

**RS 40:1563**

§1563. Powers and duties generally; use of deputies; responsibilities of local governing authorities with fire prevention bureaus; open structures and process structures; fees

A. The fire marshal shall take all steps necessary and proper to protect life and property from the hazards of fire and of panic which may arise from fire or from the threat of fire or explosion.

B. Except for those open structures and process structures as defined in Subsection J of this Section the fire marshal shall supervise the following:

(1) The construction and maintenance of exits, including fire escapes, exit doors, and emergency lighting.

(2) The installation and operation of heating, air conditioning, and ventilating systems.

(3) The use of flammable materials for decorative purposes in places of public assembly.

(4) The inspection of all structures, except one- and two-family dwellings and movables, for the purpose of reducing or eliminating fire hazards.

C.(1) The fire marshal shall not conduct or supervise inspections pursuant to the provisions of Paragraphs (B)(1), (2), (3), and (4) of this Section within the jurisdiction of any local governing authority in which a fire prevention bureau has been properly established by special ordinance and accompanying resolution as provided in this Section, except as provided in Paragraph (5) of this Subsection.

(2) The local governing authority may properly establish a fire prevention bureau by special ordinance and accompanying resolution as provided in this Section and a fire prevention bureau thus established may apply for certification by the fire marshal to perform inspections on behalf of the fire marshal solely through adoption of the special ordinance which conforms to the following requirements which are applicable to existing fire prevention bureaus:

(a) The fire prevention bureau must be headed by a chief of a fire department or a person designated by the chief of a fire department.

(b) The fire prevention bureau shall be staffed with qualified individuals whose credentials have been reviewed by the fire marshal and who have successfully completed, according to criteria established by the fire marshal, special training in fire inspection and fire codes in a course approved by the fire marshal at the office of state fire marshal Fire and Emergency Training Academy or a course deemed equivalent or superseding by the fire marshal.

(c) Requiring adoption as a minimum standard those codes as adopted and enforced by the state fire marshal.

(d) Requiring copies of inspection reports to be filed with the state fire marshal's office on forms acceptable to the fire marshal.

(e) Requiring continuing education as necessary to maintain standing through a training program recognized by the fire marshal.

(f) Recognizing the authority of the fire marshal to monitor the performance of the fire prevention bureau in the performance of those functions which would otherwise be performed by the fire marshal.

(3) The fire marshal shall revoke certification of a local fire prevention bureau for cause, including but not limited to failure to submit reports of inspections for six consecutive months, after notice and an administrative hearing, in accordance with the Administrative Procedure Act.

(4) The fire marshal shall remain responsible for all institutional occupancies requiring a state or federal license, detention, colleges, universities, state-owned and state-leased buildings, and schools where applicable, and the applicable federal and state life safety codes shall be the codes applying to these facilities. Nothing contained herein shall limit the right of the local fire department to consult with the fire marshal or otherwise restrict the authority of the local fire department to conduct fire preplanning for any occupancy within its jurisdiction.

(5) The fire marshal shall not conduct or supervise inspections in all remaining matters where a fire prevention bureau is properly certified unless specifically requested by the fire prevention bureau or the local governing body of that jurisdiction or upon complaint of any citizen. The fire marshal may, at his discretion, report any complaint received from a citizen to the appropriate fire prevention bureau and the fire marshal may conduct a joint inspection with the fire prevention bureau.

(6) The monitoring function conferred upon the fire marshal by this Section is solely intended to achieve the equal, effective enforcement of the state's adopted fire protection, life safety, and accessibility laws, codes, rules, and regulations. It is not intended that the fire marshal shall retain or assume responsibility or liability for inspections performed by fire prevention bureaus. The local governing authority shall, by specific resolution accompanying the ordinance creating the fire protection bureau, assume the responsibility for and release the fire marshal and any other state entity from responsibility or liability for those inspections performed by the fire prevention bureau, or the consequences thereof, within the jurisdiction of the governing authority.

D. For the purpose of this Part, a "fire prevention bureau" is defined as any agency of a locally governed jurisdiction staffed by qualified individuals whose qualifications have been reviewed by the fire marshal whose responsibility it is under the laws or ordinances of that locally governed jurisdiction to inspect structures, watercraft, and movables for compliance with the appropriate fire code applicable as provided in R.S. 40:1578.6 and equivalencies as determined by the fire marshal pursuant to R.S. 40:1574(K) and to conduct investigations of fires in accordance with the provisions of R.S. 40:1566 and 1568.

E. In the execution of the duties imposed upon him by this Part, the fire marshal may designate any of his regular, salaried deputies to act for him except with respect to matters of appeal from notices for the abatement of hazardous conditions, as provided in R.S. 40:1577.

F. The fire marshal shall have the authority in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision or enforcement, including but not limited to R.S. 40:1561 et seq., R.S. 49:148 et seq., R.S. 51:650 et seq., and R.S. 51:911.21 et seq., to prepare, adopt, and promulgate rules and regulations in accordance with the Administrative Procedure Act, and he shall compile a written set of current rules and regulations setting forth state laws and regulations governing fire hazards and life safety requirements and shall distribute to building owners copies of such compilation upon request. He shall also have available copies of said regulations for release upon request of any interested person and copies of state laws and regulations shall be distributed to all fire fighting agencies within the state.

G.(1) The fire marshal shall have authority to charge fees for conducting inspections, both as to private persons, and the state. Such fees shall be designed to cover, but not exceed, the actual cost of the inspections. The inspection fee shall be based on the time required for the inspection multiplied by 2.5 times the average hourly pay rate for inspectors; provided however, all nonpublic elementary and secondary schools shall be exempt from the payment of such fees imposed herein.

(2) As used in this Subsection, the following definitions shall apply:

(a) "Inspection" (INSP) means a survey of a single-story building, each floor of a multi-story building, or buildings having multiple occupancies or multiple building additions separated by horizontal two-hour fire rated construction which require separate surveys.

(b) "Reinspection" (REINSP) means a follow-up to an inspection or final inspection to determine if proper remedial action was taken to correct deficiencies.

(c) "Final inspection" (FINAL INSP) means an inspection to determine if a new construction, renovation, remodeling, addition, or change of occupancy in accordance with R.S. 40:1574 is in compliance with applicable state laws and regulations.

H.(1) The fire marshal, in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision, enforcement, licensure, or regulation, including but not limited to R.S. 40:1662.1 et seq., R.S. 51:650 et seq., R.S. 51:911.21 et seq., and R.S. 40:1484.1 et seq., upon reasonable suspicion that a violation of the foregoing has occurred or is about to occur, shall have the authority to swear out and, upon issuance by a judge, execute search warrants.

(2) A court may issue search warrants on application of the fire marshal, in accordance with law, which warrant shall authorize the search for and seizure of anything within the territorial jurisdiction of the court in aid of the enforcement of the laws under the supervision, enforcement, licensure, or regulation of the office of fire marshal.

(3) The search warrant shall be directed to the fire marshal or his designated representative and shall describe the premises to be searched. The fire marshal or his designated representative to whom the warrant is directed shall make proper return thereon of the action taken on it and shall describe all property or records seized, if any. Any property or records seized shall be retained under the custody and control of the fire marshal or his designated representative until further order of the court or as may be provided by law.

I.(1) The fire marshal, in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision, enforcement, licensure, or regulation, including but not limited to R.S. 40:1662.1 et seq., R.S. 51:650 et seq., R.S. 51:911.21 et seq., and R.S. 40:1484.1 et seq., shall have the authority to request the issuance of subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before him in any matter over which he has jurisdiction.

(2) A court, upon application and acceptable presentation, may order a subpoena or subpoena duces tecum to be issued requiring a witness to appear before the fire marshal to give testimony or to produce evidence. Upon filing such order in the office of the clerk of the appropriate court, the clerk shall issue the subpoena or the subpoena duces tecum according to law.

(3) Punishment for failure to comply with a subpoena or a subpoena duces tecum, proof of service of which appears of record, shall be subject to the sanctions available by law to the issuing court.

J.(1) Process structures as defined herein shall conform to the requirements of the National Fire Protection Association's Life Safety Code as provided in R.S. 40:1578.6, except that stairs, guard rails, and hand rails shall comply with the applicable worker safety requirements of the Occupational Safety and Health Administration.

(2) "Open structure" means a structure that supports equipment and operations not enclosed within building walls, but which may include a roof or canopy, found in oil refining, chemical processing plants, power plants, pulp and paper mills.

(3) "Process structure" means a naturally ventilated structure enclosed within building walls whose primary function is to protect equipment from the environment in oil refining, chemical processing plants, power plants, pulp and paper mills, and which structure is normally not occupied.

K. The fire marshal shall take steps that are necessary and proper to perform services as required by the state emergency operations plan.

L.(1) The state fire marshal shall have the authority to conduct plan reviews for plans or specifications of a facility licensed, certified, or seeking licensure or certification by the Louisiana Department of Health.

(2) In consultation with the Louisiana Department of Health, the state fire marshal shall develop and promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Subsection. The rules shall be applicable to both public and private entities.

M. The state fire marshal or his designee shall, as an approved third-party inspector by the Louisiana Gaming Control Board, have the authority to conduct inspections of a riverboat landside facility licensed or seeking licensure or certificates of compliance by the Louisiana Gaming Control Board pursuant to R.S. 27:44.2.

N.(1) The fire marshal or his designee shall have the authority to require the owner or lessee of a structure that was in existence as of August 1, 2014, and is utilized as a hotel to install a carbon monoxide alarm system when he determines, as a result of a plan review, investigation, or inspection, that a carbon monoxide source within or attached to the building or structure poses a threat of carbon monoxide poisoning. The source of carbon monoxide may include but not be limited to an attached enclosed garage or fossil-fuel burning appliance or appliances.

(2) For purposes of this Subsection, the following terms mean:

(a) "Attached enclosed garage" means a structure or portion of a structure without openings or openings on only one side that is used for the parking or storage of private motor vehicles.

(b) "Hotel" means a building or structure that was in existence as of August 1, 2014, which is utilized as a residential occupancy building containing sleeping units where the occupants are primarily transient in nature, including boarding houses, hotels, and motels.

O. The fire marshal shall take all steps necessary and proper to perform inspections as required by R.S. 40:2009.25.

Amended by Acts 1952, No. 340, §1; Acts 1974, No. 232, §1; Acts 1977, No. 348, §1; Acts 1981, No. 781, §1; Acts 1984, No. 231, §1; Acts 1984, No. 421, §1, eff. July 6, 1984; Acts 1984, No. 614, §1, eff. July 12, 1984; Acts 1984, No. 410, §1, eff. July 6, 1984; Acts 1990, No. 268, §1; Acts 1990, No. 356, §1; Acts 1991, No. 278, §1; Acts 1991, No. 664, §1; Acts 1995, No. 1054, §2, eff. Aug. 1, 1995; Acts 1997, No. 954, §1; Acts 1999, No. 173, §1, eff. June 9, 1999; Acts 2001, No. 393, §1, eff. June 13, 2001; Acts 2003, No. 414, §1; Acts 2003, No. 426, §1; Acts 2009, No. 130, §1; Acts 2012, No. 745, §1, eff. June 12, 2012; Acts 2014,

<sup>a</sup> No. 277, §1; Acts 2014, No. 811, §22, eff. June 23, 2014; Acts 2016, No. 157, §1; Acts 2019, No. 214, §1; Acts 2022, No. 231, §3; Acts 2022, No. 597, §1, eff. June 18, 2022; Acts 2023, No. 126, §2.