or experience to perform such a review. Adequate training may or may not include training in accordance with §1I.;

c. take corrective action, when necessary, with respect to the affected product to ensure that no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation;

d. take corrective action, when necessary, to correct the cause of the deviation;

e. perform or obtain timely reassessment by an individual or individuals who have been trained in accordance with §1I., to determine whether the HACCP plan needs to be modified to reduce the risk of recurrence of the deviation, and modify the HACCP plan as necessary.

4. All corrective actions taken in accordance with this section shall be fully documented in records that are subject to verification in accordance with §1G. and the record keeping requirements of §1H.

G. Verification.

1. Every processor shall verify that the HACCP plan is adequate to control food safety hazards that are reasonably likely to occur, and that the plan is being effectively implemented. Verification shall include, at a minimum:

a. a reassessment of the adequacy of the HACCP plan whenever any changes occur that could affect the hazard analysis or alter the HACCP plan in any way or at least annually. These changes may include: Raw materials or source of raw materials, product formulation, processing methods or systems, finished product distribution systems, or the intended use or consumers of the finished product. The reassessment shall be performed by an individual or individuals who have been trained in accordance with §1I. The HACCP plan shall be modified immediately whenever a reassessment reveals that the plan is no longer adequate to fully meet the requirements of §1C.

b. ongoing verification of activities including:

i. a review of any consumer complaints that have been received by the dealer to determine whether they relate to the performance of critical control points or reveal the existence of unidentified critical control points;

ii. the calibration of process-monitoring instruments; and

iii. at the option of the dealer, the performing of periodic end-product or in-process testing.

c. a review, including signing and dating, by an individual who has been trained in accordance with §1I., of the records that document:

i. the monitoring of critical control points. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that they document values that are within the critical limits. This review shall occur within one (1) week of the day that the records are made;

ii. the taking of corrective actions. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that appropriate corrective actions were taken in accordance with §1F. This review shall occur within one (1) week of the day that the records are made;

iii. the calibrating of any process monitoring instruments used at critical control points and the performing of any periodic end-product or in-process testing that is part of the dealer's verification activities. The purpose of these reviews shall be, at a minimum, to ensure that the records are complete, and that these activities occurred in accordance with the processor's written procedures. These reviews shall occur within a reasonable time after the records are made.

2. Dealers shall immediately follow the procedures in §1F. whenever any verification procedure, including the review of a consumer complaint, reveals the need to take a corrective action.

3. The calibration of process-monitoring instruments, and the performing of any periodic end-product and in-process testing, in accordance with §1G(1)(b)(ii) and (iii) shall be documented in records that are subject to the record keeping requirements of §1H.

H. Records.

1. All records required by §1 and §2 shall include:

- a. the name and location of the dealer;
- b. the date and time of the activity that the record reflects;
- c. the signature or initials of the person performing the operation; and
- d. where appropriate, the identity of the product and the production code, if any. Processing and other information shall be entered on records at the time that it is observed.

2. All records required by §1 and §2 shall be retained at the processing facility for at least one (1) year after the date they were prepared in the case of refrigerated products and for at least two (2) years after the date they were prepared in the case of frozen products.

3. Records that relate to the general adequacy of equipment or processes being used by a processor, including the results of scientific studies and evaluations, shall be retained at the processing facility for at least two (2) years after their applicability to the product being produced at the facility.

4. If the processing facility is closed for a prolonged period between seasonal operations, or if record storage capacity is limited on a processing vessel or at a remote processing site, the records may be transferred to some other reasonably accessible location at the end of the seasonal operations but shall be immediately returned for official review upon request.

5. All records required by §1 and §2 and HACCP plans required by §1B. and §1C. shall be available for official review and copying at reasonable times.

6. The maintenance of records on computers is acceptable, provided that appropriate controls are implemented to ensure the integrity of the electronic data and electronic signatures.

I. Training

1. At a minimum, the following functions shall be performed by an individual who has successfully completed training in the application of HACCP principles to shellfish processing at least equivalent to that received under standardized curriculum recognized as adequate by the FDA or who is otherwise qualified through job experience to perform these functions:

a. developing a HACCP plan, which could include adapting a model or generic-type HACCP plan that is appropriate for a specific processor, in order to meet the requirements of §1C.;

b. reassessing and modifying the HACCP plan in accordance with the corrective action procedures specified in §1F.(3)(e), and the HACCP plan in accordance with the verification activities specified in §1G.(1)(a); and

c. performing the record review required by §1G.(1)(c).

2. Job experience will qualify an individual to perform these functions if it has provided knowledge at least equivalent to that provided through the standardized curriculum.

3. The trained individual need not be an employee of the dealer.

9:027-2 General Sanitation Requirements

A. Sanitation Monitoring. Each dealer shall monitor conditions and practices that are both appropriate to the plant and the food being processed with sufficient frequency. The requirements relate to the following sanitation items:

1. safety of the water that comes into contact with food or food contact surfaces, or is used in the manufacture of ice, hereinafter referred to as Safety of Water for Processing and Ice Production;

2. condition and cleanliness of food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as: Condition and cleanliness of food contact surfaces;

3. prevention of cross contamination from insanitary objects to food, food packaging materials, and other food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as Prevention of Cross Contamination

4. maintenance of hand washing, hand sanitizing, and toilet facilities, hereinafter referred to as: Maintenance of hand washing, hand sanitizing and toilet facilities;

5. protection of food, food packaging material, and food contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants, hereinafter referred to as: Protection from adulterants;

6. proper labeling, storage, and use of toxic compounds, hereinafter referred to as: Proper labeling, storage, use of toxic compounds;

7. control of employee health conditions that could result in the microbiological contamination of food, food packaging materials, and food contact surfaces, hereinafter referred to as: Control of employees with adverse health conditions; and

8. exclusion of pests from the food plant, hereinafter referred to as Exclusion of Pests. While monitoring of those specified conditions and practices that are not appropriate to the plant and the food being processed is not required, compliance with such conditions and practices remains mandatory.

B. Sanitation Monitoring Records. Each dealer shall maintain sanitation control records that, at a minimum, document the monitoring and corrections prescribed by §2A. These records are subject to the requirements of §1H.

C. Relationship to HACCP Plan. Sanitation controls may be included in the HACCP plan, required by §1B. However, to the extent that they are monitored in accordance with §2A. they need not be included in the HACCP plan, and vice versa.

The proposed rule change should have no direct impact on the formation, stability nor autonomy of the family unit.

Interested persons may submit written comments on the above proposed rule to: David Guilbeau, Sanitarian Program Administrator, Commercial Seafood Program, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810 by the close of business on February 8, 2000. He is responsible for responding to inquiries regarding this adoption. Copies of the proposed Chapter IX, along with the General HACCP Requirement can also be viewed at the office of the Louisiana Register or at Mr. Guilbeau's office as listed above.

A public hearing on the adoption by reference will be held on Tuesday, February 29, 2000 at 10:00 a.m. at 6867 Bluebonnet Blvd., Room 230, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sanitary Code Commercial Seafood Inspection Program

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

There will be no savings or cost to local units. In Fiscal Year 1999/2000 the agency will incur a one-time fee of approximately \$160.00 for publication in the *Louisiana Register*.

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

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

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

The proposed General Hazard Analysis Critical Control Point (HACCP) Requirement would make it mandatory for every oyster processor or dealer to conduct a Hazard Analysis and implement a Hazard Analysis Critical Control Point (HACCP) Plan. This hazard analysis is to determine whether there are food safety hazards that are reasonably likely to occur and to identify the preventive measures that the processor or dealer can apply to control those hazards. Every processor or dealer shall have and implement a written HACCP plan whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur. The estimated costs of any required analysis will vary with individual firms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jimmy Guidry, M.D.
Assistant Secretary
0001#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Analysis of Blood and Urine for Alcohol and Drugs
(LAC 55:I.555, 561, and 571-591)

Pursuant to R.S. 32:663 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, hereby gives notice of its intent to amend Lac 55, Part I, Chapter 5, Subchapter B §555.G and §561.D and to adopt LAC 55, Part I, Chapter 5, Subchapter C pursuant to R.S. 49:950 et seq. The proposed amendment to §555.G is necessary as a result of a name change in a previously approved kit currently in use for testing of alcohol in blood under Louisiana's Implied Consent Law. The amendment to §561.D is necessary to delete the requirement of a solution check because this check is currently being performed by the manufacturer of the solution. The proposed new rules found in Subchapter C are necessary as a result of the passage of Act 1212 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved testing methods for alcohol and controlled dangerous substances under Louisiana's Implied Consent Law.

The Superintendent of the Office of State Police will consider comments and public input for a period of thirty-five (35) days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailslip #11, Baton Rouge, LA 70896, 225-925-6103 (phone) 225-925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 9:00 a.m. Tuesday, February 22, 1999, in the classroom #2 of the Louisiana State Police Training Academy located at 7901 Independence Boulevard, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter B. Analysis of Blood

§555. Certified Techniques of Analyst

A. - F. ...

G. Blood drawn for the purposes of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" Numbers

4000, 4990 or 4991 (manufactured by Becton-Dickinson division of Becton-Dickinson and Company), or "NIK Blood Alcohol Kit" Numbers 4000, 4990, 4991 (manufactured by NIK Public Safety, Inc.) or similar blood collection kits as approved. Such kits will be made available to all law enforcement agencies by the Louisiana State Police.

G.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:360 (June 1988), LR 17:676 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:

§561. Quality of Glassware and Supplies

A. - C. ...

D. All reagent solutions utilized in confirming instrument calibration, maintenance and certification shall be drawn from commercially available solutions with known and certified alcohol contents between 0.04 grams and 0.40 grams percent. The manufacturer's certificate of standard reagent quality shall be prima facie evidence as to the standard of quality of the reagent solutions.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:361 (June 1988), LR 17:677 (July 1991), repromulgated LR 17:800 (August 1991), amended LR 26:

Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

§571. Definitions

The following words and terms used in this subchapter shall have the following meanings:

Aliquot different samples from the same specimen.

Analyte the drug or drug metabolite suspected or detected.

Chain of Custody the accounting of the integrity of each specimen through the tracking of all individuals or agencies which may have handled the sample from the point of collection to final disposition.

Confirmation Test a second analytical procedure to identify the presence or absence of a specific drug or drug metabolite.

Crime Laboratory the Louisiana State Police Crime Laboratory.

Department the Department of Public Safety and Corrections, Public Safety Services.

False Negative not reporting an analyte which is present in the sample.

False Positive the reporting of an analyte which is not present in the sample.

Proficiency Testing Program performance of testing on specimens containing drugs or drug metabolites or lack of which the laboratory shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used screening techniques.

Quality Assurance a program to ensure quality standards in all aspects of the testing process including but not limited to, specimen acquisition, chain of custody,

screening and confirmation testing, and validation of analytical procedure.

Quality Control procedures designed to assess the conduct of each step of the process for testing of drugs.

Retention Times the time for a sample component to elute from a chromatographic column which is useful in the possible identification of that component.

Screening (Initial) Test a test documented to indicate the possible presence of absence of a particular drug, drug class, or drug metabolite.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§573. Qualifications of Forensic Laboratories

Each forensic laboratory seeking approval from the Department to perform analysis of controlled dangerous substances in bodily fluids shall comply with the qualifications as established by the Louisiana State Police Crime Laboratory in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§575. Operating Procedures

A. The laboratory shall have a procedural manual which will include detailed descriptions of procedures for testing. In addition, laboratory policies shall exist which govern sample receiving, chain of custody, analysis, quality control and quality assurance, choice of reagents, review of data, and reporting. The procedural manual shall include the following:

1. instructions for preparation of reagents;
2. details of the analytical procedure;
3. instructions for preparation of controls and calibrators;
4. references to include theory and principle of the method.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§577. Personnel

A. The Toxicology Laboratory shall be supervised by a person who is qualified by reason of appropriate education and experience to assume the required professional, organizational, educational, and administrative responsibilities. The supervisor shall possess at least a bachelor's of science degree from an accredited college or university in one of the chemical, physical or biological sciences, medical technology, criminalistics, forensic science, toxicology, or pharmacology, and shall have at least four years of full-time experience in a toxicology or forensic laboratory.

B. Analytical personnel shall also possess the minimum educational requirements as stated for the supervisor. The analyst shall be trained and show proficiency in each procedure performed.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§579. Certification

A. Individuals seeking to conduct drug testing in compliance with R.S. 32:661-669, shall:

1. make application to the Louisiana State Police Crime Laboratory;

2. submit a copy of their laboratory's operating procedural manual as related to toxicological testing;

3. successfully screen a sample comprised of one or more drugs or drug metabolites in a sample of whole blood, serum, or urine matrix. The sample may be furnished through the Louisiana State Police Crime Laboratory. Successful screening shall consist of:

a. not reporting any false positives;

b. confirming the presence of no less than 75 percent of the analytes routinely screened.

B. Personnel employed full time in the Toxicology Laboratory for a period of two years prior to the adaptation of these rules, shall be granted certification based upon review by the Louisiana State Police Crime Laboratory.

C. Certification shall be valid for a period of two years from the date of issuance or such time as determined by the Director of the Louisiana State Police Crime Laboratory. Certificates may be renewed upon subsequent application and successful completion of A(3) above.

D. Failure to adhere to any of the Rules and Regulations set forth herein or to maintain any qualification, as determined by the Director of the Crime Laboratory, may result in suspension, revocation, or cancellation of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§581. Receiving and Sampling of Evidence

A. Evidence submitted for toxicological examination shall be labeled for identification, securely sealed, and submitted in a container appropriate for shipping and maintaining security. They shall have been taken with the contents of a NIK Kit No. 4000, 4990, or 4991 (manufactured by NIK Public Safety, Inc.), B-D Kit No. 4000, 4990, or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company), or similar kit previously approved by the Louisiana State Police Crime Laboratory. Such kits shall be made available to all law enforcement agencies through the Louisiana State Police.

B. The kits shall contain no components which would interfere with the results of the test and each kit must be suitable for the purpose of collecting blood and/or urine for forensic toxicological determinations.

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within twenty-four (24) hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for the analysis at the earliest possible opportunity after collection, not to exceed seven (7) days.

D. After submitting the sample to the testing facility, specimens shall then be refrigerated in a designated evidence security area.

E. Following analysis, the evidence will be stored for a period of one year under refrigeration either at the testing facility or by the submitting agency. After the one year storage period, the evidence may be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§583. Analytical Procedures

A. Analytical procedures shall include the use of at least two (2) tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g. blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte along with a 20 percent correlation between ion ratios of the base peak and another major ion. Retention times between the analyte in question and the reference analyte shall be within + or B2 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§585. Review of Data

Before results are reported, all analytical data shall be reviewed and approved by the Toxicology Supervisor or a designee with the analytical protocols used by the laboratory. The review shall be documented within the analytical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§587. Quality Assurance

The laboratory shall participate in an external proficiency testing program for drugs in at least one type of specimen at least once every calendar year. The results of the proficiency testing shall be reviewed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§589. Maintenance, Repair and Inspection of Instrumentation

Maintenance and repair of all analytical instrumentation used for the purpose of analyzing the samples required in these guidelines may be performed by the supervisor of the Toxicology Unit or by an analyst assigned to the unit. This may include, but not be limited to, cleaning, replacing septa and injection port liners, changing columns, changing gases and gas flows, adjusting temperature settings, and other routine checks deemed necessary for accurate performance. In addition, the supervisor or analyst may perform diagnostic testing and repair as instructed by a service engineer from the equipment manufacturer or other service repair facility or from a manual provided by the equipment manufacturer.

detailing diagnostics and repair. Following each maintenance and repair, inspection of the instrument shall include the analysis of a known drug standard or mixture of standards to insure that the instrument is in proper working order. Instrumentation is to be checked each day that analysis is to be performed. A maintenance log shall be maintained for each particular instrument listing all repair or maintenance work performed. The log shall at a minimum list the date, time, nature of work and the name of the person performing the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

§591. Reagents and Supplies

A. All drugs used for the preparation of reference drug standards shall be commercially purchased and shall be traceable to a certificate of analysis indicating that it has met the manufacturer's acceptable specifications for use. Purity of chemicals used in the analytical procedures shall be at least reagent grade as recognized by the American Chemical Society and water shall be distilled or de-ionized.

B. All instrument reagents shall be prepared in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules should have a positive effect on the stability of the family as said rules will allow the effective enforcement and prosecution of individuals driving under the influence of alcohol or controlled dangerous substances in this state.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules should have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules should have a positive effect on the functioning of the family as the passage of these rules which will allow the effective enforcement and prosecution of individuals driving under the influence of alcohol or controlled dangerous substances in this state will provide safer roads and highways for all families.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules should have a positive effect on the behavior and personal responsibility of children who are authorized to drive under state law as they provide for effective enforcement and prosecution of those individuals driving on the roads and highways in this state under the influence of alcohol or controlled dangerous substances.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. The rules should have no effect on the ability of the family or local government to perform the function as contained in the proposed rules as

neither families or local governments perform forensic testing for the detection of alcohol or controlled dangerous substances under Louisiana's Implied Consent Law.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Analysis of Blood and Urine for Alcohol and Drugs

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

There should be no implementation costs or savings to the Department. The proposed new rules will regulate an existing program. The proposed new rules are necessary as a result of the passage of Act No. 1212 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved testing methods for alcohol and controlled dangerous substances under Louisiana's Implied Consent Law.

The amendment to LAC 55, Part I, Chapter 5, §555.G is necessary as a result of a name change in a previously approved kit for testing of alcohol in blood under Louisiana's Implied Consent Law. This kit is currently in use so there should be no economic implementation costs or savings to the Department by the addition of the name of this approved kit to the existing regulation. LAC 55, Part I, Chapter 5, §561.D is being amended to delete the solution check as this is already done by the manufacturer of the solution.

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

There should be no effect on revenue collections of the state as the program for which the proposed new rules applies does not raise revenue. There should be no effect on revenue collections of local governments as the programs for which these rules are being adopted and/or amended are not utilized use by local governments.

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

There should be no effect on costs and there should be no economic benefit to directly affected persons or non-governmental groups as it related to the program for which the proposed rules apply. This program is already in effect and being utilized by affected entities. The program is simply now being promulgated as administrative rules as a result of a requirement derived from a recent statutory change. Additionally, the kit being added to LAC 55, Part I, Chapter 5, §555.G is currently in use by entities affected by this regulation. LAC 55, Part I, Chapter 5, §561.D is being amended to delete the solution check as this is already done by the manufacturer of the solution.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The proposed new rules simply promulgate regulations for an existing program for approved testing methods for controlled dangerous substances when testing blood and urine for controlled dangerous substance under Louisiana's Implied

Consent Law which are currently in use. Any entity currently utilizing these methods as well as the method for testing solutions in LAC 55, Part I, Chapter 5, §561.D or the kit being added to LAC 55, Part I, Chapter 5, §555.G should be able to continue to do so without any change in the number of individuals it employs.

Nancy Van Nortwick
Undersecretary
0001#072

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NOTICE OF INTENT

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

Fire Extinguishers and Fire Alarms (LAC 55:V.Chapter 30)

In accordance with the provisions of R.S.49:950, et. seq. and R.S.40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Portable Fire Extinguishers, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment, notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules.

TITLE 55

PUBLIC SAFETY

Part V. Administrative Rules on Fire Protection

Chapter 30: Portable Fire Extinguisher, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment Rules

§3001. Purpose

The purpose of these rules is to regulate the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler equipment and/or systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1625, et seq. and 1651, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3003. Applicability of Rules

These rules shall apply to all businesses and persons engaged in the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems and/or hydrostatic testing.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3005. Exceptions

These rules shall not apply to businesses and/or persons engaging in the activity of planning, certifying, inspecting, installing or servicing fire detection and alarm equipment and/or systems in one or two family dwellings which is governed by R.S. 40:1662,.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3007. Notices by the Fire Marshal

Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1625, et seq. or 1651, et seq. or these rules must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or business involved to assure that the Office of the State Fire Marshal has a correct address for the person or business.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3009. Certificate, License, Permit Required

A. Each firm engaged in the activity of certifying, inspecting, installing, inspecting, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a certificate of registration in the class(es) of certification desired in accordance with L.A.C. 55:V:3015 prior to conducting any such activity in this state.

B. Each business engaged in the activity of planning, certifying, inspecting, installing, or servicing fire protection sprinkler systems shall employ a qualifying person or certificate holder and obtain a permit for such in accordance with R.S. 40:1625, et seq. prior to conducting any such activity in this state.

C. Each person or employee, except apprentices, engaged in the activity of inspecting, installing, servicing portable fire extinguishers or planning, certifying, inspecting, installing or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a license in the class and/or classes of licensure desired in accordance with L.A.C. 55:V:3017 prior to conducting any such activity in this state.

D. Each apprentice, as defined in L.A.C. 55:V:3013, engaged in the activity of inspecting, installing, maintaining or servicing portable fire extinguishers or inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a permit in accordance with L.A.C. 55:V:3019 prior to conducting any such activity in this state.

E. Any business(es) and/or person(s) described in A, B, C and D of this section, which have not applied for and received a current and valid certificate of registration, license or permit shall immediately cease such activities.

The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3011. Qualifying Persons

A. Each certified business or each business seeking certification, other than portable fire extinguisher and pre-engineered fixed fire extinguishing system firms, shall employ at least one qualifying person. No systems shall be planned, installed or submitted to this office for review if the business does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall only qualify the one business for which he is employed. A contract employee cannot be used to fulfill this requirement except as provided by subsection G below.

C. The qualifying person shall be primarily and regularly engaged in the planning, and the supervision of the installation and servicing of fixed fire extinguishing, fire detection and alarm, and/or fire protection sprinkler equipment and/or systems.

D. If the qualifying person is a professional engineer currently registered with the Louisiana Board of Professional Engineers, the following endorsements shall be required for each discipline:

1.a. Fire protection sprinkler systems--Mechanical Engineer

b. Engineered Fixed Fire Extinguishing Systems--Mechanical Engineer

c. Fire Detection and Alarm Systems--Electrical Engineer

2. A Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline.

E. At anytime that a business finds itself without a qualifying person, such businesses shall only be able to continue certifying, inspecting and/or servicing existing contractual obligations but shall not be engage in any new work involving the planning, certifying, inspecting, installing or servicing of fixed fire extinguishing equipment and/or systems, or fire detection and alarm equipment and/or systems, or fire protection sprinkler equipment and/or systems until a qualifying person has been employed as provided herein.

F. This office shall be notified in writing within ten (10) working days anytime a qualifying person's employment is terminated for any reason.

G. A business who loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have forty-five (45) days to hire another qualifying person. If after the loss of such an employee, a replacement cannot be found, within the forty-five (45) the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six (6) months. Not later than thirty (30) days prior to the expiration of the six month period, the business can request an additional six (6) month

period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one (1) additional six (6) month period during which a business may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within ten (10) working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license or permit as required by these rules. The examination requirement for licensure or permitting will be waived for these employees. If a firm desires to use multiple qualifiers for submitting plans and supervising installations or service, then it must register and license the additional qualifiers with the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3013. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Activity the leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems pursuant to R.S.40:1625, et seq. and R.S.40:1651, et seq.

Apprentice a person to whom a permit has been issued pursuant to R.S.40:1651, et seq., to perform various acts of inspection, installation, maintenance or service while under the direct supervision of and accompanied by an employee of the same certified firm, and licensed under the same statutes to perform such acts.

Branch Office a location other than firm's main office, from which the acts authorized by the certificate of registration are performed.

Business for the purpose of these rules the term business shall mean "firm" as used in R.S.40:1651, et seq. and "fire protection sprinkler contractor" as used in R.S.40:1625, et seq.

Certificate of Registration that document issued by the State Fire Marshal to a person, firm, corporation, or association authorizing same to engage in such activities as defined in L.A.C. 55:V:3015 B.

Certify to attest to the proper charging, or filling, or functionality, or inspection, or installation, or maintenance, or recharging, or refilling, or repair, or service, or testing of portable fire extinguishers, fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

Class A Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers and hydrostatic testing not required by the U.S. Department of

Transportation (U.S. DOT). Please note: Hydrostatic testing required by the U.S. DOT requires a Class E Certificate defined in "I" below.

Class B Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems and those activities specifically authorized by a Class "B-1" Certificate.

Class B-1 Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

Class C Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying, inspecting, installing, maintaining and servicing of engineered or pre-engineered fixed fire extinguishing systems.

Class D Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm systems and those activities specifically authorized by a Class "D-1" certificate.

Class D-1 Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

Class D-2 Certificate of Registration that document issued by the State Fire Marshal that authorizes an owner of a fire alarm system to perform routine inspection, and minor service and repairs of fire detection and alarm systems within the owner's own facilities only. No planning, installing or certifying of these systems is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

Class E Certificate of Registration that document issued by the State Fire Marshal that authorizes a firm to engage in hydrostatic testing of fire extinguishers manufactured in accordance with the specification and procedure of the United States Department of Transportation.

Contact Person that individual designated by a business to act as liaison with the Office of the State Fire Marshal.

Department of Transportation (DOT) Cylinder all fire extinguisher cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation. Please note: DOT regulations place 21 year age restriction on drivers who transport certain DOT regulated cylinders.

Employee one who works for a 'firm' as defined by LSA-R.S.40:1652(1) in return for financial or other compensation. However, the term shall include the following.

a. For the purposes of the licensing requirements, contained in R.S. 40:1653 (C)(1) employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered "employees" if he or she is or will be physically certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems and/or equipment or in planning, certifying, inspecting, installing, maintaining or servicing fire detection and alarm systems and/or equipment or doing hydrostatic testing.

Engineered Systems special systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines

Fire Protection Equipment/Systems as governed by R.S.40:1651, et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire extinguishing systems (pre-engineered or engineered) and/or fire detection and alarm systems.

Fire Protection Sprinkler Systems as defined in R.S.40:1625(5), including but not limited to water sprinkler systems, standpipes, and hose stations, and shall include the provisions of NFPA 13, 13D, 13R, 14, 20 and 25.

Hydrostatic Testing pressure testing cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

Inspection the act of visually checking the physical condition and placement of portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems and/or certifying the same for functional performance of equipment/system in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

Installation the initial placement of a portable fire extinguisher, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems or an extension, or alteration after initial placement.

License that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by L.A.C. 55:V:3017 and 3025.

Maintenance repair service, including periodically recurrent inspections and tests, required to keep fire protection equipment/systems and fire protection sprinkler systems and their components in an operable condition at all times, together with replacement of the equipment/system or of its components, when for any reason they become undependable or inoperable.

Nationally Recognized Testing Laboratory a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Non-Conforming a system or component of a system which does not comply with applicable NFPA codes or standards.

Non-Required a system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Office office of State Fire Marshal.

Permit those documents issued by the State Fire Marshal pursuant to LSA-R.S.40:1625, et seq. or LSA-40:1651, et seq.

Person a natural individual, including any owner, manager, officer, or employee of any business.

Pocket License or Permit that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee or permittee, authorizing the employee to engage in the activities as defined by L.A.C. 55:V:3017, 3019, 3025 and 3027.

Pre-Engineered Systems packaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

Portable Fire Extinguisher a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

Qualifying Person the employee of a business who is certified by the National Institute for the Certification of Engineering Technologies (NICET) Level III or has passed the written examination required to be certified at the NICET Level III in Fire Protection in the appropriate discipline or a professional engineering currently registered with the Louisiana Board of Professional Engineers with the appropriate endorsement as provided by section 3011 D.

Recharge the replacement of the extinguishing agent, the expellant or both.

Semi-Portable any portable fire extinguisher mounted on skids or wheels.

Service the act of repair or replacement of fire protection equipment/systems or fire protection sprinkler systems or their components to ensure the proper functioning of the equipment/system.

Shop a facility of a certified business where designing, certifying, inspecting, maintaining, pre-assembling, servicing, repairing or hydrostatic testing is performed and where parts and equipment are maintained.

Trainee a person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3015. Permits and Certificates of Registration

A. Any individual, partnership, corporation, association or joint venture must obtain from the State Fire Marshal a permit as provided for by R.S.40:1625, et seq. before engaging in the installation, repair, alteration, addition, maintenance or inspection of fire protection sprinkler systems.

1. Each fire protection sprinkler contractor, as defined by R.S.40:1624(4)(a) shall have at least one (1) qualifying person or certificate holder.

2. Fire protection sprinkler contractors as defined by R.S.40:1624(4)(a) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. Any, person, partnership, corporation or association must obtain from the State Fire Marshal a certification of registration as provided for by R.S.40:1651, et seq. before engaging in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems or fire detection and alarm systems.

1. Each firm, as defined by R.S.40:1652(1), shall have at least one (1) licensed technician per class of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S.40:1652(1) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the State Fire Marshal.

C. The following shall apply to both permits and certificates of registration:

1. Posting. Each permit or certificate shall be posted conspicuously at each firm and/or branch office premises. All businesses without a physical location in this state shall be required to purchase a duplicate permit or certificate to post in each vehicle which will come into this state to do work.

2. Changes of ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate permit or certificate must be obtained from the State Fire Marshal to replace a lost or destroyed permit or certificate. The permit or certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in L.A.C. 55:V:3031.

5. Revisions/Changes. The change of a business's name, location, or mailing address or operating status requires a revision of the permit or certificate of registration. Permits or certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit or certificate of registration holder must submit written notification of the change with the surrendered permit certificate of

registration, accompanied by the required fee specified in L.A.C. 55:V:3031.

6. Non-transferability. A permit or certificate of registration is not transferable from one business to another.

7. Validity. A permit or certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3017. Licensure

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S.40:1651, et seq. other than an apprentice, who certifies, inspects, installs, maintains and services portable fire extinguishers, and/or plans, certifies, inspects, installs, maintains or services fixed fire extinguishing systems and/or fire detection and alarm systems and/or engages in hydrostatic testing shall have a current and valid license issued by the State Fire Marshal.

B. Types of licenses. Each license shall be identified by class, which indicates the authorized act or acts which may be performed by the licensee as follows.

1. Class "A" Technician's License authorizes the person to certify, inspect, install, maintain and service portable fire extinguishers.

2. Class "B" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems.

3. Class "B-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Class "C" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service engineered or pre-engineered fixed fire extinguishing systems.

5. Class "D" Technician's License authorizes a person to plan, certify, inspect, install, maintain and service fire detection and alarm systems.

6. Class "D-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Class "D-2" Technician's License authorizes the person to perform routine inspection and minor service and repair of fire detection and alarm systems within the owner's own facility. No planning, installing or certifying of these systems/equipment is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or

annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

8. Class "E" Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

9. Trainee License authorizes the person to inspect, install, maintain and service portable fire extinguishers, fixed fire extinguishing systems and/or equipment of fire detection and alarm systems and/or equipment while under the direct supervision of a licensed technician who holds a current and valid license for the work to be performed. A trainee license can be renewed annually as long as the individual or firm desires. The supervising technician and trainee must work for the same firm which must be certified for the work to be performed.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket license. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be on his/her person at all times when conducting fire protection work in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate license. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in L.A.C. 55:V:3031.

F. Revised licenses. The change of a licensee's employer, home address or mailing address or employment status requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within ten (10) days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in L.A.C. 55:V:3031.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License reciprocity. The State Fire Marshal may waive any license requirements for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3019. Apprentice Permit

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S.40:1651, et seq. engaged as an apprentice shall have a current and valid apprentice permit issued by the State Fire Marshal.

B. Validity. A permit shall be valid for a period of one year from the date of issuance and is non-renewable.

C. Supervision. An apprentice may perform the various acts of inspecting, installing, maintaining or servicing portable fire extinguishers, fixed fire extinguishing equipment and/or systems and fire detection and alarm equipment and/or systems only while under the direct supervision of and accompanied by a licensee holding a valid license to perform such acts. The apprentice and the supervising licensee must be employees of the same firm.

D. Identification. A permit holder shall, upon demand by the State Fire Marshal or his designated representative, show and allow the examination of such permit.

E. Posting. It is not necessary to post the apprentice permit on a wall, but it must be kept on the apprentice's person at all times whenever the apprentice is performing activity regulated by R.S. 40:1651, et seq. and these rules.

F. Pocket Permit. The pocket permit must be kept on the apprentice's person at all times and shall be on his/her person at all times while conducting fire protection work in the field. The pocket permit need not be visibly displayed when working in areas where the permit may be damaged or lost. The permit must still be available for inspection upon request.

G. Duplicate Permit. A duplicate permit must be obtained from the State Fire Marshal to replace a lost or destroyed permit. The permittee and his employer must submit written notification within 10 days of the loss or destruction of the permit, accompanied by the required fee as specified in L.A.C. 55:V:3031.

H. Revised Permits. The change of a permittee's employer, home address or mailing address or employment status requires a revised permit. Permits requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit holder and his employer must submit written notification within 10 days of the necessary change, with surrendered permit, accompanied by the required fee as specified in L.A.C. 55:V:3031.

I. Non-transferable. A permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3021. Alteration of Certificates, Licenses or Permits

Any alteration of a certificate of registration, license or permit renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S.40:1625, et seq., 1651, et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3023. Application for Permits or Certificates of Registration

A. Applications for certificates of registration for fire protection firms and their branch offices and permits for fire protection sprinkler contractors shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC-55:V:3031(A).

B. The application for permits or certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;
2. identify the type of permit or certificate of registration applied for;
3. identify the principal location of the business;
4. identify the location of each branch office.
5. identify the business's Louisiana Sales Tax number and Federal Tax number;
6. identify any and all names by which the business may conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules;
7. identify the contact person as defined by these rules;
8. identify the qualifying person for businesses seeking permitting or certification in any of the following disciplines:
 - a. engineered fixed fire extinguishing systems;
 - b. fire detection and alarm systems; or
 - c. fire protection sprinkler systems.
9. include for engineered fixed fire extinguishing system and fire detection and alarm systems firms a separate employee application for their qualifying person along with the qualifying person's credentials and an originally signed and notarized employment affidavit;
10. except for fire protection sprinkler contractors, be accompanied by:
 - a. at least one application with fee from an employee seeking to obtain a technician's license in each class of certification;
 - b. a current certificate of insurance issued to the office of State Fire Marshal in the following minimum amounts:

No.	Class Of Certificate	Amount
1.	Class A: Portables	\$ 300,000
2.	Class B: Pre-Engineered Systems	\$ 500,000
3.	Class B-1: Kitchen Suppression Systems	\$ 500,000
4.	Class C: Engineered & Pre-Engineered Systems	\$ 1,000,000
5.	Class D: Alarms	\$ 500,000
6.	Class D-1: Non-Required Systems	\$ 300,000
7.	Class D-2 :Owner of Fire Alarm Systems	\$ 300,000
8.	Class E: Hydrostatic Testing	\$ 500,000

c. a copy of the local business or occupational permit for the firm.

11. if the firm desires a Class "E" (Hydrostatic) Certificate of Registration, be accompanied by the following:

- a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and
- b. a copy of the firm's identifying mark (symbol).

12. for out of state businesses, include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1625, et seq., 40:1651, et seq. and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S.40:1625, et seq., 1651, et seq. and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is applying to be permitted or certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the permit or certificate of registration. After issuance of a permit or certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3025. Application for Licenses

A. Original and renewal applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in L.A.C. 55:V:3031.

B. Applications for technician's licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to plan, certify, inspect, install, maintain or service those systems and/or equipment for which the applicant desires to become licensed.

C. Applications for technician's licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as provided in LAC-55:V:3033.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3027. Application for Apprentice Permit

A. Each person employed as an apprentice by a certified firm shall apply for a permit on a form provided by the State

Fire Marshal and accompanied by the required fee as specified in L.A.C. 55:V:3031.

B. Due to the supervisory requirements of R.S.40:1653(D), no competency examination is required for an apprentice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3029. Fees-General Information

A. Every fee required in accordance with the provisions of R.S.40:1625, et seq. and 40:1651, et seq. and these rules, shall be paid by check or money order made payable to the "Office of State Fire Marshal." Cash cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal at 5150 Florida Blvd., Baton Rouge, Louisiana 70806.

C. Late fees are required by R.S. 40:1625, et seq. and 40:1651, et seq. on all permit, certificate of registration or license holders who fail to submit renewal applications on or prior to their expiration date.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the permit, certificate or license being renewed.

E. Holders of permits, certificates and licenses which have been expired for less than two years cannot be issued new certificates or licenses.

F. Permits, certificates or licenses which have been expired for two years or more cannot be renewed, and the holders thereof must apply for a new permit, certificate or license.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3031. Fees-Specific Information

A. Permit Fee: R.S.40:1625, et seq. (Fire Protection Sprinkler Contractors):

1. Original (Initial) Permit Fee: (R.S.40:1628(A)) \$100.00.
2. Renewal Fee: [R.S.40:1631(D)] \$100.00.
3. Late Renewal Fee: [R.S.40:1631(C)] \$150.00.
4. Revised or Duplicate Permit Fee: \$20.00.

B. Certificates of Registration Fees: R.S.40:1651, et seq. (Fire Protection Firm):

1. Original Certification Fees:
 - a. Original Certification Fee: [R.S.40:1653(A)] \$350.
 - b. Each additional certification fee: \$100.
 - c. Original Hydrostatic Testing Certification Fee: [R.S.40:1653(E)] \$50.
2. Renewal Fee: (R.S.40:1653(A))
 - a. Class A (portable fire extinguishers): \$150.00.
 - b. Class B (pre-engineered fixed fire extinguishing): \$100.00.

c. Class B-1 (pre-engineered kitchen fixed fire extinguishing): \$50.00.

d. Class C (engineered & pre-engineered fixed fire extinguishing): \$100.00.

e. Class D Certificate (required fire detection and alarm): \$100.00.

f. Class D-1 Certificate (non-required fire detection and alarm): \$50.00.

Class D-2 Certificate (owner of fire alarm): \$50.00.

h. Class E Certificate (hydrostatic testing): \$50.00.

3. Late Renewal Fee:

A penalty shall be assessed in accordance with R.S.40:1657 (E) for the late renewal of a certificate of registration.

4. Change in ownership: [R.S.40:1653(B)] \$350.

5. Changes or alterations: [R.S.40:1653(B)] \$20.

6. Duplicate Certificates of Registration: [R.S.40:1653(B)] \$20.

C. Branch Office Fees.

1. Original Application fee:

Regardless of how many classes of certification of registration selected by the applicant, the original (initial) fee for a branch office is always \$100 [R.S.40:1653 (A)], including branch offices of firms certified in hydrostatic testing.

2. Renewal fees: [R.S.40:1653(A)] \$100.

3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S.40:1657(E) for the late renewal of a license.

a. Not more than 90 days: \$150.

b. More than 90 days but less than two years: \$250.

4. Change in Ownership: [R.S.40:1653(B)] \$100.

5. Changes or alterations: [R.S.40:1653(B)] \$20.

6. Duplicates: [R.S.40:1653(B)] \$20.

D. License Fees: Classes A, B, B-1, C, D, D-1, D-2 and Trainee.

1. Original license fee: [R.S.40:1653(C)]

a. The first class of license selected: \$50.

b. Each additional license: \$10.

2. Renewal Fees: [R.S.40:1653(C)]

a. First class of license renewed: \$50.

b. Each additional class of license renewed: \$10.

3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S.40:1657(E) for the late renewal of a license.

a. Expired not more than 90 days

(1). First class of license renewed: \$75

(2). Each additional class of license renewed: \$15

b. Expired more than 90 days but less than two years

(1). First class of license renewed: \$100

(2). Each additional class of license renewed: \$20

4. Changes or Alteration Fees. [R.S.40:1653B)] \$20.

5. Duplicate License Fees. [R.S.40:1653B)] \$20.

6. Initial Competency Examination Fee:

(Non-refundable) [R.S.40:1653(C)] (per exam) \$10.

7. Re-examination Fee:

(Non-refundable)[R.S.40:1653(C)] (per re-exam) \$10.

E. Apprentice Permit Fees

1. Original (initial) permit fees: [R.S.40:1653(D)] \$30.

2. Changes or alterations: [R.S.40:1653(B)] \$20.

3. Duplicate permits: [R.S.40:1653(B)] \$20.

F. Fees for Class E Licenses

1. Original (initial) license fee: [R.S.40:1653(E)] \$25.

2. Renewal license fee: [R.S.40:1653(E)] \$25.

§3033. Examinations

A. Applicants for licenses are required to take an examination and obtain at least a grade of 75 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1651, et seq.

2. a section on the planning, certifying, inspecting, installing, maintaining and servicing of those types of systems for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards adopted by LAC-55:V:103.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination prior to the issuance of a new license. No examination is required for a licensee whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this Office or the examination administrator. The pre-registration form and the required fee must be received by the Office five working days prior to the examination date.

G. Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within thirty (30) days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the Office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus

2. length of course and specific time covered per topic

3. example of test questions

4. a copy of the certificate granted

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3035. Portable Fire Extinguishers

A. General Provisions

1. Portable fire extinguishers shall be inspected, installed, maintained and serviced in compliance with the

edition of NFPA 10 most recently adopted by the Office of the State Fire Marshal in LAC-55:v:103.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10, as adopted by the Office of the State Fire Marshal in LAC-55:V:103, the extinguisher shall be red tagged or removed from service and destroyed in accordance with NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103, shall be performed. If these procedures fulfill the requirements of a six year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six year maintenance procedures shall begin from that date.

B. Record Tag. Each six year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC-55:V:103. Previous six year maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six year maintenance was performed;
2. the name of the firm and its certificate number;
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm. (Preprinted or printed in permanent ink);
2. name and license number of the person who perform the service. (Preprinted or printed in permanent ink);
3. month and year that the service was performed. (To be punched).

E. A new external verification collar shall be provided for an extinguisher each time internal maintenance or recharging is performed or the extinguisher is opened for

any other reason. A new external verification collar is not needed when a CO₂ extinguisher is recharged without opening the cylinder for inspection or on side cartridge type extinguishers.

F. External verification collars shall be affixed in the following manner.

1. Any collar previously attached shall be removed prior to affixing a new collar.

2. The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

G. The diameter of the opening for external verification collars shall not exceed 1/4" the diameter of the extinguisher's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3037. Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems

A. All new (complete or renovated) required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, reviewed plans and the applicable codes and standards adopted in L.A.C.55:V:103 and 3053. All existing required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be certified, inspected, maintained and serviced in an operational condition in accordance with the manufacturer's installation manuals, specifications, and per the inspection, testing and maintenance chapters of the applicable codes and standards adopted in L.A.C.55:V:103 and 3053. All non-required and non-conforming fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC-55:V:103 and 3053 as authorized by the Office of the State Fire Marshal. Non-required and/or non-conforming systems/equipment which only comprise of smoke detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications, as provide by R.S.40:1561, et seq., and NFPA 101 as adopted by LAC-55:V:103.

B. All systems shall be planned, certified, inspected, installed, maintained and serviced by certified firms having licensed personnel working within their certification and licensing discipline. In cases where disciplines cross over, the following reasoning will prevail.

1. Automatic detection and control systems will be planned, inspected, installed, maintained and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of an engineered or

pre-engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that engineered or pre-engineered system to any alarm initiated system, to include but not limited to annunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm certified in Fire Detection and Alarms must plan, certify, inspect, install, maintain or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC-55:V:103 will be planned, certified, inspected, installed, maintained and serviced by certified fire protection sprinkler contractors. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of the piping system must be installed by certified fire protection sprinkler contractors and connected to the fire alarm system by a certified fire detection and alarm firm.

C. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility. Non-required systems shall be maintained in accordance with the inspection, testing, and maintenance chapters of the applicable NFPA codes, standards and manufacturer's specifications governing that particular system as long as the system is within the facility.

D. Interconnected smoke detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC-55:V:103, or as authorized by this office must be planned, inspected, installed, maintained and serviced by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1656 (7). These systems must be submitted to this office for review prior to installation.

E. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

a. the certificate number of servicing firm, preprinted or printed in permanent ink;

b. name and license number of the person who performed the service, preprinted or printed in permanent ink;

c. month and year that the service was performed. This information must be punched.

F. A new external verification collar is not needed in the following circumstances:

1. when a CO₂ cylinder is recharged without opening the cylinder for inspection;

2. cartridge operated type of systems.

G. External verification collars shall be affixed in the following manner:

1. any collar previously attached shall be removed prior to affixing a new collar;

2. the collar shall be placed around the exterior of the cylinder at or below the valve assembly.

H. The diameter of the opening for external verification collars shall not be more than 1/4" larger than the diameter of the cylinder's neck, measured directly below the valve assembly.

I. The Office may exempt additional cylinders from this requirement if good cause is shown that the requirement is impractical or overly burdensome.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3039. Hydrostatic Tests

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC-55:V:103. The owner shall be informed of a needed test or replacement.

1. Recording of Tests:

a. High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC-55:V:103.

b. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible.

c. The record tag shall contain the following information, which, exception for subsection c and d hereof, must be hand punched:

i. year and month that the hydrostatic test was performed;

ii. test pressure used;

iii. name of the firm and its certificate number;

iv. initials of the person performing the maintenance and his license number.

d. Previous hydrostatic test record tags shall be removed when a new one is affixed.

2. Minimum Equipment and Facilities Requirements. The following equipment shall be required depending upon the firm's class of certification:

a. Class A (low pressure hydrostatic testing)

i. approved equipment for drying cylinders;

ii. test apparatus including appropriate adapters, fittings and tools;

iii. approved Closed Recovery Unit;

iv. department of Agriculture approved scales for unit measure. Scales shall be certified annually by the Department of Agriculture or its designated agent;

v. hydrostatic test labels as required by the applicable NFPA code(s) or standard(s), as adopted by the Office of State Fire Marshal in LAC-55:V:103;

- vi. facilities for leak testing of pressurized extinguishers;
- vii. adequate safety cage for hydrostatic testing of low pressure cylinders
- viii. cylinder inspection light
- viii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric)
- ix. continuity Tester
- x. gauge Tester
- b. Class E (high pressure hydrostatic testing)
 - i. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including appropriate adapters, fittings and tools
 - ii. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch
 - iii. clock with sweep second hand on or close to hydrostatic test apparatus
 - iv. approved equipment for drying cylinders
 - v. facilities for leak testing of pressurized extinguishers
 - vi. cylinder inspection light
 - vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric)

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3041. Installation Tags

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire detection and alarm and fixed fire extinguishing systems. On kitchen fixed fire extinguishing systems, the tag shall be permanently affixed to the side of the extinguishing agent cylinder. This requirement does not apply to portable fire extinguishers or fire protection sprinkler systems. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required on the front side of the tag:

1. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters, in bold type);
2. Installation Tag (Preprinted);
3. Installation Date: (date to be hand written);
4. Business's Name (Preprinted);
5. Business's Certificate Number (Preprinted);
6. Technician's Name: (Name to be preprinted or hand written);
7. Technician's License Number: (Number to be preprinted or hand written);
8. Technician's Signature: (Signature cannot be preprinted);
9. NFPA Code Edition System Was Installed Under: (Hand written);
10. Plan review or exemption number: (To be hand written);
11. Serial or model number of panel and/or cylinder, if applicable: (To be hand written).

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag;

initials are not permitted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If a installation tag is replaced, hand write REPLACEMENT after the installation date. If the installation date is not known the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3043. Service, Yellow, and Red Tags

A. All portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems shall be tagged in the following manner.

1. Service Tags

a. A service tag shall be completed and attached to a portable fire extinguisher, a fixed fire extinguishing system, a fire detection and alarm system, a fire protection sprinkler system, a standpipe and a hose station after it has been certified, inspected, installed, maintained or serviced indicating all work that has been done.

b. Service tags shall be green in color for fixed fire extinguishing systems, fire detection and alarm systems, standpipe/hose stations and fire protection sprinkler systems. Service tags may be of any color but yellow or red for portable fire extinguishers.

c. The service tag shall be attached at the following locations:

- i. for portable fire extinguishers the tag shall be attached at the valve;
- ii. for fixed fire extinguishing systems the tag shall be attached at the tank and at the panel;
- iii. for kitchen fixed fire extinguishing systems the tag shall be attached at the tank and at the manual pull station;
- iv. for fire detection and alarm systems the tag shall be attached at the panel;
- v. for fire protection sprinkler systems the tag shall be attached at the riser and/or fire pump;
- vi. for standpipes/hose stations the tag shall be attached at the valve control and/or fire pump.

d. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

e. A service tag shall be attached on all systems found to be in proper working condition and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA

codes and standards. This tag shall be used for new installations and shall be in addition to the installation tag provided for in Section 3041 above. This tag shall also be used for all service and maintenance where the system is found to meet the above conditions.

f. Service tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which service was performed (must be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. type of service performed. Only service and inspection shall be noted on tag for type of work performed (must be punched through service tag); specifics as to service performed shall be noted on rear of tag, (i.e., recharged cylinder, changed smoke detector, repaired pull station, etc);

viii. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel and fire detection and alarm system control panel.

ix. owner of system and address of owner (to be noted on rear of tag).

2. Partial Impairment Tags (Yellow Tags)

a. All businesses engaged in the activity of planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on these systems. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag (red tag).

b. A partial impairment tag may be placed on all systems in which there is a deficiency with the system but where the system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the system or equipment.

c. A partial impairment tag shall not remain on a system for more than 60 days. If the problem is not corrected after 60 days the certified business shall be required to notify, in writing, the Office of the State Fire Marshal Inspection Section.

d. Partial impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the impairment was found (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler system check valve;

x. Owner of system and address of owner (to be noted on rear of tag).

3. Impairment Tags (Red Tags)

a. Upon the effective date of these rules, a new impairment tag, which shall be red in color, shall be used.

b. An impairment tag shall be placed on all fixed fire extinguishing, fire detection and alarm systems or fire protection sprinkler systems where the system is impaired to the point that life safety is at risk or to the point that the automatic or manual discharge system will be prevented from functioning as intended.

c. Portable fire extinguishers, standpipe systems or hose stations shall be red tagged when the equipment or system is inoperable for any reason.

d. Impairment tags shall also be placed on any system or portable where life safety is in imminent danger.

e. Written notice shall be made to the owner and to the Office of the State Fire Marshal Inspection Section by the certified business as soon as is practically possible but shall not exceed two working days after the impairment is discovered. Written notification can be by mail or facsimile. The Office of State Fire Marshal shall provide a form for notification.

f. Impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the inspection was performed (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);

viii. type of impairment found (to be hand written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler systems check valve;

x. owner of system and address of owner (to be noted on rear of tag.

g. Notification of fire protection equipment/systems and fire protection sprinkler systems inspections where no deficiencies are found shall not be sent to the Office of the State Fire Marshal unless specifically requested.

4. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal:

a. name, address, and telephone number of the owner of the system;

b. name, address, telephone number, and certificate number of the business noting the impairment;

c. name and license number of the technician who did the inspection;

d. type of system (manufacturer and model number should also be included);

e. code, inspection chapter and year edition firm used for inspection;

f. reason for the impairment;

Note: A copy of the inspection or service report shall be included.

g. date system or equipment was red or yellow tagged.

5. Non-required and/or Non-conforming Systems. Where a fire protection or fire protection sprinkler system is non-required or permitted to be installed in a non-conforming state by this Office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in this section.

a. Each business shall stamp or write on the installation tag and/or service tag one of the following statement as applicable:

i. NON-REQUIRED SYSTEM; or

ii. NON-CONFORMING SYSTEM; or

iii. NON-REQUIRED/NON-CONFORMING SYSTEM.

b. Such print or stamp shall be in all capital letting and be written or stamped so as to not obscure other information provided on the tag.

c. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

6. MISCELLANEOUS PROVISIONS

a. On all fixed fire extinguishing, fire detection and alarm systems and fire protection sprinkler systems, a plastic pocket pouch/sleeve shall also be attached to the panel, riser or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen fixed fire extinguishing systems, the pocket pouch/sleeve shall be attached at or near the manual pull station. Upon a new annual inspection (or six month inspection for kitchen fixed fire extinguishing systems), all

previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers, standpipes or hose stations.

b. All tags must be card stock, plastic, vinyl, tyevak or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted except for fire protection equipment or systems on vehicles, vessels and areas subject to adverse conditions. Self adhesive tags shall contain all of the information required on hanging tags.

c. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

d. Businesses shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the business's file.

e. All tags remain the property of the a certified business and may be removed only by licensed employees of the certified business or employees of the State Fire Marshal's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3045. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against businesses, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's business to a customer or to a deputy fire marshal or his designated representative;

3. impersonating the state fire marshal, his designated representative or any other public official;

4. intimidating or coercing a customer;

5. planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

6. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;

7. falsifying tags, labels, inspection reports, invoices and/or other documents;

8. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;

9. working an employee or apprentice or as an employee or apprentice without the appropriate class of license or permit or working without a proper license or permit;

10. working without the appropriate classification of firm certificate or working without a permit or certificate;

11. working with an expired license, permit or certificate;

12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

13. contracting to a business, person or employee which is not properly certified, permitted or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S.40:1625, et seq. and 1651, et seq. or these rules;

14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

15. installing a fixed fire extinguishing system, fire detection and alarm system or fire protection sprinkler system prior to submitting and receiving a stamped set of plans or go to work letter from the Plan Review Section of the Office of the State Fire Marshal;

16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, certify, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted;

17. failing to adhere to all applicable laws and rules governing fire protection sprinkler systems or fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;

18. engaging in false, misleading or deceptive acts or practices;

19. aiding and abetting an unlicensed individual, employee or business in the planning, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;

2. portable fire extinguishers or fixed fire extinguishing system cylinders without labels of an approved testing laboratory or name plates, except that a portable fire extinguisher or fixed fire extinguishing system cylinders whose original label or name plate has been replaced with a manufacturer approved replacement label or name plate, and maintenance records as provided below, documenting the replacement shall not be prohibited.

3. Maintenance records shall include the following:

a. manufacturer;

b. type and size of the portable fire extinguisher or fixed system cylinders;

c. serial number of extinguisher or fixed system cylinders;

d. dates and types of service performed.

4. Any portable or cylinder prohibited by the adopted NFPA codes and standards listed in LAC55:V:103.

5. Systems without listing from an approved testing laboratory.

6. Systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3047. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a business's physical locations, vehicles or job sites to verify required certificates or permits,

employee lists, employee licenses and permits, insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that fire protection sprinkler system, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm businesses and their employees are engaging in activity in accordance with the requirements of R.S. 40:1625, et seq., 40:1651, et seq. and L.A.C. 55:V:Chapter 30.

B. The State Fire Marshal shall investigate all complaints of alleged violations of L.R.S. 40:1574, 40:1625, et seq., 40:1651, et seq. and L.A.C. 55:V:Chapter 30. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those businesses and /or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3049. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license or permit and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, it is found that a person, certified business, licensee or permit holder, or an applicant for registration, license or permit, failed to comply with the provisions of these rules, R.S. 40:1625, et seq., R.S. 40:1646, et seq. and/or R.S. 40:1651, et seq.

1. Offenses: The following categories shall denote classification of offenses for persons, businesses and employees for determining the penalty to be imposed:

a. minor:

i. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

ii. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

iii. working with an expired (1-60 days) license, permit or certificate of registration;

iv. failing to properly display a firm certificate or permit or an individual license or permit;

b. serious:

i. misrepresenting oneself and/or one's business to a customer, prospective customer, state fire marshal, his designated representative or other public official;

ii. planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

iii. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done and licensed to the same firm;

iv. working an employee or as an employee without the appropriate class of license or permit;

v. working without the appropriate classification of firm certificate or permit;

vi. working with an expired (61-180 days) license, permit or certificate;

vii. installing a fixed fire extinguishing system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal;

viii. contracting to a business, person or employee which is not properly certified, licensed or permitted through the Office of the State Fire Marshal to perform any certification, inspection, installation, maintenance or service on fire protection sprinkler systems or fire protection systems and/or equipment;

ix. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted;

x. committing five or more minor offenses within a three year period.

c. major:

i. charging a customer for work that was not performed;

ii. impersonating the State Fire Marshal, his designated representative or any other public official;

iii. intimidating or coercing a customer;

iv. falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;

v. falsifying tags, labels, inspection reports, invoices and/or other document;

vi. working without any license or permit;

vii. working without any firm certificate of registration or permit;

viii. working an employee or an apprentice without any license or permit.;

ix. aiding and abetting an unlicensed person, employee or business in the planning, certifying, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.;

x. committing three or more serious offenses within a three year period;

xi. engaging in false, misleading or deceptive acts or practices.

3. Penalties. The following fine schedule shall be used to assess fines to persons, businesses, and/or employees who violate the laws and rules governing the fire protection sprinkler, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm industries. Penalties will be imposed to persons, businesses and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Businesses and/or Persons

i. Minor: \$50 fine to \$250 fine and/or official warnings may be imposed.

ii. Serious: \$250 fine to \$500 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$500 fine to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons

i. Minor: \$10 fine to \$50 fine and/or official warnings may be imposed.

ii. Serious: \$50 fine to \$250 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$250 to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. Revocations may be up to a year, after which reapplication must be made. The Office of the State Fire Marshal may refuse the issuance of a new certificate of registration, a permit or a license if the applicant can not show good cause for reissuance.

d. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

e. Those offenses not enumerated in this list shall receive penalties for violations of similar nature.

f. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3051. Severability

If any provision of these rules or the application thereof to any business, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3053. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted standards enumerated in L.A.C. 55:V:103 published by and available from the National Fire Protection Association, Inc.(NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

1. ASME/ANSI A17.1 - 1993, Safety Code for Elevators and Escalators;

2. ASME/ANSI A17.3 - 1993, Safety Code for Existing Elevators and Escalators;

3. ASME/ANSI A117.1 - 1980, Specifications for Handicapped Accessibility;

4. ADAAG - 1994, American Disability Accessibility Act Guidelines;

5. United States Department of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3055. National Recognized Testing Laboratory

A. The criteria for recognition by the Office of State Fire Marshal as a "Nationally Recognized Testing Laboratory" shall be as follows. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards.

1. Fire Test Standards: ANSI/UL 154, CAN4-S503-M83
2. Performance Standards
 - a. CO2 Types: ANSI/UL 154, CAN4-S503-M83
 - b. Dry Chemical Types: ANSI/UL 299, ULC-S504
 - c. Halon Types: ANSI/UL 1093, ULC-S504
 - d. 2-1/2 Gallon Stored Pressure Water Types: ANSI/UL 626
 - e. Factory Follow-up on Third Party Certified Portable Fire Extinguishers: ANSI/UL 1803
 - f. Foam Types: ANSI/UL 8

B. The applicant laboratory shall maintain a follow-up inspection program to confirm that the manufacturer is providing the controls, inspections, and tests necessary to assure that all current manufactured extinguishers will meet the laboratory's testing standards. This follow-up inspection shall occur no less than once each six months for the first two years and once each year thereafter.

1. The application by a testing laboratory for recognition by the State Fire Marshal as a "nationally recognized testing laboratory" shall not be on any particular form but shall include all of the information and material requested in subsection (2) below.

2. The address and telephone number of the main facility and all branch offices;

- a. a current organizational Chart showing the relationship between administration, operation, and quality control;
- b. resumes of the education and experience of key personnel;
- c. a floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;
- d. a list of all equipment used to test portable fire extinguishers, identified by manufacturer, model number and serial number; detailed plans and specifications shall be submitted on any testing equipment fabricated by the applicant;
- e. procedures for selecting, receiving, storage, handling, and shipping of test specimens;
- f. test standards and procedures most frequently used;
- g. method and frequency of test equipment calibration;
- h. procedure for safekeeping of records and files;
- i. copies of all data sheets and test report forms;
- j. facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;
- k. procedure for periodic updating of the report;
- l. method of distributing test reports and certifications, including an indication of who may obtain

copies of the final reports and how the reports may be obtained.

m. a copy of the laboratory's partnership agreement, if a partnership, or of the articles of incorporation, if a corporation, and a copy of any by-laws;

n. a list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

o. copies of the test reports on all listed portable extinguishers which must be in sufficient detail to provide for complete verification and evaluation of the operations and objectives, and must include the signature of personnel performing the test and must also include the name of the supervisory engineer;

p. whether the applicant testing laboratory has been recognized as a "nationally recognized testing laboratory" by any other state or by an organized, voluntary recognized organization such as the National Voluntary Laboratory Association Program and whether recognition by any other state or organization has been denied;

q. how long the applicant testing laboratory has tested portable extinguishers;

r. a notarized statement of independence which shall state that, with reference to the laboratory's testing of portable extinguishers.

i. There are no managerial affiliations with any producer, supplier, or vendor.

ii. Changes in any major test equipment.

iii. Establishment of a new branch office or facility at which portable fire extinguishers are to be tested.

iv. Changes in principal officers, key supervisory personnel, or key testing personnel in the company.

B. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation and the United States Testing Company, Inc. as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3057. Equipment and Facilities

A. Each certified business location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly plan, inspect, install, maintain or service the systems or equipment for which it is certified. Fire protection fire sprinkler contractors shall have such equipment, tools NFPA codes, standards and manuals available at each of its operating locations. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals. At a minimum, all Class A firms shall have the necessary equipment to perform a recharge, six year maintenance and hydrostatic test on low pressure non DOT dry chemical cylinders. All Class D and D-1 firms shall have manufacturer approved smoke detector sensitivity/calibration testing equipment or have access to such equipment through contract to another firm.

B. The State Fire Marshal or his representative may inspect a business's physical locations or vehicle(s) to ensure the proper equipment, tools, NFPA codes, standards and

manufacturer's UL listed installation and service manuals are possessed by the business.

C. The State Fire Marshal or his representative may require that a business or its employee(s) demonstrate a proficiency to use the necessary equipment to properly plan, inspect, install, maintain or service fire protection sprinkler systems/equipment, portable fire extinguishers, fixed fire extinguishing systems/equipment and fire detection and alarm systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

D. For those businesses or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain additional training within a thirty day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

E. The Office may specifically enumerate required equipment at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3059. Plan Review

A. Plans for designing or installing fixed fire extinguishing systems, fire protection sprinkler systems and/or fire detection and alarm systems must be done in accordance with L.R.S. 40:1574 Parts A and B. This procedure is not required for plans that will go in sites, such as offshore drilling platforms that are outside the three mile limit of the state's jurisdiction. For the purpose of computing the Fire Marshal plan review fees, devices shall be defined as follows:

1. for fixed fire extinguishing systems (Halon, CO₂, etc.): the distribution nozzles and the automatic detectors shall be considered as devices;
2. for fire protection sprinkler systems: each sprinkler head per floor shall be considered.;
3. for fire detection and alarm systems: the number of floors per building shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3061. Advisory Committee

The State Fire Marshal may create an advisory committee to assist him or his representative to create new rules or modify existing rules as necessary to reflect changes or new trends in the industry. Associations requested to participate on the committee shall nominate the members to attend. This

committee is to be a volunteer committee. No stipends or mileage will be paid to committee members.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3063. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in Section 3053 of these rules.

B. The planning, certifying, inspecting, maintenance and servicing of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3065. Compressed Gas

A. Subject to the requirements contained in Part B below, persons who engage solely in the activity of filling compressed gas cylinders with gases such as CO₂, pursuant to a contract with a firm which is certified by the Office of State Fire Marshal to plan, certify, inspect, install and/or service, fire protection equipment or systems shall be exempt from the licensing requirements contained in R.S. 40:1651 et seq.

B. A person meets the qualifications to be exempt from R.S. 40:1651 et seq. if he/she fills compressed gas cylinders, has a United States (U.S.) Department of Transportation (DOT) certificate to fill these compressed gas cylinders (only if required by DOT) and does not plan, certify, inspect, install, maintain and/or service any fire protection equipment and/or systems other than to fill the fire extinguishing cylinders with compressed gas pursuant to a contract with a firm certified by the Office of the State Fire Marshal to plan, certify, inspect, install and/or service fire protection equipment and/or systems.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

§3067. Miscellaneous Provisions

A. Marking of vehicles: Ninety (90) days after the effective date of these rules, all vehicles owned or operated by fire protection sprinkler contractors as defined by R.S.40:1625(4)(a) and firms as defined by R.S. 40:1652(1) or their employees, used for regulated activities for which the business is certificated, or permitted, shall permanently

inscribe, paint, stencil or affix by magnetic means the business name and business certificate or permit number on such vehicles. Such markings shall be a minimum of two and one-half (2 1/2) inches in height and not less than one-fourth (1/4) inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. For fire protection sprinkler contractors with multiple qualifying persons, only one permit number is required.

B. Restrictions

1. Certificate holders, licensees and permittees are not agents or representatives of the State of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate, license or permit does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to plan, certify, service, inspect, install or maintain fire protection equipment and/or systems or fire protection sprinkler systems and/or equipment without the owner's permission.

3. Certificate holders, licensees and permittees shall not permit the use of their certificate, licenses or permit by other businesses, persons or employees.

4. A certificate holder, licensee or permittee shall not perform any activity relating to portable fire extinguishers, fixed fire extinguishing equipment/system, fire detection and alarm equipment/systems or fire protection sprinkler systems unless employed by and within the course and scope of that employment with a business regulated by the provisions of R.S.40:1625 et seq. or R.S.40:1651 et seq..

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

- a. first being certified, licensed or permitted to perform such acts; and
- b. is employed by a business certified to perform those acts; and
- c. is performing those acts for the certified business by whom he is employed.

6. An apprentice, as defined in LAC-55:V:3013, shall not perform any activity regulated by R.S.40:1651 et seq., unless employed by a certified firm, supervised by a licensee authorized to perform such act or acts and both the apprentice and licensee are employed by the same certified firm.

C. Multiple Names: A business which uses multiple names must apply for a separate certificate of registration if each named business has a separate tax number. All "doing business as" names shall be registered with this office at the time of application.

D. Required Inspection

1. The following shall be the building owner's responsibility.

- a. Portable fire extinguishers shall be inspected and certified annually by a certified firm.
- b. Fixed fire extinguishing systems shall be inspected and certified at a minimum annually by a certified firm.
- c. Clean Agent Gas (Halon 1301 Replacement) fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

d. Kitchen fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

e. Fire alarm and detection systems shall be inspected and certified at a minimum annually by a certified firm.

f. All non-required and non-conforming systems/equipment shall be inspected and certified at a minimum annually by a certified firm.

g. Fire protection sprinkler systems/equipment shall be inspected and certified at a minimum annually by a certified fire protection sprinkler contractor. The certified firm shall not be responsible for more frequent inspections as required by the applicable engineered specifications, manufacturer's specifications or per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards unless under contract to perform such.

E. Service Invoices and Inspection Reports: All service invoices or inspection reports shall reflect the inspection, installation, maintenance, or service performed, date of service, the technician who did the service, the manufacturer of the equipment/system and if applicable, the serial number of the equipment/system if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991); LR 26:

Interested persons may submit written comments on these proposed rules to Boyd Petty at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business March 15, 2000.

Nancy Van Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fire Extinguishers and Fire Alarms**

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

Implementation costs would be limited to the cost of copying the new rules and advertising in the State Register. However, it is anticipated that these costs will be very minimal.

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

Overall revenue collection will increase \$1,250 each year. Fee collection will be reduced by approximately \$5,000 per year due to not requiring a firm/employee to hold both a Class B and Class C certificate/license and fewer Apprentice permits being issued; however, there will be an additional collection of approximately \$6,250 per year by the creation of the D-2 and Trainee license categories.

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

Firms will pay an additional \$1,250 each year for D-2 and Trainee licenses. Minimum expense would be experienced for marking vehicles and printing new tags.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Firms will be able to compete on an equal level with others in the industry due to clarity in rules and ambiguities removed.

Nancy VanNortwick
Undersecretary
0001#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Crawfishing on Agricultural Lands Within
Sherburne WMA (LAC 76:VII.177)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to repeal rules and regulations governing crawfishing activities on the agricultural lands on Sherburne WMA.

Title 76

WILDLIFE AND FISHERIES

Part VII. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

**§177. Crawfishing on Agricultural Lands Within
Sherburne WMA**

Repealed

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Dave Morrison, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 2, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

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

**RULE TITLE: Crawfishing on Agricultural Lands
Within Sherburne WMA**

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

Repeal of this rule will result in an estimated annual gross savings to the State of \$1,250. Local governmental units will not be impacted.

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

Since the establishment of the rule in 1996, there has been 47 commercial crawfishing permits issued. By repealing the rule, the State's annual revenue collections is estimated to decrease by \$700. Local government revenue collections will not be affected.

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

The commercial crawfish fishers who traditionally fish in this area will be directly affected by this action and will have to move to a new fishing location. In 1999, seven (7) persons were issued commercial crawfishing permits. Since commercial will be allowed on the remainder of the Sherburne Wildlife Management Area, there should be little or no economic impact on the affected persons. Recreational crawfish fishers will benefit from the repeal of this rule, since the South Farm impoundment area will be limited to recreational crawfishing only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition in the public and private sectors resulting from the proposed action.

James Patton
Undersecretary
0001#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Recreational Electronic Licensing (LAC 76:I.327)

The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries do hereby advertise their intent to supplant an existing rule on non-resident hunting and recreational fishing licenses with regulations on electronic licenses issuance.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission and Agencies
Thereunder**

**Chapter 3. Special Powers and Duties
Subchapter H. Electronic Licenses Issuance
§327. Recreational Electronic Licensing**

A. In accordance with Act 164 of the 1998 first Extraordinary Session of the Louisiana Legislature, the secretary of the Department of Wildlife and Fisheries hereby establishes rules for electronic licenses issuance within the Department of Wildlife and Fisheries, providing regulations and qualification criteria of license vendors, criteria to accept or reject applications or suspend the licensee, and establish effective license authorization numbers.

B. The Department may enter into contracts to acquire electronic methods for issuing hunting and recreational fishing licenses within the State Purchasing regulations.

C. Effective June 1, 2000, all recreational licenses previously issued by non-electronic methods, shall be available through electronic issuing methods pursuant to these rules.

D. The secretary of the department shall have the authority to enter into contracts with license issuing agents

(license vendors) for the purpose of distribution of electronic licenses. Licensing vendors shall be required to execute a contract provided by the Department which shall, at a minimum:

1. provide for a security deposit(s) by the vendor for electronic issuing equipment;
2. provide the mechanisms by which the electronic issuance and transfer of license fees shall be accomplished;
3. provide for compensation of licensing vendors in an amount not to exceed fifty-cents per license privilege, to be retained by the license vendor from license fees collected;
4. provide for other terms and conditions to be fulfilled by license vendors.

E. To qualify to become a license vendor, an applicant must complete the application, providing all required supporting documentation, sign a contract with the department, and pay security deposit(s) for equipment.

F. To remain qualified, a licensing vendor must abide by all terms and conditions of the contract executed with the department. Failure to do so may result in suspension of authority to participate in the program and subject the offender to other penalties as provided by law.

G. Funding for the electronic license system shall be provided from grants, license fees and other sources provided by law.

H. All payments for licenses sold shall be paid by bank transfer. The department shall specify the type of bank transfer(s) permitted.

I. Any vendor whose bank account is not sufficiently funded for three consecutive weeks, will be suspended from selling licenses until all funds due to the department have been satisfied. If any balance due from a suspended vendor is not paid within sixty days of written notification from the department, the vendor shall be dropped from the program, any balance due will be turned over for collection.

J. License vendors may only issue licenses to applicants who meet the requirements as set forth in R.S. 56, and who provide the required identification and documentation for the license.

K. Licensees who purchase licenses by telephone or Internet will be issued an effective license number (authorization number) that shall be effective immediately, or in accordance to dates provided therein, and will be valid for up to fourteen days.

L. Out-of-state licensees obtaining privileges by electronic methods shall have in their possession picture identification issued by an agency of a state or the federal government. Louisiana residents shall possess identification as required in R.S. 56:8(12). R.S. 56:8(60.1) requires that the appropriate identification be in possession at all times when engaging in the activity for which the license was issued.

M. The secretary shall have the authority to provide for the implementation of lottery-type issues through electronic methods as provided herein.

N. If any provision of these regulations is held invalid, such invalidity shall not affect the other provisions of these regulations which can be given effect without the invalid provisions, and to this end the provisions of these regulations are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21) and R.S. 56:641.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mrs. Janis Landry, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 2, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Recreational Electronic Licensing**

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

Implementation costs of the proposed rule to the state are estimated to be \$359,845, \$1,335,974, and \$1,301,297 in FY 99-00, FY 00-01 and FY01-02, respectively. Savings in printing costs to the state will be incurred in FY 00-01 and FY 01-02. No increase or decrease in manpower requirements is anticipated to implement the proposed rule. Local sheriffs' offices will experience a decrease in workload and paperwork beginning in FY 00-01.

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

State revenue collections are estimated to increase by \$449,127, \$1,877,126, and \$1,951,170 in FY 99-00, FY 00-01, and FY 01-02, respectively. Beginning with FY 00-01, local sheriffs will not be distributing nor collecting a 15 percent commission on licenses issued. Recent legislation, however, has provided an alternative funding source to these local government units.

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

Recreational anglers, hunters and non-consumptive users will benefit from the electronic licensing system, since they will be able to obtain any type of recreational license in one location. Vendors will likely experience increases in operation costs of \$360 per year for a dedicated phone line and will be required to provide a \$150 deposit for equipment. They will benefit by not having to purchase license stock for resale and will have all recreational licenses available for sale. The total impact on vendor receipts cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impacts on competition or employment in the public and private sector will result from the proposed rule.

James Patton
Undersecretary
0001#053

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - DECEMBER 1999

LAC Title	Part.Section	Effect	Location LR 25 Month Page	LAC Title	Part.Section	Effect	Location LR 25 Month Page	
4	VII.905 and 911	Amended	Nov 2211	28	I.901	Amended	Oct 1793	
	VII.917	Amended	Nov 2211		IV.301, 703, 803	Amended	Oct 1794	
	VII.Chapter 11	Amended	Nov 2199		IV.2115	Adopted	Oct 1794	
	VII.III	Repealed	Nov 2199		IV.2301, 2303, 2313	Adopted	Nov 2177	
	VII.1107	Amended	Dec 2407		VI.107, 301,307	Amended	Oct 1794	
	VII.1155	Repromulgated	Dec 2407		XXVII.Chapters 1-33	Adopted	Apr 624	
	VII.1171-1199, 1215-1221,1225	Amended	May 860		XXIX.901	Amended	Nov 2169	
	VII.1233, 1237	Amended	May 860		XXIX.Chapters 1-33	Adopted	May 832	
	VII.1307	Amended	Apr 666		XXXIX.Chapters 1-11	Adopted	Nov 2169	
	VII.1317	Amended	Jan 26		32	III.Chapters 1-7	Adopted	Oct 1825
	VII.1317	Amended	Mar 499			V.Chapters 1-7	Adopted	Oct 1804
	VII.1317	Amended	June 1093		33	I.Chapter 7	Adopted	Apr 657
	7	V.911	Amended			Feb 236	I.705	Amended
V.1615		Amended	Nov 2160	I.1413, 1415		Amended	Mar 426	
XX.321		Amended	May 829	I.1701		Adopted	Apr 660	
XXI.305		Amended	Dec 2396	I.Chapter 20		Adopted	May 857	
XXI.305-311		Amended	June 1083	I.Chapter 23		Adopted	Mar 428	
XXV.121,141		Amended	Feb 235	I.3701-3715		Adopted	Nov 2196	
XXV.121	Amended	May 829	I.3703-3711	Repromulgated		Dec 2398		
13	I.Chapter 50	Amended	Feb 242	III.217, 219	Amended	Mar 426		
	I.Chapter 60	Amended	Feb 237	III.501, 517, 5111	Amended	Apr 660		
	I.Chapter 70	Adopted	Feb 240	III.509	Amended	Feb 259		
	V.Chapter 1	Adopted	Mar 414	III.1105	Amended	Apr 656		
16	II.501	Adopted	Jan 100	III.2103	Amended	Apr 657		
				III.2103, 2113	Amended	May 852		
19	II.107	Amended	June 1083	III.2117	Amended	Feb 258		
	VII.Chapter 73	Adopted	Mar 412	III.2143	Amended	Oct 1796		
22	I.103	Amended	Dec 2410	III.2153	Amended	May 850		
	I.203	Adopted	Mar 522	III.3003, 5116, 5122	Amended	Oct 1796		
	I.333 and 359	Adopted	Oct 1875	III.5901	Amended	Mar 425		
	I.359	Amended	May 875	V.Chapters 1,3,5,11,15,17,22	Amended	Mar 430		
	III.Chapter	Amended	Apr 662	V.Chapters 1,3,5,11,15,17,222,31	Amended	May 852		
	XIII.503	Amended	Jan 26	V.109, 2214, 2218, 3523	Repromulgated	May 853		
25	Chapter 5	Adopted	Feb 236	V.515	Amended	Apr 660		
				V.517, 1529, 2201-2269	Amended	Oct 1798		
28	I.105	Amended	Feb 255	V.528	Adopted	Mar 430		
	I.105	Amended	Mar 418	V.529	Amended	Nov 2199		
	I.901	Amended	Feb 249	V.1909	Amended	Oct 1803		
	I.901	Amended	Mar 419	V.Chapters 31, 33, 35, 37, 40	Amended	Mar 430		
	I.901	Amended	May 831	V.3309	Repromulgated	Jan 25		
	I.901	Amended	June 1084	V.Chapters 33, 35, 37, 40, 41	Amended	May 853		
	I.901	Amended	Mar 422	V.Chapters 41, 43, and 49	Amended	Mar 430		
	I.901	Amended	Nov 2160	V.Chapters 43 and 49	Amended	Apr 853		
	I.901	Amended	Nov 2166	V.Chapter 49	Amended	Dec 2397		
	I.903	Amended	Mar 424	V.5129, 5131	Amended	Mar 426		
	I.903	Amended	Mar 424	VI.Chapters 1-8	Adopted	Nov 2177		
	I.903	Amended	June 1090	VII.517, 520	Adopted	Apr 660		
	I.903	Amended	Nov 2167	VII.529	Amended	Mar 426		
	I.904	Amended	Feb 249	IX.1105, 1111-1117, 1121, 1123	Amended	Dec 2401		
	I.906	Amended	Feb 251	IX.1309	Amended	Mar 426		
	I.917	Amended	Feb 251	IX. 2331, 2387, 2407	Amended	Apr 660		
	I.1523	Amended	Mar 424	IX.2715, 2721, and 2735	Amended	June 1092		
	I.1709	Amended	Feb 247	IX. 2765, 2769	Amended	Apr 660		
	I.1712	Adopted	Feb 247	XI.307	Amended	Mar 426		
	I.1713	Amended	Feb 255	XI.307	Amended	Dec 2400		
	IV.301, 701-705, 1703	Amended	Feb 256	XV.2510, 2511	Amended	Mar 426		
	IV.301, 503, 703, 705	Amended	Apr 654	35	I. Chapter 10	Adopted	May 831	
	IV.503	Amended	Dec 2396		XIII.1115	Amended	Jan 25	
	IV.705, 805, 907	Amended	June 1091	37	XIII.Chapter 5	Repealed	June 1100	
	V.113	Amended	Apr 654		XIII.Chapter 5	Adopted	June 1100	
	V.113	Amended	June 1091		XIII.Chapter 49	Adopted	Apr 706	
	VI.213	Amended	June 1092		XIII.Chapter 51	Adopted	Jan 78	
	XXV.Chapters 1-17	Amended	Apr 643		XIII.Chapter 53	Adopted	Oct 1853	
	XXV.537	Amended	Nov 2168					
	XXV.1701	Repromulgated	Nov 2168					

LAC Title	Part.Section	Effect	Location LR 25 Month Page	LAC Title	Part.Section	Effect	Location LR 25 Month Page			
40	I.2011-2173	Repealed	Feb 264	48	I.Chapter 18	Amended	Apr 708			
	I.5501-6661	Adopted	Feb 264		I.813	Repealed	Apr 708			
	I.5501-6627, 6637, 6639	Amended	Oct 1859		I.Chapter 27	Amended	Apr 666			
	I.5527, 5807, 5815, 5837, 5839	Repealed	Oct 1859		I.5350	Adopted	Dec 2461			
	I.5841, 5917, 5923, 5927, 5929	Repealed	Oct 1859		I.Chapter 75	Adopted	Oct 1845			
	I.5935, 5937, 5939, 5945, 5947	Repealed	Oct 1859		I.7715	Amended	Dec 2461			
	I.5949, 5951, 5957, 5959, 5961,	Repealed	Oct 1859		I.7903 and 7907	Amended	Dec 2457			
	I.5965, 6105, 6107, 6207, 6213	Repealed	Oct 1859		I.7925	Adopted	Dec 2409			
	I.6307, 6309, 6407, 6409, 6411	Repealed	Oct 1859		I.8107	Amended	Dec 2462			
	I.6505, 6615, 6617, 6619, 6621,	Repealed	Oct 1859		I.8301	Amended	Dec 2462			
	I.6623, 6625	Repealed	Oct 1859		I.Chapter 82	Amended	Dec 2409			
	I.6662, 6663	Adopted	Oct 1859		V.Chapter 75	Amended	Dec 2408			
	XVI.101-111	Adopted	June 1142		49	XIII.Chapter 49	Adopted	Apr 706		
	42	III.104	Amended			Jan 79	50	II.Chapter 103	Amended	Apr 675
		IX.Chapters 19-45						II.10905, 10907	Amended	June 1100
IX.2105, 2701, 2703, 2707		Amended	Jan 79	52	I.1301, 1311, 1604	Amended	Jan 24			
IX.2723, 2729, 2901-2917		Amended	Jan 79		I.1801-1805	Adopted	Jan 24			
IX.2921, 3301-3309, 3319		Amended	Jan 79		I.1901-1905	Adopted	Apr 624			
XI.2407, 2413	Amended	Jan 85	55	I.201-209	Adopted	May 876				
XIII.Chapter 27	Amended	Oct 1876		III.367, 381-393	Adopted	Nov 2257				
43	I.Chapters 37 and 39	Adopted		Feb 308	III.801-835	Adopted	Dec 2421			
	XIX.Chapter 7	Amended		Oct 1873	III.801-835	Repealed	Dec 2421			
	XXIX.Chapter 1	Adopted		Mar 500	III.1517	Amended	Dec 2414			
46	III.117 and 118	Adopted		Nov 2256	III.1527, 1151-1571	Adopted	Dec 2414			
	V.2701, 3601, 3603, 3605	Amended		Oct 1792	V.Chapter 25	Adopted	Jan 85			
	V.2905, 3101, 3303	Amended		Feb 245	VII.319	Amended	Feb 311			
	V.2909	Repealed		Feb 245	VII.505	Amended	May 878			
	V.4103	Amended		Oct 1793	IX.107-113, 125, 166, 177, 181	Amended	Dec 2410			
	V.4701, 4703, 4705, 4707	Adopted		Feb 245	IX.172	Adopted	Dec 2410			
	V.4709, 4711, 4713, 4715	Adopted		Feb 245	IX.1507-1513, 1543	Amended	Dec 2413			
	XIII.Chapter 27	Amended		Nov 2232	XI.301-317	Adopted	Dec 2419			
	XIII.10521	Amended		May 830	58	I.2711 and 2713	Amended	Dec 2465		
	XXXIII.114	Amended		Mar 514		I.1701 and 1703	Amended	Dec 2466		
	XXXIII.124	Adopted	Mar 511	I.1707 and 1709		Adopted	Dec 2466			
	XXXIII.301	Amended	Mar 509	61	I.201	Adopted	Mar 526			
	XXXIII.306	Amended	Mar 513		I.1901	Adopted	May 877			
	XXXIII.314	Amended	Mar 513		I.2905-2907	Repealed	Oct 1987			
	XXXIII.316	Amended	Mar 512		I.4905	Amended	Dec 2443			
	XXXIII.320	Adopted	Mar 512		I.4910	Amended	Dec 2442			
	XXXIII.421	Amended	Mar 509		III.5103, 5107, 5109	Amended	Dec 2444			
	XXXIII.504	Amended	Mar 510		V.303, 703, 907, 1103, 1305	Amended	Feb 312			
	XXXIII.1611 and 1613	Amended	Mar 510		V.1307, 1503, 2301, 2303, 2503	Amended	Feb 312			
	XXXIII.706	Amended	Mar 513		V.2301	Amended	Dec 2443			
	XXXIII.1611 and 1613	Amended	Mar 510		V.2503, 2703-2707, 3101-3105	Amended	Feb 312			
	XLI.313	Amended	May 830		V.3501 and 3503	Amended	Feb 312			
	XLI.705	Amended	May 829		67	I.101-121	Adopted	June 1145		
	XLIX.1103	Amended	Dec 2407			II.1149	Amended	Apr 709		
	XLV.1501-1519	Amended	Jan 27			III.301	Amended	Nov 2259		
	XLV.2501-2569	Amended	Nov 2211			III.303-333 and 801	Adopted	Nov 2259		
	XLV.2529-2535	Repromulgated	Nov 2211	III.1028, 1932, 1933		Adopted	Apr 710			
	XLV.2539 and 5511	Repromulgated	Nov 2211	III.Chapter 11 and 13		Repealed	Dec 2446			
	XLV.2540	Adopted	Nov 2211	III.Chapter 12		Adopted	Dec 2446			
	XLV.4501-4515	Amended	Jan 27	III.1931		Amended	Apr 710			
	XLVII.Chapter 33	Amended	Mar 514	III.1994		Repealed	Apr 710			
	LV.301	Amended	Oct 1857	III.2514		Amended	Feb 320			
	LV.304	Amended	Oct 1858	III.2523		Repealed	Dec 2456			
	LV.305	Amended	Oct 1857	III.2543		Adopted	Dec 2456			
	LV.305	Amended	Oct 1857	III.2756		Adopted	May 879			
	LV.306	Amended	Oct 1858	III.2579 and 2580		Adopted	Dec 2457			
	LV.308	Amended	Oct 1856	III.2913		Amended	Mar 526			
	LV.310	Amended	Oct 1859	III.2907-2913	Amended	Dec 2455				
	LV.701	Amended	Oct 1858	V.3503	Amended	June 1144				
	LX.1301	Amended	Feb 259	VII.191	Adopted	Nov 2263				
	LX.1303-1325	Adopted	Feb 259	VII.Chapter 5	Adopted	Mar 527				
	LXIII.805	Amended	June 1098	70	I.132	Adopted	Dec 2463			
	LXIX.Chapter 1	Amended	June 1094		I.136	Adopted	May 879			
	LXXXV.101, 105, 106, 815, 1001	Amended	Nov 2226		III.Chapter 23	Adopted	Jan 96			
	LXXXV.301 and 303	Amended	Nov 2231		III.Chapter 25	Adopted	Dec 2463			
LXXXV.501 and 505	Amended	Dec 2408	XVII.Chapter 5		Adopted	May 881				
LXXXV.816, 1216, 1401-1425	Amended	Nov 2226								
LXXXV.1215	Amended	Nov 2226								
LXXXV.701	Amended	May 872								
LXXXV.710	Amended	Mar 519								
LXXXVII	Repealed	Dec 2396								

LAC Title	Part.Section	Effect	Location LR 25 Month Page		LAC Title	Part.Section	Effect	Location LR 25 Month Page	
70	XXI.101-121	Adopted	May	536	76	VII.189	Amended	Oct	1989
	IX.Chapter 13	Adopted	Jan	95		VII.355	Adopted	Mar	542
76	L.301.303	Amended	Feb	321		VII.357	Adopted	Mar	543
	VII.169	Amended	Jan	102		VII.903	Amended	Oct	1987
	VII.187	Adopted	Jan	101	XIX.113, 115, and 117	Adopted	Nov	2263	

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**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

Timber Stumpage Values

The Louisiana Department of Agriculture and Forestry, Office of Forestry is hereby giving notice of the stumpage values that were adopted at the joint meeting of the Forestry Commission and Tax Commission held on December 13, 1999. The following stumpage values were adopted for the purpose of determining timber severance tax for calendar year 2000.

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 2000.

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$374.96/MBF	\$46.87/Ton
Hardwood Sawtimber	\$243.89/MBF	\$25.67/Ton
Pine Chip & Saw	\$90.87/CD	\$33.66/Ton
Pulpwood		
Pine Pulpwood	\$27.30/CD	\$10.11/Ton
Hardwood Pulpwood	\$14.71/CD	\$5.16/Ton

Bob Odom
Commissioner

0001#046

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 12-14, 2000 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: February 25, 2000

Re-Take Candidates: March 10, 2000

Reciprocity Candidates: May 5, 2000

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 25, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0001#034

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**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Boll Weevil Eradication Commission**

Boll Weevil Eradication Hearing 2000 Assessment

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10:00 a.m., February 4, 2000 at the Louisiana Department of Agriculture and Forestry, First Floor Auditorium, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the assessments levied upon cotton producers for each acre of cotton planted for the 2000 crop year pursuant to R.S. 3:1613 and LAC 7:XV.321. Said assessment shall not exceed \$35 per acre of cotton planted for 2000 in the Red River Eradication Zone and \$15 per acre of cotton planted for 2000 in the Louisiana Eradication Zone. Calculations made to date indicate that the assessments should not, in actuality, exceed \$10 per acre for the Red River Eradication Zone and \$15 per acre for the Louisiana Eradication Zone.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted if received prior to February 4, 2000, P.O. Box 3596, Baton Rouge, LA 70821-3118.

Dan P. Logan, Jr.
Chairman

0001#026

POTPOURRI

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

Advanced Notice of Rulemaking for Requirements for Response Action Contractors

The Louisiana Department of Environmental Quality is requesting comments on the January 20, 2000, draft proposed addition of Chapter 12 to the Underground Storage

Tank (UST) rules and regulations, which includes requirements for Response Action Contractors (RAC) who assess and remediate motor fuel contaminated sites eligible for cost reimbursement in accordance with the Motor Fuels UST Trust Fund. It is the department's intent to incorporate this proposal into existing regulations. This is a preliminary step in the rulemaking process; official rulemaking will be initiated after review and consideration of the comments received on this advance notice.

The draft proposed rule is based on a department policy that has been utilized for approximately ten years and will set into formal rule the requirements that professional environmental consulting firms must meet in order to be listed on the department's RAC list. The draft proposed rule improves qualifications in the current policy, provides for a RAC's annual renewal of basic qualifying information, requires additional insurance coverage, and sets up provisions for the suspension/revocation of RAC listed consulting firms. Preliminary draft reviews were provided to the Motor Fuels UST Trust Fund Advisory Board, in accordance with R.S. 30:2195.8, and their comments were addressed in this draft.

In addition to the technical content of the document, we specifically request comments on the estimated cost to the consulting firm assuming this proposal is incorporated in our existing regulations. Though the department has invested many hours in the development of this document, the priority for this draft was technical content rather than presentation. Therefore, we apologize for any typographical, grammatical, or formatting errors. Please note any of these errors in your comments to assist us in further refinement of the document.

All interested persons are invited to submit written comments on the draft proposal. Commentors should reference this document as Log #UT007. Comments are due by February 21, 2000, at 4:30 p.m. and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884; hand delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA; or faxed to (225) 765-0486. If you have any questions regarding the content of this draft proposal, please contact Raul Busquet, Remediation Services, at (225) 765-0355. Copies of this draft proposal can be purchased at the above referenced address. You may contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of the draft proposal UT007.

This draft proposal is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104

Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0001#065

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Revision of the State Implementation Plan (SIP) for the Low Enhanced Inspection and Maintenance (I/M) Program

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., the secretary gives notice that the Office of Environmental Assessment will submit a revision to the State Implementation Plan (SIP) for the Low Enhanced Inspection and Maintenance (I/M) program mandated under the requirements of the 1990 Clean Air Act Amendments (CAAA).

In accordance with section 182(c)(3) of the CAAA, any area in the nation designated as serious, severe, or extreme ozone nonattainment and having a 1980 Census-defined urbanized area population of 200,000 or more, must implement an I/M Program. On January 29, 1999, the department submitted the I/M SIP and requested parallel processing for approval by the U.S. EPA. EPA responded to a draft of the SIP and noted several deficiencies in a letter to the department dated December 1, 1998. In satisfying the deficiencies so noted by the EPA, the department is revising that SIP submission to include the final rule for the Motor Vehicle Inspection Program and the interagency agreement between DEQ and the Department of Public Safety for the implementation of the Inspection and Maintenance Program.

The public comment period begins on January 20, 2000, and ends at 4:30 p.m. on February 24, 2000. A public hearing will be held on February 24, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Written comments may also be submitted at the time of the public hearing or sent to Ms. Teri Lanoue, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on February 24, 2000. For other details, you may call Ms. Lanoue at (225) 765-0351.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays), at 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Capital Regional Office, 5222 Summa Court, Baton Rouge, LA.

James H. Brent, Ph.D.
Assistant Secretary

0001#064

POTPOURRI
Department of Health and Hospitals
Board of Dentistry

LSBD Meeting Dates for the Year 2000

February 18-19, 2000	Board and Committee Meetings
April 28-29, 2000	Calibration and Standardization Exercises and Committee Meetings
May 31-June 2, 2000	LSBD Clinical Licensing Examination
June 3, 2000	Board meeting
August 18, 2000	Clinical Licensing Make-up Examination and Committee Meetings
August 19, 2000	Board meeting
December 1-2, 2000	Board and Committee meetings

C. Barry Ogden
Executive Director

0001#071

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Fee Schedule

Following are the fees that will be charged by the Louisiana Board of Veterinary Medicine:

DVM - effective per rule amendments published 12/20/99:

Annual Active Renewal Fee	\$175
Annual Inactive Renewal Fee	\$ 75
Renewal Late Fee	\$125
Renewal Late CE Fee	\$ 25
DVM Original License Fee	\$150
Initial Application Fee	\$ 50
National Board Examination Fee	\$215
Clinical Competency Test Fee	\$190
State Board Examination Fee	\$125

RVT - Current Fees:

Annual Renewal Fee	\$ 25
Renewal Late Fee	\$ 10
Examination Fee, per exam	\$125
Original Registration Fee	\$ 25

to be effective with rule amendments anticipated to be published 1/20/2000:

Annual Renewal Fee	\$ 30
Late Renewal Fee	\$ 20
Examination Fee (VTNE)(does not include exam vendor's cost)	\$ 40

Original Certification Fee	\$ 30
Initial Application Fee	\$ 25

CAET - Current fees:

Annual Renewal Fee	\$ 25
Late Renewal Fee	\$ 25
Examination Fee not to exceed	\$100
Original Full Certification Fee	\$ 50
Temporary Certification Fee	\$ 25

to be effective with rule amendments anticipated to be published 2/20/2000:

Annual Renewal Fee	\$ 50
Late Renewal Fee	\$ 25
Course Fee	\$ 80
Examination Fee	\$ 50
Original Full Certification Fee	\$ 50
Temporary Certification Fee	\$ 50
Initial Application Fee	\$ 25

RED - effective by emergency rule adopted and published 12/20/99; final rule anticipated to be published 3/20/2000:

Original Registration Fee	\$200
Annual Renewal Fee	\$125
Late Renewal Fee	\$100
Initial Application Fee	\$100

Kimberly B. Barbier
Administrative Director

0001#035

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80, et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
F. A. Callery, Inc.	West Delta Farms	Walton Jones	001	079685
Forman Exploration & Stone Oil	Wildcat	F Young	001	141532
Ralph A. Johnston	West Delta Farms	Delta Farms	001	101049
Larry B. Lusk	Deltabridge	Smith A	001	166834
Larry B. Lusk	Buckhorn	Evans B	001	208233
Midla, Ltd.	San Miguel Creek	Daisy Canton	002	177933
Midla, Ltd.	San Miguel Creek	International Paper Co	002	168992

Midla, Ltd.	San Miguel Creek	Robbie Gaddis	001	180165
Midla, Ltd.	San Miguel Creek	Verna Jackson	001	176566
Midla, Ltd.	San Miguel Creek	Speights	002	167479
Midla, Ltd.	San Miguel Creek	International Paper Co B	002	174753
Midla, Ltd.	San Miguel Creek	Kate Ponder	002	176565
Midla, Ltd.	San Miguel Creek	International Paper Co B	001	174297
Midla, Ltd.	San Miguel Creek	International Paper Co	001	166585
Lawrence Potter	Converse	Long Bell Lbr Co	003	015839
Joseph M. Rault, Jr., Inc.	West Delta Farms	Walton Jones, et al	001	084472
Southdown-Mouse RVR-F A Gallery	Bayou Bleu	Mrs Jane H Schwing, et al	001	079531
W. A. Stanberry	Caddo Pine Island	McLendon	002	127689
Tarpon Oil Company	Iberia	L H Sealy	001	121975

Philip N. Asproditis
Commissioner of Conservation

0001#068

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Legal Notice: Consolidate and Relocate
Newpark's Waste Facilities

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, March 1, 2000, in the Thibodaux City Courtroom, located on the Second Floor of the Starks Municipal Complex, 1309 Canal Blvd., Thibodaux, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Newpark Environmental Services, Inc., 207 Town Center Parkway, Second Floor, Lafayette, Louisiana 70506. The applicant requests authorization to consolidate and relocate Newpark's two commercial exploration and production (E&P) waste facilities located in Lafourche Parish, Louisiana. Applicant requests authorization to store and transfer RCRA-exempt exploration and production wastes generated from the drilling and production of oil and gas wells.. Applicant intends to transfer wastes to other permitted processing and disposal facilities located in

Louisiana and Texas. The proposed (relocated) facility, which shall replace Newpark's two existing facilities, will be located in the Port Fourchon, Louisiana area, Township 23S, Range 22E, Section 14 of Lafourche Parish, between Sixteenth Street and the third leg of E-Slip.

The application is available for inspection by contacting Mr. Gary Snellgrove, Office of Conservation, Injection and Mining Division, Room 279B of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, or by visiting the Lafourche Parish Council Office in Thibodaux, Louisiana, or the Lafourche Parish Library in Golden Meadow, Louisiana. Verbal information may be received by calling Mr. Snellgrove at 225/219-4548.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, March 8, 2000, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, Louisiana 70804, Re: Docket No. IMD 99-12, Commercial Facility, Lafourche Parish.

Philip N. Asproditis
Commissioner

0001#021

POTPOURRI

**Department of Public Safety and Corrections
Gaming Control Board**

Notice of Hearing

In accordance with La. R.S. 49:968 H(2) notice is hereby given that a public hearing will be held on March 21, 2000 at 10:00 a.m. in House Committee Room 6, Louisiana State Capitol Building, Baton Rouge, Louisiana. This meeting will be held in conjunction with the regularly scheduled meeting of the Louisiana Gaming Control Board and is regarding substantive changes to proposed rule changes to LAC 42:XI.2415.D subsequent to the publication of the Notice of Intent on October 20, 1999, in the *Louisiana Register* Vol. 25, No. 10 at page 2105 and substantive changes to proposed rule changes to LAC 42:XIII.1701, 2108 and 2325 subsequent to publication of the Notice of Intent on September 20, 1999, Vol. 25, No. 9 at page 1704. All interested persons are invited to attend and comment on the substantive changes. A copy of the proposed rule and proposed substantive changes may be obtained from Tom Warner, Assistant Attorney General, Gaming Division, Suite 500, 339 Florida Street, Baton Rouge, Louisiana 70801, (225) 342-2465, Fax (225) 342-4244.

Hillary J. Crain
Chairman

0001#019

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