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II. RULES

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This public document was published at a total cost of \$5,296.25. 1,100 copies of this public document were published in this monthly printing at a cost of \$3,296.25. The total cost of all printings of this document including reprints is \$5,296.25. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Commerce and Industry Development Division

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, in order to amend the rule governing the administration of the Louisiana Industrial Training Program.

The department requests that the proposed Emergency Rules take effect May 3, 1990 and that they remain in effect for 120 days.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions due to the need for economic assistance to sectors in the state economy.

Title 13

ECONOMIC DEVELOPMENT

Part III. Office of Commerce and Industry

Chapter 9. Louisiana Industrial Training Program

§901. Eligibility

A. Applicant must be a manufacturing firm.

B. Applicant must apply for a minimum of 10 net new, permanent manufacturing jobs that are classed as entry-level unskilled.

C. Applicant must assign a supervisor/instructor to at least 10 trainees.

§903. Preference

A. Preference will be given to applicants locating in a parish which has an unemployment rate higher than the state average.

B. Secondary preference will be given to companies in targeted Standard Industrial Classification (SIC) Codes. The target industries for any particular fiscal year shall be determined by the Secretary of Economic Development in June of each year.

§905. Method of Timing of Application

A. An application shall be submitted for approval to the development supervisor for the Department of Economic Development, Office of Commerce and Industry.

B. The application shall include a manning table setting job titles, numbers of employees per job title and hourly wage per job title. A maximum of 10 percent deviation in the proposed manning table will be allowed.

§907. Contract and Monitoring

A. A contract shall be executed between the State of Louisiana and a local approved non-profit economic development organization from the same geographic area as the site location of the application on behalf of the applicant industry.

B. The non-profit corporation shall monitor the progress of training under the contract and report to the development supervisor who shall also monitor the progress of the training.

§909. Method of Payment

A. Payment to the non-profit monitor shall be reimbursable from an invoice which shows: name of Supervisor(s), Social Security number, number of weeks worked, and weekly rate instructors will be paid for a maximum of 40 hours per week.

B. All on-the-job invoices shall be accompanied by a statement which shows: names of trainees, Social Security number, employment status at time of hiring, sex, race, previous wage rate and current wage rate.

C. Invoices shall be submitted at the end of the training period if that period is seven weeks or less. Invoices shall be submitted monthly if the training period is seven weeks or more.

§911. Location of Training

A. All training locations shall be in Louisiana.

B. Exceptions to this may be made at the discretion of the Secretary of Economic Development.

§913. Amount of Training Grants

A. On-the-job training grants will be calculated at \$200 per job.

B. Pre-employment training grants will not exceed \$70,000.

C. Exceptions to this may be at the discretion of the Secretary of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15:619 (August 1989), amended LR 16:

Harold Price

Assistant Secretary

DECLARATION OF EMERGENCY

Department of Economic Development Office of Commerce and Industry Finance Division

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, in order to make revisions and re-promulgate new rules and procedures in the administration of the Louisiana Capital Companies Tax Credit Program Rules.

Rule 721. E. is added to clarify the intent of Act 496 of the 1989 Regular Legislative Session, which contained R.S. 51:1924 F. re: new legislation which provides for the transfer or sale of income tax credits.

The effective date of this emergency rule is May 1, 1990, for 120 days, or until new rules are promulgated.

Title 13

ECONOMIC DEVELOPMENT

Louisiana Capital Companies Tax Credit Program

R.S. 51:1921-1932

Part I. Commerce and Industry

Subpart I. Finance

Chapter 7. Louisiana Capital Companies Tax Credit Program

§721. Transfer or Sale of Income Tax Credits

E. The transfer or sale of income tax credits, pursuant to R.S. 51:1924 F., will be restricted to transfer or sale between affiliated companies. The secretary of Economic Development shall approve all such transactions involving income tax credits. Companies shall submit in writing, to the secretary, all requests for the transfer or sale of income tax credits. Affiliated companies are defined as two or more companies related through common ownership; or two or more corporations closely related through stock ownership.

Robert G. Berling
Program Administrator

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5727. Access by Commissioners

Commission members and its representatives shall have the right to full and complete entry to any and all points of the grounds of any association or its other facilities. All racing associations shall recognize and honor buttons issued by the Association of Racing Commissioners International, Inc. and parking permits issued by the Louisiana State Racing Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 153.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:434 (December 1976), re-promulgated LR 3:30 (January 1977), LR 4:278 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part V. Racing Procedures

Chapter 83. Appeals to the Commission

§8305. Deposit for Expenses

A deposit of not less than \$50 nor more than \$500 may be required by the commission to defray the necessary expenses of witnesses called and necessary equipment required by the commission upon appeal to the commission by stewards' final rulings. If the commission upholds the stewards' ruling, the commission shall retain the full deposit. If the commission finds in favor of the appellant, the deposit shall be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:144, 148 and 197.

HISTORICAL NOTE: Promulgated by the Racing Commission LR 4:289 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5711. First Aid Room

Each association shall provide, equip and operate an adequate first aid room within its enclosure, having not less than two beds therein except such enclosure of an association for which approval thereof has been given by the commission on or prior to June 1, 1983. Each such first aid room shall have in attendance during the training and racing hours of such association, a licensed physician and a registered nurse or a licensed practical nurse or one registered paramedic and one certified emergency medical technician with not less than one year experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:434 (December 1976), re-promulgated LR 3:30 (January 1977), LR 4:278 (August 1978), amended LR 9:546 (August 1983), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part I. General Provisions**

Chapter 17. Corrupt and Prohibited Practices

§1737. When Horse Found Drugged

Should the chemical analysis of any sample of the blood, saliva, urine or other excretions of body fluids of a horse contain any prohibited drug or substance of any description, not permitted by LAC 35:I.1501 et seq. or prohibited by LAC 35:I.1719, the trainer of the horse may, after a hearing of the stewards, be fined, suspended or ruled off, if the stewards conclude that the prohibited drug or substance contained in the sample could have produced analgesia in, stimulated or depressed the horse, or could have masked or screened a drug or substance, not permitted by LAC

35:1.1501 et seq. or prohibited by LAC 35:1.1719, that could have produced analgesia in, stimulated or depressed the horse. The stable foreman, groom and any other person shown to have had the care or attendance of the horse may be fined, suspended or ruled off. The owner or owners of a horse so found to have received such administration shall be denied, or shall promptly return, any portion of the purse or sweepstakes and any trophy awarded to such horse, and the said purse, sweepstakes and any trophy shall be distributed as in the case of a disqualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 141.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, repromulgated LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR4:287 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLI. Horseracing Occupations

Chapter 5. Assistant Trainers and Other Employees §515. License Required for Activities

No person requiring a license from the commission shall carry on any activity whatsoever upon the premises of a licensed association unless and until he has been duly licensed. The commission will accept the Association of Racing Commissioners International, Inc. uniform owner's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 150 and 169.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:428 (December 1976), promulgated LR 3:24 (January 1977), repromulgated LR 4:274 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices §1719. Masking Agents

The use of any drug or substance, regardless of how harmless or innocuous it might be, which by its very nature

might mask or screen the presence of a prohibited drug as provided in the Rules of Racing is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, repromulgated LR 2:449 (December 1976), LR 3:44 (January 1977), LR 4:287 (August 1978), LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 19. Racing Officials

§1903. Monetary Interests Prohibited

A. No person while licensed and/or serving as a racing official shall own an interest in (i) a horse that races at a race meeting where he is employed, (ii) a jockey contract, or (iii) an association under his supervision. Nor shall any such person buy or sell, or cause to be bought or sold for himself or another, any thoroughbred, quarter horse or Appaloosa under his supervision. Nor shall any such person wager on any race under his supervision. No such person shall write or solicit horse insurance or have any monetary interest in any business which seeks the patronage of horsemen or racing associations.

B. For the purposes of this section only, "racing official" as used herein shall mean and include a: (1) steward, (2) placing judge, (3) patrol judge, (4) paddock judge, (5) clerk of scales, (6) starter, (7) assistant starter, (8) handicapper/racing secretary, (9) assistant racing secretary, (10) track superintendent, (11) general superintendent, (12) jockey room custodian, (13) valet, (14) outrider, (15) jockey, (16) identifier, (17) association and state veterinarian, (18) official state chemist (including the persons under his supervision), (19) member of the State Police Racing Investigations Unit, (20) director of racing, and (21) stall superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:424 (December 1976), repromulgated LR 3:20 (January 1977), LR 4:271 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part I. General Provisions**

Chapter 15. Permitted Medications

§1511. Violations

After notice and hearing, any person found to have violated the provisions of the permitted medication rule may be punishable by fine and/or suspension and/or revocation of his/her license. Any owner or owners of a horse found to be in violation of the permitted medication rule shall be denied, or shall promptly return, any portion of the purse or sweepstakes and any trophy in such race, and the same shall be distributed as in the case of a disqualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 142.

HISTORICAL NOTE: Promulgated by the Racing Commission LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part I. General Provisions**

Chapter 17. Corrupt and Prohibited Practices

§1743. Possession of Drugs, Syringes or Needles

No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (off-track) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any prohibited drugs, hypodermic syringes or hypodermic needles or similar instruments which may be used for injection. Anything herein to the contrary notwithstanding, a licensed veterinarian may have in his possession such drugs, instruments or appliances, etc., as required in the practice of general veterinary medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, repromulgated LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:288 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations**

Chapter 21. Stables

§2101. Stable Name

All stable names shall be cleared with the Association of Racing Commissioners International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:429 (December 1976), promulgated LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 16:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revised Bulletin 1566,
Pupil Progression Guidelines

The State Board of Elementary and Secondary Education, at its meeting of April 26, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and adopted the Revised Bulletin 1566, Pupil Progression Guidelines, including revised Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, as revised by the Department of Education staff and representatives of the Louisiana Education Association.

Guidelines for Pupil Progression
Bulletin 1566 Revised 1990
Section I

General Procedure for Development, Approval and Revision
of a Pupil Progression Plan

A. Development of a Local Plan

1. Committee of Educators

The SBESE and the LDE require assurances that the LEA supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Chapter I, teachers and principals and other individuals deemed appropriate by the local superintendent are included in the development of the parish pupil progression plan.

2. Committee of Parents

a. Act 750 of the 1979 Louisiana Legislature states that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Such committees shall participate and have input in the development of the pupil progression plan."

b. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the pupil pro-

gression plan. Opportunities shall be provided for parents to have input into the development of the local plan.

c. Due process and equal protection considerations require the local board to include on the parent committee representatives of racial, socio-economic, ethnic and handicapped groups from the local district.

d. The local board shall provide staff support to the parent committee.

B. Description of Committees

The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

C. Public Notice

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. (R.S. 42.4.2(A)(2); Attorney General's Opinion Number 79-1045)

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

D. Approval Process

1. State Department of Education/State Board of Elementary and Secondary Education Approval

Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Bureau of Elementary Education for review by the LDE and subsequent approval by the SBESE. Upon approval by the SBESE, the local plan will become operative.

2. Review and Revision

a. Local Pupil Progression Plans must be accompanied by a completed checklist.

b. Local systems will be informed in writing of approval.

c. Local systems whose plans need revision will be informed of needed changes.

d. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

Section II

Placement Policies: State Requirements

Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these guidelines.

Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student (Act 750, R.S. 17:24.4G). Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students in specially designed regular instructional programs and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with

the least restrictive environment requirements of state and federal laws (Act 754 regulations, subsection 443).

No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his teacher, without just cause. Each city and parish school board shall establish a formal, written policy establishing such good cause as might justify such nonteaching personnel's seeking to influence a student's grade (R.S. 17:414.2).

A. Regular Placement*

1. Promotion: Grades K-12

Promotion from one grade to another shall be based on the following statewide evaluative criteria:

a. Requirements in Bulletin 741, *Louisiana Handbook for School Administrators*

1) Each plan shall include the school attendance requirements;

2) Each plan shall include the course requirements for promotion by grade levels;

3) Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

1) Each plan shall include the statement that individual student scores reported by the LEAP shall be the principal criterion for student promotion.

2) Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass all components of the Graduation Exit Examination in order to receive a high school diploma.

3) Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

2. Retention: Grades K-12

Retention of a student shall be based upon the student's failure to meet the criteria established by local board for promotion and other criteria contained in these guidelines.

3. Exceptional Students: Specially Designed Regular Instructional Program

a. The Specially Designed Regular Instructional Program will be for those students able to address state grade level standards with significant modifications designed to assist them in mastery of these standards. Specially designed instruction may take place in regular classrooms, resource rooms, self-contained or special school settings. The decision for placement in this program must be reflected in the student's Individual Educational Plan (IEP).

b. The Specially Designed Regular Instructional Program is expected to lead to a regular high school diploma.

c. Students in the Specially Designed Regular Instructional Program must demonstrate reasonable and continuous progress as determined by the following criteria:

1) State Criteria

a) Requirements of Louisiana Educational Assessment Program

* Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

2) Local Criteria

a) Local options concerning accomplishments of IEP objectives written in accordance with Act 754 regulations (subsection 441)

4. Acceleration

a. Grades K-8

The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

b. Grades 9-12

The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

5. Transfer Students

The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

B. Alternatives to Regular Placement

The local school board shall establish written policies for all alternatives to regular placement, including those for exceptional students, using the Separate Minimum Performance Standards or an approved alternative curriculum. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

1. Exceptional Students in Alternative to Regular Placement Programs

a. The Alternative to Regular Placement Program is for the exceptional student who because of the nature and severity of his/her handicapping condition, is unable to meet state grade level standards. Instruction for the student may take place in a regular classroom, resource room, self-contained classroom, or special school setting. The decision for placement in this program must be reflected in the student's IEP.

b. The Alternative to Regular Placement Program course of study is expected to lead to a Certificate of Achievement. Local systems shall apply to the Office of Special Educational Services for approval of locally developed alternative curricular which address the separate minimum standards.

c. The student in the Alternative to Regular Placement Program must demonstrate reasonable and continuous progress as determined by the following evaluative criteria:

1. State Criteria

a) Bulletin 741 requirements

2. Local Criteria

a) Local options concerning accomplishments of IEP objectives written in accordance with Act 754 regulations (Subsection 443)

b) Other local criteria

C. Review of Placement

1. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian [(Act 750; R.S. 17:24.4(G)).

2. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to ensure compliance with its local plan [(Act 750; R.S. 17:24.4(G)).

D. Policies on Records and Reports

1. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

2. Student records for the purposes of these guidelines shall include:

a. Course grades;

b. Scores on the Louisiana Educational Assessment Program;

c. Scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

d. Information (or reason) for student placement (see definition of placement);

e. Documentation of results of student participation in remedial and alternative programs;

f. Special education documents as specified in the approved Education for the Handicapped Act (EHA), Part B, LEA application;

g. A copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program;

h. A copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program;

i. A statement regarding written notification to parent on retention and due process procedures.

E. Policies on Due Process

Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of exceptional students as defined in the EHA-Part B.

Section III

Placement Policies: Local Option

In addition to the statewide mandatory criteria for student placement in Section II of these Guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Section II and shall be submitted to the LDE as part of the local Pupil Progression Plan.

Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

A. Legislative Guidelines

1. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use [(Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)).

2. Local criteria for K-12 must supplement the grade level standards approved by the SBESE [(Act 750; R.S. 17.24(G)).

3. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan [(Act 750; R.S. 17.24.4(E) and (G)).

B. Departmental Guidelines

1. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

2. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

C. Other Local Option Factors

In conjunction with the enumerated legislated guidelines and LDE directives, local school systems may include other evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

Section IV

Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program

Preface

The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, Guidelines for Pupil Progression, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

A. Legal Authorization

R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

R.S. 17:394 - 400 is the established legislation for the remedial education programs.

B. Definition and Purpose

1. Definitions

a. *Remedial education programs* are defined as local programs designed to assist students, including identified handicapped students, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:396, 397, 24.4 and Board Policy).

b. *Department* is the Louisiana Department of Education.

c. *State Board* is the State Board of Elementary and Secondary Education.

2. Purpose

a. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans approved by the SBESE. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the department and approved by the state board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction. (R.S. 17:395 A).

b. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:395 B and Board Policy).

c. Remediation shall be provided in English language

arts, mathematics, and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G., 395 B and C and Board Policy).

d. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

C. Responsibilities of the State Board of Elementary and Secondary Education

1. The SBESE shall perform the following functions in relation to the remedial education program:

a. Approve as a part of the Pupil Progression Guidelines (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English language arts, writing, mathematics, social studies and science (R.S. 17:399 A).

b. Approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B).

c. Approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A).

d. Approve, on recommendation of the department, a system of categorical reporting of remedial education, expenditures by city or parish school boards (R.S. 17:399 B-3 and 17:400 B).

e. Receive from the department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B.

f. Approve the evaluation criteria developed by the department for determining the effectiveness of remedial education programs (R.S. 17:399 B (2) and Board Policy).

D. State Funding of Remedial Education Programs

1. Remedial education funds shall be appropriated annually to the department in the form of a line item within the general appropriation bill (R.S. 17:398 A).

2. State remedial education funds shall be distributed to the parish and city school boards on a per-pupil, per-subject-area basis to be used solely for students requiring remedial education (R.S. 17:398 A).

3. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

4. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students (R.S. 17:399 (B)5).

5. For funding purposes, a student receiving remediation in English language arts, writing, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B).

6. Students counted to generate funds for state remedial education are also eligible to generate allotments for regular or special education teachers, or both (R.S. 17:398 B).

7. Students other than speech-only students receiving

special education services directed toward the educational deficits identified through the state testing program shall not be eligible for funding (R.S. 17:398 B).

8. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program to be funded by the state (R.S. 17:399 (B)4).

9. If the department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved through its Pupil Progression Plan or is not complying with state evaluation regulations, the department shall withhold remedial education funding until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations (R.S. 17:400 A).

10. The state and local funds expended in the program shall be accounted for separately from all other funds expended by the city or parish school board. Expenditures shall be reported as a categorical program in the manner prescribed by the state board (R.S. 17:399 B (3)).

E. Criteria for State Approval

1. Student Eligibility

a. Any public elementary or secondary student, including a student in specially designed regular instructional programs, who does not meet the performance standards established by the department and approved by the state board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

b. The failure of special education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for extended special education programs (board policy).

c. Students other than speech-only students receiving special education services directed toward the educational deficits identified through the state testing program are not eligible to participate in remedial education programs (R.S. 17:398 B).

2. Teacher Qualifications

a. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

b. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

1) must be at least twenty years of age;

2) must possess a high school diploma or its equivalent; and

3) must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

c. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

3. Program Requirements

a. Student Profile

The Remedial Education Student Profile for the LEAP/CRT, provided by the LDE shall be used by the local school

system for providing remediation for each eligible student (Board Policy).

b. Coordination With Other Programs

The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (board policy).

c. Instruction

1) Remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and Board Policy).

2) Instruction shall include but not be limited to the philosophy, the methods, and the materials included in the state-approved curriculum guides (Board Policy 3.01.08).

3) Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

4) Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

d. Student Assessment

1) The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the state board-approved Louisiana State Standards in the corresponding state-approved curriculum guides (R.S. 17:395 D and Board Policy).

2) These mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, writing, mathematics, social studies, and/or science in which he was found deficient (R.S. 17:395 D, 17:24.4 G and Board Policy).

3) School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395 D and Board Policy).

F. Local Program Development and Evaluation

1. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the department and approved by the SBESE pursuant to R.S. 17:24.4 The remedial education plan shall be reviewed annually by the department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

2. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative that shall incorporate the following:

a. program objective;

b. student population to be served and the selection criteria to be used;

c. methodologies, materials, and/or equipment to be used in meeting the remediation needs;

d. brief description of the remedial course;

e. plan for coordination of state, federal, and local funds for remediation;

f. procedure for documenting student's and parent(s) refusal to accept remediation;

g. evaluation plan encompassing both the educational

process and the growth and achievement evidenced of students (R.S. 17:399A).

3. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services designed to meet the educational needs of each participating student.

4. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

5. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds (R.S. 399 A (5) and B (4) and Board Policy).

6. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

7. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

8. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

9. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the department (R.S. 17:399 A (6) and Board Policy).

10. Each local school system shall complete an annual evaluation of its program, using the approved department guidelines, and shall submit the evaluation report to the state superintendent by June 15 of each year (R.S. 17:399 B (1) and Board Policy). The evaluation plan shall include specific means to examine and document: (1) student performance, (2) coordination with other programs, and (3) instruction. The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

11. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the state superintendent (Board Policy).

G. State Department of Education Responsibilities

1. The department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

2. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

- a. the number of students participating in remedial education programs;
- b. the level of student achievement; and
- c. an analysis of the expenditures of funds by the city and parish boards (R.S. 17:400 B).

3. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

4. Within 60 days of receipt of the evaluation report from the local school system, the department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

5. The department shall provide technical assistance to the city and parish school boards which shall include:

- a. assistance with development of the remedial section of the Pupil Progression Plan;
- b. assistance with staff development;
- c. assistance with the use of appropriate department forms;
- d. assistance with program implementation; and
- e. assistance with conducting local evaluations.

Appendix A

Definition of Terms

As used in this bulletin, the terms shall be defined as follows:

A. State Terms

1. *Acceleration* - Advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

2. *Alternative to Regular Placement* - Placement of students in programs not required to address the State Grade Level Standards.

3. *Alternative to Regular Placement Program* - A program of study for exceptional students based on separate state minimum standards specifically designed to meet the unique educational needs of this population.

4. *Louisiana Educational Assessment Program (LEAP)* - The state's testing program that includes the grades 4, 6, and 9 Louisiana Norm-referenced Testing Program (California Achievement Test); the grades 3, 5, and 7 Criterion-referenced Testing Program including English/language arts and mathematics for grades 3, 5 and 7 with written composition for grades 5 and 7; and the Graduation Exit Examination (written composition, English language arts, mathematics, science and social studies).

5. *Promotion* - A pupil's placement from a lower to a higher grade based on local and state criteria contained in these guidelines.

6. *Pupil Progression Plan* - "The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education. A Pupil Progression Plan shall require the student's mastery of grade-appropriate skills before he or she can be recommended for promotion." (Act 408)

7. *Regular Placement* - The assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

8. *Remedial Programs* - Programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Educational Assessment Program and other local criteria.

9. *Remediation* - See Remedial Programs.

10. *Retention* - Nonpromotion of a pupil from a lower to a higher grade.

11. *Specially Designed Regular Instructional Program* - A program of study designed for exceptional students and based on state grade-level performance standards with significant variations allowed in time requirements, methods of presentation, and materials used.

12. *State Grade Level Standards* - Specific levels of attainment of skills and objectives as established in the mandated state curriculum guides.

B. Local Terms

The definition of terms used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

Emergency adoption of Revised Bulletin 1566 is necessary because local school systems must utilize the bulletin in the preparation of their 1990-91 Pupil Progression Plans, which are due in the department by July 13, 1990. Effective date of the emergency rule is May 20, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Rescind Amendment to Bulletin 1706

The State Board of Elementary and Secondary Education, at its meeting of April 26, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and rescinded the emergency rule previously adopted relative to the Special Education Advisory Council which would have provided that members of the board would appoint the eleven persons who serve on the council. This amendment to Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act was advertised as an emergency rule in the February, 1990 issue of the *Louisiana Register*.

This action was taken by the board because the proposed policy change was in conflict with R.S. 17:1954, Section A of the law which states in part ..."A state advisory council for the education of exceptional children shall be appointed by the Department of Education, with the approval of its governing authority..."

This action to withdraw the previous amendment was adopted as an emergency rule, effective immediately, in order for the current advisory council to remain active.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amend Nonpublic Elementary
Summer School Standards

The State Board of Elementary and Secondary Education, at its meeting of April 26, 1990, exercised those powers

conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and amended nonpublic elementary summer school standards 6.113.09, 6.113.12, 6.113.14, and 6.113.15 as stated below to conform to the public school standards. Effective date of this amendment is April 26, 1990.

Instruction

6.113.09 A student attending summer school for promotional purposes shall not enroll for more than two subjects.

Attendance

6.113.12 The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject.

The school may impose a more strict minimum attendance policy.

Time Requirements

6.113.14 A summer school term shall be operated for minimum period of 35 days (five days per week for seven weeks).

6.113.15 Daily time requirements are as follows:

Program	35 days	Total Hours
Removal of Deficiencies	120 min. per subject	70

Two subjects may be taken in summer school for the removal of deficiencies.

This emergency adoption is necessary because amendments affecting the 1990 summer school are needed by nonpublic elementary schools in order to plan the 1990 summer school program.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

**Department of Employment and Training
Office of Labor**

In accordance with R.S. 49:953.B, the Department of Employment and Training, Office of Labor, is exercising the emergency provision of the Administrative Procedure Act, to adopt the following rule amending the regulations of conditions under which minor labor may be used. The purpose of the amendment is to establish additional guidelines permitting a waiver of the hour and time standards for minors under 16 years of age when employed in commercial motion pictures, films, or video productions. With the absence of a waiver provision, economic benefits to the state are lost as film production companies avoid filming in Louisiana. The issuance of a waiver to the hours and time standards is allowed only under specific circumstances and the health, morals and safety of the minor will remain as essential consideration for the minor's employment.

The notice of intent to adopt the following rule under the Administrative Procedure Act will be published in the May 20, 1990 edition of the *Louisiana Register*.

RULE

LAC 40:VII.103.A.9 shall be revised to read as follows:

9. When employed in commercial motion picture, film or video productions:

a. before 7 a.m. for studio production, 6 a.m. for location productions, and shall end no later than time specified below:

i. for minors under six years of age, 7 p.m.;

ii. for minors six years of age to 15 years of age, 8 p.m. on days preceding school days and 10 p.m. on days preceding non-school days;

b. minors under six years of age shall not work more than six hours per day; minors six years of age to 15 years of age shall not work more than eight hours per day;

c. minors shall receive a 12-hour rest break at the end of each work day, before the commencement of the next day of work;

d. minors shall not be employed more than six consecutive days in any one week, nor more than 36 hours per week for minors under six years of age, nor more than 48 hours per week for minors six years of age to 15 years of age.

e. applications for waivers for any exception to the foregoing provisions of this Paragraph 9 may be made to the secretary of the Department of Employment and Training.

f. the secretary of the Department of Employment and Training shall grant a waiver only under the following circumstances:

1. written acknowledgement that a waiver of the provisions established by the Screen Actors Guild has already been obtained;

2. written acknowledgement that the minor's parent(s), tutor, or custodian have been fully informed of the circumstances and have granted advance consent.

Phyllis Coleman Mouton
Secretary

DECLARATION OF EMERGENCY

Office of the Governor Wetlands Conservation and Restoration Task Force

In accordance with the emergency provisions of R.S. 49:953 (B) of the Administrative Procedure Act, and under the authority of R.S. 49:213.6, the chairman of the Wetlands Conservation and Restoration Task Force, Office of the Governor, hereby finds that an imminent peril to the public welfare exists and, accordingly, adopts on behalf of the Wetlands Conservation and Restoration Task Force the following emergency rule, effective April 12, 1990 through August 9, 1990:

The Coastal Wetlands Conservation and Restoration Plan (Fiscal Year 1990-91).

1. Coastal vegetated wetlands—by virtue of their value as the basis for present and future fish and wildlife productivity, and related economic and recreational benefits; as natural protection for coastal towns and cities against the effects of storm damages; and for other reasons pertaining to the public health and welfare—are deemed to be uniquely important to this state and deserving of special and immediate safeguards.

2. The state continues to lose highly productive vegetated wetlands at the alarming rate of 35 square miles annually (22,400 acres). The value of wetlands being lost and the critical nature of their function as storm protection and in providing other public health benefits constitute an emergency situation of critical concern to Louisiana.

The Coastal Wetlands Conservation and Restoration Plan, a synopsis of which follows, is a document of some 150 pages. The document is available upon request to Coastal Activities, Office of the Governor, Box 94004, Baton Rouge, LA 70804 or by calling (504) 342-6493. The document may also be viewed on the Fifth Floor, State Capitol, Baton Rouge, LA, by contacting Beckey Vincent at (504) 342-7015.

Introduction

Act 6 of the Second Extraordinary Session of the 1989 Louisiana Legislature created the Wetlands Conservation and Restoration Authority (authority) within the Office of the Governor, and the Office of Coastal Restoration and Management (OCRM) within the Department of Natural Resources (DNR). In addition, it created the statutorily dedicated Wetlands Conservation and Restoration Fund (Wetlands Fund).

The authority was directed to develop a comprehensive policy (policy) addressing the conservation and restoration of coastal wetlands resources, and to develop the Coastal Wetlands Conservation and Restoration Plan (plan). The plan and policy will serve as the state's overall strategy for conserving, enhancing, restoring, and creating coastal wetlands.

The plan must be submitted to the House and Senate Natural Resources Committees of the Legislature on or before March 15 of each year beginning in 1990 for their approval. If approved, the plan is then submitted to the full legislature for approval by resolution adopted by a majority vote of the members of each house provided that such resolution is adopted on or before June 1 of each calendar year. Upon approval, the Coastal Restoration Division shall implement the plan in conformity with the order of priority contained in the plan.

Coastal Wetlands Conservation and Restoration Policy

The following policy statements are not rules or regulations, but rather are intended to generally guide the state's future coastal wetland conservation and restoration efforts, including structural, management, and institutional programs.

1. Coastal vegetated wetlands—by virtue of their value as the basis for present and future fish and wildlife productivity, and related economic and recreational benefits; as natural protection for coastal towns and cities against the effects of storm damages; and for other reasons pertaining to the public health and welfare—are deemed to be uniquely important to this state and deserving of special safeguards and efforts related to their conservation, enhancement, restoration, and creation. Accordingly, it is the policy of the state to elevate coastal vegetated wetland conservation, enhancement, restoration, and creation to a level of importance equal to flood control, navigation, or other development activities so that a proper balance is achieved.

2. It is the policy of the state to aggressively identify and implement projects and programs to offset coastal vegetated wetland losses that have resulted from past human activities and ongoing natural processes. It would be inappropriate, then, to allow future permitted developments that adversely impact coastal vegetated wetlands to go un-

mitigated. Accordingly, this state shall initiate the development of rules (via the Administrative Procedure Act process) and/or legislation, that would define and establish procedures needed to achieve, at a minimum, compensation for coastal wetland functional values lost due to future permitted activities. Overall functional coastal wetland value losses, which result from future permitted activities, would be offset by concurrent measures required in a permit (pursuant to R.S. 49:213.4) to restore these values to the state. In this manner, public trust values (e.g., fish and wildlife values) lost as a result of permitted activities would be offset. Certain activities, as a result of their current exemption from the coastal use permitting process, would not be affected by these rules or legislation. These activities include: (1) agricultural, forestry and aquacultural activities on lands consistently used in the past for such activities, (2) normal maintenance or repair of existing structures, (3) construction of a residence or camp, (4) activities which do not have a direct and significant impact on coastal waters, (5) activities occurring entirely on lands five feet or more above mean sea level or within fastlands, unless discharges or changes in existing water flow from such activities cause a direct and significant impact on coastal waters, and (6) activities that occur outside of the state's designated coastal zone as defined in R.S. 49:213.4, unless such activities cause a direct and significant impact on coastal waters.

3. Expenditures from the state's Wetlands Conservation and Restoration Fund shall be made in accordance with priorities established primarily on the basis of the effectiveness of each expenditure in conserving, enhancing, restoring, and creating coastal vegetated wetlands. Projects that introduce freshwater and sediment into wetlands shall have high priority. These projects will be coordinated with DEQ and DHH to assure that introduced water is of acceptable quality.

4. The state of Louisiana recognizes the economic significance and importance of coastal activities such as navigation, including ports and waterways; seafood and wildlife-related industries; oil and gas exploration and production; chemical production; and agriculture, aquaculture, and silviculture. Accordingly, it is the policy of the state to consider the impacts of coastal wetland and conservation and restoration programs and projects as they relate to these activities in our state's coastal area.

Plan Objectives

1. To plan, design, and complete in the near-term, projects and programs designed to conserve, enhance, restore, and create vegetated wetlands.

2. To plan and evaluate alternative long-range projects (with complex socioeconomic interactions) designed to provide widespread and continuing long-term benefits to vegetated wetlands (e.g., large-scale freshwater and sediment diversions).

3. To make projects and programs within hydrologic basins mutually compatible and to make them collectively serve the coastal wetland resource base.

4. Through appropriate legislative or rulemaking processes, develop policies and procedures that would provide, at a minimum, for replacement of functional coastal wetland values lost due to future activities for which a coastal use permit is issued (see Table 3.A.1. and 2. for specific recommended measures).

5. Take steps necessary to:

a. improve predictability and efficiency of the Coastal Use Permitting process; and

b. make operation and implementation of federal water resources projects consistent with the policy of the state to elevate coastal vegetated wetland conservation, enhancement, restoration, and creation to a level of importance equal to flood control, navigation, or other development activities.

Plan Development and Contents

The current plan was developed through a process that involved the integration of a large number of recommendations from federal, state, and local governmental entities; representatives of various interest groups; and other individuals knowledgeable about Louisiana's coastal processes and resources. The identification of projects for inclusion in the plan was further advanced through coordination between the Governor's Office of Coastal Activities and local governments. Meetings were held with representatives of each of the coastal parishes to determine whether support existed for projects recommended by the state and to solicit input concerning possible additional projects resulting from local recommendations. Similar contact with a representative of the coastal landowners was made because many of the projects required to conserve and enhance the vegetated wetland resource base cannot be accomplished without their cooperation.

The current document was coordinated among state agencies directly through review by the secretaries serving on the Governor's Task Force, as well as through incorporation of the recommendations developed jointly in 1988 by representatives of Louisiana's DNR, DEQ, DWF, and DOTD who served on the Governor's Coastal Restoration Technical Committee.

Projects recommended for funding from the Wetland Funds during Fiscal Year 1990-91 are generally of four types:

1. introduction of freshwater, mineral sediment, and nutrients to conserve, enhance, restore and create vegetated wetlands;

2. management of surface water to protect vegetated wetlands from saltwater intrusion and erosion by tidal currents;

3. marsh restoration, sedimentation, and low-cost shore protection to maintain and enhance physical integrity of vegetated wetlands;

4. gulf shore protection along critical areas of the Chenier Plain.

The projects are grouped into three categories according to the nature of the work planned for 1990/91 (Table 1). These categories are: (1) operation, maintenance, and rehabilitation (OMR), (2) construction and implementation (CI), and (3) feasibility analysis, planning, permitting, and design (FPD).

The projects in the first category (OMR) are those that can become operational immediately by providing funds for operation, maintenance, or rehabilitation of existing features.

The second category (CI) combines those projects for which construction and implementation could be initiated during the 1990/91 Fiscal Year. In some cases feasibility analysis, planning, permitting, and design (FPD) have been completed, and only CI remains. In other cases one or more of the FPD elements needs to be completed before CI can commence as indicated by the FPD/CI notation. This may be for a number of reasons, including requirements for further coordination with local interests, questions concerning oper-

ation, pending permits, or other factors. In those cases where feasibility analysis has not been completed, construction and implementation, though indicated, could be delayed or possibly deactivated because of currently unanticipated social, economic, or technical constraints.

The third implementation category (FPD) includes those projects that cannot be brought to construction during the current fiscal year because they have not advanced beyond the conceptual stage and project characteristics do not allow completion of all FPD elements in less than one year.

Because several projects in the CI category still require completion of some FPD task, it is necessary to have two sub-categories within the FPD category (3a and 3b in Table 1). The first sub-category includes those projects for which completion of the FPD elements is necessary to advance the project to the CI category this year. Accordingly, priority in this group parallels that of the CI category. The second sub-category comprises those projects for which only FPD elements are proposed this year.

All phases of projects development, implementation, and operation will be coordinated with all appropriate government agencies and landowners. This is a requirement not only because of governmental mandates, and state and private land ownership, but also because a number of projects were identified for which costs are shared by state, local, or federal government. Although some parishes have indicated a willingness to share in the cost of design and construction of several projects, a formal policy dealing with cost-sharing remains to be developed and must be included as a parameter in future plan development.

In addition to the projects identified above, a number of programs are recommended for funding from the Wetland Fund during Fiscal Year 1990-91. These programs include both long- and short-range programs, and are listed in Table 2 with a short description of their objective. Additionally, it is recommended that a number of institutional and structural measures be advanced for state and federal action for the purpose of conservation, restoration, and creation of wetlands. These are identified in Table 3 with funding requested for (1) matching federal or local monies for various dredged material disposal programs to create or protect marsh, (2) assisting local governments in rerouting runoff waters through wetlands, (3) cost-sharing in the restoration of back-barrier wetlands (such as at Wine Island) by the Corps of Engineers during navigation channel dredging, and (4) operation of various structures, if needed, to offset saltwater intrusion, retain freshwater, or to remove excess water from marsh areas.

Funding

Because of uncertainties about feasibility, permitting, and other project elements, it is proposed that state funding be provided for project implementation on a category (OMR, CI, FPD) basis rather than a project basis. Under this funding provision, project implementation within each group would occur according to the established and legislatively approved priority unless problems arise that delay implementation of a given project. In that case, work will begin on the project with the next highest priority.

OMR = Operation/Maintenance/Rehabilitation; CI = Construction/Implementation; FPD = Feasibility Analysis, Planning, Permitting, Design.

Line item funding is requested for each of the project categories detailed in Tables 1, 2, and 3 as follows:

1. Operation/Maintenance/Rehabilitation	\$ 775,000
2. Construction/Implementation	\$18,500,000
3. Feasibility Analysis/Planning and Permitting/Design	\$ 2,000,000
4. Long and Short-Range Programs	\$ 4,000,000
5. Policy and Structural Measures	\$ 1,000,000
Total	\$26,275,000

Approval is also requested to transfer up to 20 percent of allocated funds from any one category to other categories as needed to prevent undesirable delays in project planning and implementation.

Table 1. Projects Grouped by Category (OMR, CI, FPD) and Order of Priority¹

1. Operation/Maintenance/Rehabilitation (OMR)

Priority 1

Project	Parish	Rank	Acres	Cost	Sed	Fw
BS-1 Bohemia Diversion Structure	Plqs					
a) Achieve operation of present structure		12	2	4	1	1
PO-1 Violet Siphon Diversion	StPd					
a) Achieve operation of present structure		12	2	4	1	1
C/S-4 Cameron/Creole Watershed	Camr					
a) Operation of control structures		10	2	4	0	0
TE-1 Montegut Wetland - protection	Terb					
		10	2	4	0	0

2. Construction/Implementation (CI)

Priority 1

Project	Parish	Rank	Acres	Cost	Sed	Fw
BA-1 Davis Pond Freshwater Diversion *	StCs	16	4	2	1	1
BS-3 Caernarvon Freshwater Diversion *						
c) Diversion structure	Plqs	16	4	2	1	1
BA-2 GIWW to Clovelly Wetland *	Lafr	14	4	2	0	0
BA-3 Naomi (LaReussite) Diversion Siphon	Plqs	13	3	2	1	1
a) Siphon construction						
b) Enlargement diversion capacity						
BA-4 West Point a la Hache Diversion Siphon	Plqs	13	3	2	1	1
a) Siphon construction						
b) Enlargement diversion capacity						
ALL-1 Sedimentation and Vegetation Planting						
a) Christmas tree project	All	-	-	-	-	-

Priority 2

Project	Parish	Rank	Acres	Cost	Sed	Fw
BS-4 White's Ditch Diversion Siphon	Plqs					
a) outfall management		12	2	4	1	1
C/S-1 Calcasieu-Sabine Wetland - protection from:	Camr					
a) Peveto Beach to Holly Beach		12	3	3	0	0
MR-1 Small Sediment Diversions	Plqs					
a) Pass A Loutre Wildlife Management Area		12	2	4	1	1
b) Delta Wildlife Refuge *		12	2	4	1	1
ME-1 Pecan Island Freshwater Introduction	Vrml					
a) Pecan Island Structure		11	2	4	0	1
PO-1 Violet Siphon Diversion	StBd					
b) Enlargement of diversion capacity		11	2	3	1	1
TE-2 Falgout Canal Wetland - protection	Terb					
		11	2	4	0	1
TE-3 Bayou la Cache Wetland - protection	Terb					
		11	2	4	0	1

Priority 3

Project	Parish	Rank	Acres	Cost	Sed	Fw
C/S-2 Rycade Canal - water control to Black Lake	Camr	10	2	4	0	0
PO-3 La Branche Wetland	StCs					
a) Completion of management plan		10	2	4	0	0
PO-4 Bonnet Carré Freshwater Diversion	StCs	9	2	1	1	1

Priority 4

Project	Parish	Rank	Acres	Cost	Sed	Fw
ME-2 Hog Bayou Wetland - enhancement	Camr	8	1	4	0	1
PO-8 Central Wetlands Pump Outfall	StBd	8	1	4	0	1
AT-1 Sediment trapping/vegetation planting	StMy					
a) Atchafalaya River Delta		7	1	4	0	0
PO-2 Sediment / vegetation / shore protection	Orls					
b) Alligator Point Wetland - protection		7	1	4	0	0
BA-5 Sediment trapping/vegetation planting						
c) Queen Bess Island - restoration	Jefn	7	1	4	0	0
T/V-2 Cote Blanche Wetlands - protection	StMy					
a) Hammock Lake - restoration		7	1	4	0	0
b) Yellow Bayou Wetland - protection		7	1	4	0	0
T/V-3 Vermilion River Cutoff - restoration	Vrml	7	1	4	0	0
TE-4 Sediment trapping/vegetation planting	Terb					
b) Barrier Islands - sediment retention		7	1	4	0	0
T/V-1 Shark Island/Weeks Bay Wetland - protection	Ibra	6	1	3	0	0

3. Feasibility/Planning/Design (FPD)

a. FPD-Projects for which CI is intended during 1990/91

Priority 1						
Project	Parish	Rank	Acres	Cost	Sed	Fw
BA-1 Davis Pond Freshwater Diversion *	StCs	16	4	2	1	1
BA-2 GIWW to Clovelly Wetland *	Lafr	14	4	2	0	0
BA-3 Naomi (LaReussite) Diversion Siphon	Plqs	13	3	2	1	1
a) Siphon construction						
b) Enlargement diversion capacity						
BA-4 West Point a la Hache Diversion Siphon	Plqs	13	3	2	1	1
a) Siphon construction						
b) Enlargement diversion capacity						
Priority 2						
Project	Parish	Rank	Acres	Cost	Sed	Fw
BS-4 White's Ditch Diversion Siphon	Plqs	12	2	4	1	1
a) outfall management						
C/S-1 Calcasieu-Sabine Wetland - protection from:	Camr	12	3	3	0	0
a) Peveto Beach to Holly Beach						
MR-1 Small Sediment Diversions	Plqs	12	2	4	1	1
a) Pass A Loutre Wildlife Management Area						
b) Delta Wildlife Refuge *						
ME-1 Pecan Island Freshwater Introduction	Vrml	11	2	4	0	1
a) Pecan Island Structure						
PO-1 Violet Siphon Diversion	StBd	11	2	3	1	1
b) Enlargement of diversion capacity						
TE-2 Falgout Canal Wetland - protection	Terb	11	2	4	0	1
TE-3 Bayou la Cache Wetland - protection	Terb	11	2	4	0	1

Priority 3						
Project	Parish	Rank	Acres	Cost	Sed	Fw
C/S-2 Rycade Canal - water control to Black Lake	Camr	10	2	4	0	0
PO-3 La Branche Wetland	StCs	10	2	4	0	0
a) Completion of management plan						
PO-4 Bonnet Carré Freshwater Diversion	StCs	9	2	1	1	1

Priority 4						
Project	Parish	Rank	Acres	Cost	Sed	Fw
ME-2 Hog Bayou Wetland	Camr	8	1	4	0	1
PO-8 Central Wetlands Pump Outfall	StBd	8	1	4	0	1
AT-1 Sediment trapping/vegetation planting	StMy	7	1	4	0	0
a) Atchafalaya River Delta						
BA-5 Sediment trapping/vegetation planting	Jefn	7	1	4	0	0
c) Queen Bess Island - restoration						
PO-2 Sediment / vegetation / shore protection	Orls	7	1	4	0	0
b) Alligator Point Wetland - protection						
T/V-2 Cote Blanche Wetlands - protection	StMy	7	1	4	0	0
a) Hammock Lake - protection						
b) Yellow Bayou Wetland - protection						
T/V-3 Vermilion River Cutoff - restoration	Vrml	7	1	4	0	0
TE-4 Sediment trapping/vegetation planting	Terb	7	1	4	0	0
b) Barrier Islands - sediment retention						
T/V-1 Shark Island/Weeks Bay Wetland	Ibra	6	1	3	0	0

b. FPD-Projects for which CI is not yet scheduled

Priority 1						
Project	Parish	Rank	Acres	Cost	Sed	Fw
BS-3 Caemaron Diversion Outfall	Plqs	14	3	3	1	1
BA-6 Highway 90 TO GIWW Wetland	Lafr	13	3	3	0	1

Priority 2						
Project	Parish	Rank	Acres	Cost	Sed	Fw
BS-5 Bayou LaMoque Diversion - outfall	Plqs	12	2	4	1	1
TE-5 Grand Bayou Wetland - protection	Lafr	12	3	3	0	0
BA-3 Naomi (LaReussite) Diversion Siphon	Plqs/Jefn	11	2	3	1	1
c) Outfall management						
BA-4 West Point a la Hache Diversion Siphon	Plqs	11	2	3	1	1
c) Outfall management						
BS-1 Bohemia Diversion Structure	Plqs	11	2	3	1	1
b) Outfall management						
BS-4 White's Ditch Diversion Siphon	Plqs	11	2	3	1	1
b) Enlargement						
C/S-4 Cameron/Creole Watershed	Camr	11	2	4	0	1
b) Freshwater introduction - from GIWW						
PO-1 Violet Siphon Diversion	StBd	11	2	3	1	1
c) Outfall management						

Priority 3						
Project	Parish	Rank	Acres	Cost	Sed	Fw
BA-5 Sediment/vegetation/shore protection	StCs	10	2	4	0	0
d) Baie de Chactas - protection						
BA-7 Couba Island - protection/restoration	StCs	10	2	4	0	0
C/S-1 Calcasieu-Sabine Wetland - protection from:	Camr	10	3	1	0	0
b) Holly Beach to Calcasieu						
C/S-5 Sabine Freshwater Introduction	Camr	10	2	3	0	1
ME-1 Pecan Island Freshwater Introduction	Vrml	10	2	3	0	1
b) Outfall management						
ME-4 Freshwater Bayou Wetland - ponding	Vrml	10	2	4	0	0
PO-3 La Branche Wetland	StCs	10	2	4	0	0
b) Stabilize critical reaches of shoreline						

PO-5 Southeast Lake Maurepas Wetland	StJn	10	2	4	0	0
a) Reduce ponding of water						
b) Small diversion of Mississippi River water						
PO-7 North Shore Wetland - restoration	StTm	10	2	4	0	0
TE-6 Pointe au Chien Wetland - protection	Terb	10	2	4	0	0
TE-7 Lake Boudreaux Wetland - protection	Terb	10	3	1	0	0
TE-8 Bayou Pelton Wetland - protection	Terb	10	2	4	0	0
PO-6 Fritchie Wetland - restoration	StTm	9	2	3	0	0

Priority 4

Project	Parish	Rank	Acres	Cost	Sed	Fw
PO-2 Sediment/vegetation/shore protection	Orls	7	1	4	0	0
c) Bayou Chevee - protection						
C/S-1 Calcasieu-Sabine Wetland - protection from:	Camr	5	1	2	0	0
c) Constance Beach to Ocean View						

1) Relative values used in project ranking (see pages 4 and 5 for further explanation):

Rank = composite number used for ranking each project.
 Acres = relative value for estimated range of acres benefited (1 to 4).
 Cost = relative value for estimated range of implementation cost (4 to 1).
 Sed = absence or presence of sediment introduction (0 or 1).
 Fw = absence or presence of freshwater introduction and utilization (0 or 1).

* Federal and state cost sharing

Categories:

OMR = Operation/Maintenance/Rehabilitation
 CI = Construction/Implementation
 FPD = Feasibility Analysis/Planning/Permitting/Design

Basins:

All = all basins
 AT = Atchafalaya
 BA = Barataria
 BS = Breton Sound
 C/S = Calcasieu/Sabine
 ME = Mermentau
 MR = Mississippi River Delta
 PO = Pontchartrain
 TE = Terrebonne
 T/V = Teche/Vermilion

Parishes:

all = all parishes
 Assn = Assumption
 Calc = Calcasieu
 Camr = Cameron
 Ibra = Iberia
 Jefn = Jefferson
 Lafr = Lafourche
 Livn = Livingston
 Orls = Orleans
 Plqs = Plaquemines
 StBd = St. Bernard
 StCs = St. Charles
 StJm = St. James
 StJn = St. John the Baptist
 StMn = St. Martin
 StMy = St. Mary
 StTm = St. Tammany
 Tang = Tangipahoa
 Terb = Terrebonne
 Vrml = Vermilion

Table 2. Long and Short-Range Programs to be Funded

Objective: Investigate potential, large-scale measures requiring further evaluation as part of a comprehensive, long-term planning effort to maximize the use of available water and sediment resources to restore and enhance coastal vegetated wetlands.

1. Louisiana Comprehensive Coastal Wetlands Study (Corps/State)*

Objective: To develop a comprehensive plan that addresses large-scale and long-term requirements for the conservation, restoration, and enhancement of Louisiana's coastal wetlands with Federal participation.
 Status: Letter of agreement to be formulated.

(a) Develop and implement a plan to allocate water and sediments of the Atchafalaya and Mississippi Rivers, considering the proposed measures listed below, in order to maximize maintenance, restoration, enhancement, and creation of vegetated wetlands.

- * Major diversion into Lake Verret watershed from the Atchafalaya River
- * Diversion from the Atchafalaya River through the Avoca Island levee south of Morgan City
- * An alternate Mississippi River navigation channel
- * Major intermittent diversion near Des Allemands
- * Major intermittent diversion north of Bonnet Carré Spillway
- * Major diversion below Caemaron
- * Major diversion below Port Sulphur
- * Major diversion into West Bay

(b) Develop and implement a water management plan for the marshes between Calcasieu and Sabine Lakes.

(c) Isolate Houma Navigation Canal via construction of a floodgate in the canal and stabilize canal banks.

(d) Construct a water control structure at Black Bayou, Cameron Parish.

(e) Rebuild and protect back-barrier marsh platform of barrier islands through dredged material placement, structural measures, or combinations as appropriate.

- (1) East Timbalier to Cat Island Pass
- (2) Cat Island Pass to Whiskey Pass
- (3) Whiskey Pass to Raccoon Point
- (4) Sandy Point to Belle Pass

- (f) Develop and implement a plan for freshwater and sediment diversions into wetlands in the vicinity of the Bonnet Carré Spillway.
2. Land Loss and Marsh Creation Study (Corps/State)*
- Objective: Identify, evaluate, and implement measures to create marsh using diversion of sediment from the Mississippi River and dredged material.
Status: Draft report concerning Plaquemines, St. Bernard, and Jefferson Parishes submitted for review.
3. Project Operation/Maintenance/Rehabilitation/Monitoring
- Objective: To provide for (1) operation, maintenance, and monitoring of, and (2) emergency repairs, for vegetated wetland projects that have been implemented under the authorized Plan.
4. National Estuary Program (EPA/State)*
- Objective: To develop and implement plans to protect the integrity of nationally significant estuaries threatened by pollution, development, or over-use.
Status: Application for inclusion of Barataria and Terrebonne Basins submitted.
5. Watershed Program (SCS/State under PL-566)*
- Objective: To plan and implement projects for the management of small watersheds for marsh conservation and enhancement purposes and to provide technical and planning assistance for implementation of marsh management programs to private landowners.
Status: Ongoing throughout the coastal area.
6. Vegetation and Sedimentation Program (CRD-DNR)
- Objective: To plan and implement marsh restoration and conservation using vegetation planting, sediment trapping, and low-cost shore protection.
- (a) Sediment Trapping and Outfall Management in the Mississippi River and Atchafalaya Deltas.
- (b) Sediment trapping, vegetation planting, and other low-cost protection along shorelines of coastal bays and lakes.
7. Basin Level Hydrologic Evaluation Program (CRD-DNR)
- Objective: To assure mutual compatibility of proposed projects with regard to hydrology of each coastal basin.
8. Office of Coastal Activities (Governor's Office)
- Objective: To execute powers and duties as provided by Act 6.

* Federal and state cost-sharing

Table 3. Measures Recommended for State and Federal Action

A. For State Action

1. Develop legislation or rules and regulations to provide, at a minimum, for replacement of the loss of functional coastal wetland values which result from permitted activities in the coastal zone.
2. Revise State Coastal Use Guidelines through appropriated rulemaking procedures to provide, at a minimum, for replacement of the loss of functional coastal wetland values due to permitted coastal activities.
3. Institute state mineral board advertisement of environmental conditions prior to mineral lease sale on state water bottoms.
4. Investigate alternatives to Avoca Island Levee Extension, and if none are feasible, require full mitigation of environmental impacts resulting from the existing levee and proposed extensions.
5. Route non-point-source discharges and, where appropriate, point-source discharges through wetlands to offset saltwater intrusion, enhance vegetation growth, and improve water quality.

B. For Federal Action

1. Increase flows into the Atchafalaya River through the Old River Control Structure for marsh building in the Atchafalaya Delta, in a manner that will produce no additional flooding of Morgan City and other coastal communities.
2. Maintain at least 30% of total Atchafalaya River flow through Wax Lake Outlet during normal flows.
3. Implement a management plan for maximizing growth of the Atchafalaya Delta.
4. Operate Bonnet Carré Floodway for freshwater diversion.
5. Operate Freshwater Bayou Structure to remove excess water from marshes in eastern Vermilion Parish.
6. Operate Algiers Lock for freshwater diversion.
7. Operate Violet Floodgate for freshwater retention and water-level control.
8. Reduce Mean Water Levels in the Grand-White Lakes impoundment.

9. Assure continued operation of the Cameron Creole Watershed Project.
10. Achieve full design capacity of the Teche-Vermilion Diversion Project.
11. Stabilize and maintain banks of the Mississippi River Gulf Outlet, and place dredged material along the northern bank.
12. Stabilize and maintain banks of Freshwater Bayou Channel.
13. Stabilize banks of the Barataria Waterway at Dupré Cut and place dredged material along the eastern bank.
14. Stabilize and maintain banks of the Gulf Intracoastal Waterway and reject plans for enlargement.
15. Create marsh and nourish beaches with dredged materials from Corps-maintained channels.
16. Route non-point-source discharges and, where appropriate, point-source discharges through wetlands to offset saltwater intrusion, enhance vegetation growth, and improve water quality.

David M. Soileau
Chairman

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of Public Health, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, to add an additional medical category of eligibility for AZT. While prior rule-making remains unchanged, asymptomatic HIV infected individuals with a T4-cell count less than 500 are being made eligible for AZT. Fiscal eligibility remains at 200 percent of the current Federal Poverty Guidelines, but patients will now be required to verify income. Additionally, any distribution of AZT will be limited to prescriptions of 500 mg./day.

This rule becomes effective May 7, 1990.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Medicaid Program.

SUMMARY

Previous federal regulations required states to offer Early and Periodic Screening, Diagnosis, and Treatment services (EPSDT) to children meeting the requirements of Medicaid eligibility. Under the mandatory provisions of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), additional regulations pertinent to the EPSDT Program are specified effective April 1, 1990. The new EPSDT requirements are an attempt to improve both access to EPSDT and the health status of low-income children by requiring that

states provide medically necessary follow-up or treatment services. Any service that a state is allowed to cover with federal matching funds under Medicaid that is required to treat a condition identified during a screening whether or not the service is included in the State's Medicaid plan must be covered.

Durable Medical Equipment policy specifies the equipment and supplies available through that program, and the conditions under which pre-approval by the Bureau's Prior Authorization Unit is granted. However, under the provisions of OBRA '89, it is anticipated that devices not previously reimbursable will be requested and must be approved when medically necessary for Medicaid-eligible children. Because of the immense range of possible equipment and supplies which could be needed, the spectrum of pricing, and the variety of medical conditions potentially requiring some type of DME product, the bureau shall formulate specific methodology as necessary. The bureau shall provide notice to providers who participate in Title XIX reimbursement with updated lists reflecting the criteria to be utilized in determining medical necessity for such products.

This rule is necessary to implement mandatory federal regulations and prevent issuance of disallowances for EPSDT.

RULE

Medically necessary durable medical equipment required for Medicaid-eligible recipients under the age of 21 shall be reimbursed when required to treat a medical condition. Prior authorization for these products shall continue to be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Medicaid Program.

Current federal law requires states to offer Early and Periodic Screening, Diagnosis, and Treatment services (EPSDT) to children meeting the requirements of Medicaid eligibility. Under the mandatory provisions of the Omnibus Budget Reconciliation Act of 1989, additional regulations pertinent to the EPSDT Program are specified effective April 1, 1990. The new EPSDT requirements are an attempt to improve both access to EPSDT and the health status of low-income children by requiring that states provide medically necessary follow-up or treatment services. Any service that a state is allowed to cover with federal matching funds under Medicaid that is required to treat a condition identified during a screen whether or not the service is included in the state's Medicaid plan must be covered.

A number of the services covered under the Title XIX State Plan contain service limitations which must, under the new regulations, no longer be applicable to the under-21 population of Medicaid recipients. Among the service limits to be removed for this group are the inpatient hospital stay limitation of 15 days, the outpatient hospital emergency room limitation of three visits annually, the physician office visit maximum of 12 visits annually and physician hospital visit maximum of one per day, and the home health maximums of 50 visits annually and daily limitations of one nurse and one nurse aide visit per day.

This rule is necessary to implement mandatory federal regulations and prevent issuance of disallowances for EPSDT.

RULE

The following limitations on services shall not apply to Medicaid-eligible recipients under the age of 21:

Inpatient Hospitalization Stay Limits
Outpatient Hospital Emergency Room Limits
Physician Office Visit Limits
Physician Hospital Visit Limits
Home Health Annual Visit Limits
Home Health Daily Limits on Nursing and Nurse Aide

Services

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Medicaid Program.

Previous federal regulations required states to offer Early and Periodic Screening, Diagnosis, and Treatment services (EPSDT) to children meeting the requirements of Medicaid eligibility. Under the mandatory provisions of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), additional regulations pertinent to the EPSDT Program are specified effective April 1, 1990. The new EPSDT requirements are an attempt to improve both access to EPSDT and the health status of low-income children by requiring that states provide medically necessary follow-up or treatment services. Any service that a state is allowed to cover with federal matching funds under Medicaid that is required to treat a condition identified during a screen whether or not the service is included in the state's Medicaid plan must be covered.

Rehabilitation services for Medicaid recipients under the age of 21 designated as EPSDT Health services are covered under the Title XIX State Plan when pre-approved by the Bureau's Prior Authorization Unit. Physical therapy, occupational therapy, and speech therapy are the services included under this heading. Under previous procedures,

approval was dependent on the expectation of continued improvement, and authorization was not issued for maintenance of the optimum function level. Medically necessary occupational therapy, physical therapy, and speech therapy services to maintain functional levels may now be approved under the OBRA '89 regulations. The determination of medical necessity for these services shall continue to be the responsibility of the Bureau of Health Services Financing.

This rule is necessary to implement mandatory federal regulations and prevent issuance of disallowances for EPSDT.

RULE

Medically necessary physical therapy, occupational therapy, and speech therapy required for maintenance of optimum functional levels shall be reimbursed under the EPSDT Health Services Program when such services are rendered to Medicaid-eligible recipients under the age of twenty-one. Prior authorization for these services shall be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Medicaid Program.

SUMMARY

Current federal law requires states to offer Early and Periodic Screening, Diagnosis, and Treatment services (EPSDT) to children meeting the requirements of Medicaid eligibility. Under the mandatory provisions of the Omnibus Budget Reconciliation Act of 1989, additional regulations pertinent to the EPSDT Program are specified. The new EPSDT requirements are an attempt to improve both access to EPSDT and the health status of low-income children by requiring that states provide medically necessary follow-up or treatment services. Under OBRA '89, screenings, vision services, dental services, and hearing services must have distinct periodicity schedules which meet reasonable standards of medical practice, as determined by the state after consultation with recognized medical organizations involved in child health care. Louisiana has not had a distinct screening schedule for vision and hearing although it is included in the medical screening protocol.

This rule is necessary to implement mandatory federal regulations and prevent issuance of disallowances for EPSDT.

RULE

Vision and hearing services for Medicaid-eligible Early and Periodic Screening, Diagnosis, and Treatment recipients

under the age of 21 shall be performed according to distinct periodicity schedules which meet reasonable standards of medical practice, as determined after consultation with recognized medical organizations involved in child health care.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Title XIX Medicaid Program effective May 1, 1990.

Currently, in SSI-related eligibility determinations, equity in property other than the home must be determined as well as the amount of income the property produces. The equity value is determined by subtracting legal debts owed on the property from the current market value of the property. Up to \$6,000 of the equity in property other than the home may be excluded as essential to self-support if the property produces a six percent annual rate of return on the equity. The equity over \$6,000 is counted as a resource. If the property does not produce a six percent annual rate of return on the equity, the full equity value of the property is counted as a resource in the determination of eligibility.

The Omnibus Budget Reconciliation Act of 1989, enacted on December 19, 1989, amended Section 8014 of the Social Security Act to provide for the exclusion of the value of income-producing property from the equity value of the person's property. Income generated from the property would be counted in determining SSI-related Medicaid eligibility.

The bureau is adopting the following emergency rule to comply with the mandated federal requirements of OBRA of 1989.

RULE

The value of property which is used in the applicant/recipient's trade or business or in the employment of the applicant/recipient's spouse or parent is excluded from the equity value of the person's property when determining SSI-related eligibility. Property used as a means of self-support includes tools, machinery, and livestock. Income generated from the property is counted in determining eligibility.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Fire Marshal

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the

authority of R.S. 51:912 et seq., the State Fire Marshal has determined that because of the imminent peril to public health, safety and welfare, it is necessary to adopt the following definitions to clarify the regulations of the remanufactured housing licensing law. This emergency rule is effective May 5, 1990.

This rule is necessary to properly regulate the remanufactured housing industry so as to protect the public against possible hazards from the unregulated remanufacturing of manufactured homes.

**Title 55
PUBLIC SAFETY
Part V. Fire Protection**

**Chapter 7. Remanufactured Housing
§703. Definitions**

A. *Casual or incidental repairs* means those repairs which are construed by a licensed dealer or lender to be necessary to restore a manufactured home to salable condition, and not the act of rebuilding or remanufacturing as outlined herein.

B. *Label* means the acceptable form of certification by the remanufacturer that under LAC:55:V.604, is permanently affixed to the transportable section of each remanufactured home.

C. *Remanufacturer* means any person, corporation, or entity that operates a remanufacturing facility for the express purposes of converting or attempting to convert used manufactured homes to like new condition and who in the natural course of that business rebuilds the life safety systems such as electrical, gas or heating producing systems. It is further recognized that the remanufacturer is rebuilding these homes for the intended purpose of wholesale distribution to a retail location, to be sold to the general public.

D. *Serial number* means the letters and numbers stamped into the foremost cross-member of the remanufactured home by the original manufacturer as a means of identification required pursuant to 24 CFR Chapter XX - Part 3280.6.

Carrol L. Herring
State Fire Marshal

DECLARATION OF EMERGENCY

Department of the Treasury

Louisiana Housing Finance Agency
Emergency Low-Income Housing Tax Credit Rule

This emergency rule was adopted on May 9, 1990 by the Board of Commissioners of the Louisiana Housing Finance Agency determining the need to adopt an emergency rule with respect to fees to be charged, aggregation of pools and priority criteria to be used by the Louisiana Housing Finance Agency in the administration and allocation of low-income housing tax credits.

The Agency has adopted the form of Low-Income Housing Tax Credit Application Package in connection with the administration and allocation of low-income housing tax credits. The following rule and policies govern the allocation and award of low-income housing tax credits.

I. Application and Credit Award Fees

A. Application Fee	
1 to 4 units	\$100.00
5 to 16 units	250.00
17 to 32 units	500.00
33 to 60 units	750.00
61 to 100 units	1,000.00
Over 100 units	2,500.00
B. Analysis Fee	
1 to 4 units	\$100.00
5 to 16 units	250.00
17 to 32 units	500.00
33 to 60 units	750.00
61 to 100 units	1,000.00
Over 100 units	2,500.00

C. Reprocessing Fee

1/2 Analysis Fee

D. Credit Award Fee

4% of Credit Allocated

E. Compliance/Monitoring Fee

5% of Application Fee Per Year

F. Information Request Fee

\$50.00

II. Aggregate Pools

Name

% of Ceiling

A. Non Profit Pool	10%
B. Rural Areas (Non MSA and less than 20,000)	20%
C. Minority and Women Applicants	5%
D. Two to Four Unit Owner Occupied	1%
E. Congressional Districts	64%
F. General Pool	—

TOTAL 100%

Selection Criteria

Points

A. Ratio of Project's Intermediary Cost to Development Cost	
(i) Less than 10%	20 _____
(ii) More than 10% but less than 15%	15 _____
(iii) 15% or more	0 _____
B. Project Serves Lowest Income Tenants	
<i>Percentage of Median Income</i>	
20% or less	18 _____
more than 20% but less than 30%	15 _____
more than 30% but less than 40%	12 _____
more than 40% but less than 45%	5 _____
C. Project Involves Extended Low Income Use	
<i>Years of Compliance Period</i>	
18 years to 20 years	5 _____
more than 20 years to 25 years	10 _____
more than 25 years to 30 years	15 _____
more than 30 years	18 _____
D. Project Located in Qualified Census Tract/Difficult Development Area	15 _____
E. Project Serves Special Needs Groups	
(i) Elderly/Handicapped	15 _____
(ii) Homeless	15 _____
(iii) Elderly/Handicapped Homeless with Support Services	18 _____
F. Project is Leased to Housing Cooperative with Right to Purchase Project held by Housing Cooperative at:	

- (i) Minimum Purchase Price 19 _____
 - (ii) Not more than 10% above Minimum Purchase price 15 _____
 - (iii) Not more than 20% above Minimum Purchase Price 10 _____
 - (iv) More than 20% above Minimum Purchase Price 5 _____
- G. Project Serves Large Families
Percentage of Units Having Four or more Bedrooms
- 5% but less than 10% 5 _____
 - 10% but less than 15% 10 _____
 - 15% but less than 20% 15 _____
- H. Project is Single Room Occupancy 10 _____
- I. Project is Scattered Site 10 _____
- J. Project Involves Referral Agreement with Local PHA with Respect to PHA Waiting List 10 _____
- K. Project Involves New Construction in Areas with 95% or more residential rental occupancy 10 _____
- L. Local Nonprofit Sponsor of Project 10 _____
- M. Local Minority/Women Sponsor of Project 10 _____
- N. Distressed/Government Owned 10 _____

Warren Pol
 Chairman

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:968, R.S. 56:497 and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission, the secretary of the Department of Wildlife and Fisheries adopts the following rule:

Special Pink Shrimp Season Chandeleur Sound

A special five-day pink shrimp season in that portion of Chandeleur Sound bounded on the south by the Mississippi River Gulf Outlet (MRGO) and north and east of a line running from 29° 30' 12" latitude and 89° 08' 24" longitude to the 30° 10' 00" latitude and 89° 03' 30" longitude.

The season will begin at sunset on Monday, April 23 and end at sunrise on Saturday, April 28. Trawling will only be allowed during the time between sunset and sunrise on each day of the five-day special season. Participants in this special season are required to check in with the LDWF enforcement vessel (Riptide) before fishing each night and also when fishing is concluded at sunrise each day. The Riptide will be in the vicinity of North Island light each day at sunset and can be contacted on VHF Channel 16.

Virginia Van Sickle
 Secretary

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:967 and R.S. 56:497 the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The Wildlife and Fisheries Commission does hereby set the 1990 spring inshore shrimp season to open as follows:

- a. In Zone 1, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the Louisiana/Mississippi state line to South Pass of the Mississippi River at 6 a.m. on May 21, 1990, and
- b. In Zone 2, that portion of Louisiana's inside waters, as described in R.S. 56:495, from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island at 6 a.m. on May 12, 1990, and
- c. In Zone 3, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line at 6 a.m. on May 23, 1990.

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of R.S. 49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and R.S. 56:325.3 which established an annual quota for spotted seatrout; the secretary of the Department of Wildlife and Fisheries, pursuant to a resolution passed by the Wildlife and Fisheries Commission on February 1, 1990 in Lake Charles, hereby declares an emergency and adopts the following rule:

EMERGENCY RULE

Pursuant to R.S. 56:325.3 the commercial fishery for spotted seatrout is hereby closed until midnight, August 31 1990, effective at midnight, Sunday May 6, 1990.

The purchase, barter, trade or sale of spotted seatrout taken from Louisiana waters after the closure is prohibited.

The commercial taking or landing of spotted seatrout in Louisiana, whether caught within or without the territorial

waters of Louisiana after the closure is prohibited.

Effective with the closure, no vessel possessing or fishing any seine, gill net, trammel net, or hoop net shall have spotted seatrout aboard the vessel, whether caught within or without the waters of the state.

Pursuant to R.S. 56:322 and effective with the closure, the legal commercial mesh size for all gill nets, trammel nets and seine nets used in saltwater areas of the state, other than strike nets, shall be a minimum of 4½ inches stretched and a person shall have in possession or use aboard a vessel no more than two strike nets.

Nothing shall prohibit the possession of fish legally taken prior to the closure and all commercial dealers possessing spotted seatrout taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 3:2093 relative to the Louisiana Livestock Sanitary Board, notice is hereby given that the Livestock Sanitary Board amends regulations as follows.

Title 7

AGRICULTURE AND ANIMALS Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

Official pseudorabies seriological test means a test conducted at an approved laboratory and shall include the Enzyme-Linked Immunosorbent Assay (ELISA) Test, the Latex Agglutination Test (LAT), and the Microtitration Serum-Virus Neutralization Test (SN).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, LR 11:615 (June 1985), LR 12:289 (May 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989), LR 16: (May 1990).

§11717. Reporting of Contagious Diseases

A. In order to improve the protection of the livestock

industry from the effects of contagious diseases of livestock, all veterinarians licensed in the State of Louisiana are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence or suspected occurrence of the following contagious diseases: hog cholera, anthrax, vesicular condition, scabies, equine encephalomyelitis, pullorum/typhoid, pseudorabies, or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, LR 11:615 (June 1985), LR 15:813 (October 1989), LR 16: (May 1990).

Subchapter E. Swine

§11773. Health Requirements Governing Admission of Livestock and Poultry

C. Pseudorabies Requirements

1. All swine moving into Louisiana must originate from herds not known to be infected with pseudorabies. A permit is required for all swine entering the state for breeding or feeding purposes. The permit number is valid for 15 days and must be recorded on the health certificate. All breeding swine, entering the state on a permit, will be quarantined at destination, to be retested in 30 to 60 days at the owner's expense.

2. Swine moving into Louisiana for breeding or exhibition must:

a. originate from herds not known to be infected with pseudorabies, and are negative to an official test for pseudorabies within 30 days of movement; or

b. originate from a qualified pseudorabies herd. The qualified herd number must be recorded on the health certificate; or

c. be shipped directly from the farm of origin in a State IV or Free State.

3. Swine moving into Louisiana for feeding purposes, must meet one or more of the following requirements:

a. pass a negative official pseudorabies serologic test within 30 days prior to interstate shipment; or

b. originate in a pseudorabies qualified negative herd; or

c. originate in a pseudorabies monitored feeder pig herd; or

d. be shipped directly from the farm of origin in a State III, IV, or Free State; or

e. be sold at an approved all class market or approved slaughter market and imported for feeding in a quarantined feedlot; or

f. be sold at an approved feeder pig market and imported for feeding without restrictions.

4. Slaughter hogs moving into Louisiana, in addition to a waybill, must move:

a. directly to a recognized slaughter establishment; or

b. directly to an approved slaughter market or approved all class market, and then directly to another approved slaughter market, or to a recognized slaughter establishment or quarantined feedlot; or

c. directly to an approved slaughter market and then

to a quarantined feedlot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), LR 16: (May 1990).

§11775. Admittance of Livestock to Fairs, Livestock Shows, Breeders' Association Sales, Rodeos and Racetracks

B. All swine consigned for exhibition or sale must be permanently identified as to the herd of origin by official ear-tag or tattoo, (ear notch identification will be accepted in lieu of eartag or tattoo on registered, purebred animals), and this identification must be shown on the health certificate which accompanies the animals.

D. Pseudorabies Requirements

All swine shall be required to show an official negative test for pseudorabies, conducted within 60 days prior to arrival at fairgrounds, livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), LR 16: (May 1990).

§11776. Quarantining, Vaccinating and Testing of Swine for Pseudorabies

A. The state veterinarian, or his representative, shall have the authority to conduct epidemiologic investigations and quarantine of:

1. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;

2. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;

3. herds which have received swine from herds found to have pseudorabies.

B. To be eligible for release from quarantine, a swine herd must meet the following requirements:

1. All swine positive to an official pseudorabies test must be removed and sold for slaughter; all swine over six months of age, which remain in the herd, must be tested negative 30 days or more, after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. All swine must be depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant.

C. All swine which die from pseudorabies shall be buried or burned in such a way as to prevent the spread to other animals.

D. All movement from pseudorabies quarantined herds must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be moved. This form must be delivered to an authorized representative at destination. These permits will be issued by a representative of the Louisiana Livestock Sanitary Board.

E. All swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or through an approved slaughter market and then directly to a recognized slaughter establishment or to an approved swine quarantined feedlot.

F. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16: (May 1990).

§11777. Operation of Livestock Auction Markets

A. Pseudorabies Requirements

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana must meet the pseudorabies requirements of LAC 7:XXI.11709.

2. All swine over six months of age being sold at Louisiana livestock auction markets must be identified by an official backtag placed on the animal's forehead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), LR 11:615 (June 1985), LR 16: (May 1990).

§11780. Identification of Swine with Official Backtags and the Collection of Blood Samples from Officially Backtagged Swine at Slaughter Establishments Under State or Federal Meat Inspection

A. Official Backtagging of Swine

1. All swine over six months of age that are not officially tagged when received by a slaughter establishment, under state or federal meat inspection, shall be identified by an official backtag, properly placed. The name and address of the consignor, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be recorded, along with the official backtag numbers, on forms provided for this purpose. A copy of the completed form shall be retained by the slaughter establishment for their records; the original is to be furnished to the meat inspector to accompany blood samples to the state-federal Livestock Diagnostic Laboratory.

2. The slaughter establishment shall be responsible for the identification of the animals and for maintaining required records.

B. Records

All records pertaining to the identification of the swine, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be maintained and made available to representatives of the Louisiana Livestock Sanitary Board, upon request.

C. Blood Sample Collection

A blood sample shall be collected from all swine over six months of age. State and federal meat inspection personnel shall be responsible for the collection of the blood samples; the identification of the samples, the packaging and mailing of the blood samples, corresponding backtags, and forms, to the state-federal Livestock Diagnostic Laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16: (May 1990).

Bob Odom
Commissioner

RULE

**Department of Agriculture and Forestry
Office of Marketing
State Market Commission**

Fruits and Vegetables

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:405, the Department of Agriculture and Forestry, State Market Commission, amends the following:

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 15. Market Commission — Poultry and Eggs Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs

§1511. Contractor's Obligation

C. The costs of all examination and certification services shall be paid by the vendor in accordance with the U.S. Department of Agriculture, AMS (Agricultural Marketing Service) Poultry Grading Branch rate for each hour required to conduct the examination, provided that no specific charge will be made for certification of product when inspection is simultaneously performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:412 and R.S. 405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), LR 16: (May 1990).

Bob Odom
Commissioner

RULE

**Department of Economic Development
Board of Architectural Examiners**

Under the authority of R.S. 37:144, the Board of Architectural Examiners repeals §1109 relative to defining building construction costs referenced in R.S. 37:155(4)(c), pursuant to Notice of Intent published October 20, 1989.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

Chapter 11. Administration

§1109. Building Construction Cost Defined

In determining the maximum size of new buildings or projects or of existing buildings or projects involving additions, alterations or renovations which do not require the services of a licensed architect, the following construction cost values shall be utilized in estimating the cost of construction referenced in R. 37:155(4)(c).

Occupancy*	\$ Per Square Foot
Storage	20
Factory - Industrial	25
Mercantile	30
Business, Residential (except single family residences)	40
Educational, Institutional	50
Assembly, hazardous	80

*As defined in Standard Building Code

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 14:607 (September 1988), Repealed, LR 16: (May 1990).

Mary "Teeny" Simmons
Executive Director

RULE

**Department of Economic Development
Board of Examiners of Certified Shorthand Reporters**

The Louisiana Board of Examiners of Certified Shorthand Reporters is hereby amending Part XXI, Chapters 1, 3, 5 and 7 of the Louisiana Administrative Code as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXI. Certified Shorthand Reporters

Chapter 1. Certification

§101. Application for Certification

An applicant for a certificate shall file an application on a form provided by the board (Board of Examiners of Certified Shorthand Reporters), accompanied by any applicable fees, and such evidence, statements or documents required by said form. If an examination is required, said application must be filed with the board at least 30 days prior to an examination date. A new application is required for each examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16: (May 1990).

Chapter 3. Examinations

§301. Applications for Examination

A. Examinations shall be held at such times and

places as the board may designate.

B. Applications must be received by the board at least 30 days prior to the examination date.

C. Applicants must furnish written proof from a licensed court reporting school that he has passed a qualifying test consisting of five minutes of two voice Q & A at 200 wpm with 95 percent accuracy or participate in an equivalent qualifying test administered by the board on a date designated by the board. Proof of passing said qualifying test must accompany the application or examination.

D. Applicants who have been found to be qualified for the examination shall be notified in writing of the time and place of their assigned examination.

E. An applicant who fails to timely appear for examination after being notified of his eligibility shall be deemed to have abandoned his application and shall forfeit his application fee. In order again to become eligible for an examination, such person shall file a new application, and otherwise comply in all respects with the provisions of the Act and these regulations in the same manner as required of an original applicant.

F. An applicant who commences but does not finish his assigned examination, or who otherwise fails such examination, shall not be eligible for any future examination except upon filing a new application and otherwise complying in all respects with the provisions of the Act and these regulations in the same manner as required of the original applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16: (May 1990).

§307. Content of Examination

A. The examination shall consist of

1. written knowledge test;
2. dictated tests at the following speeds:
 - a. five minutes at 180 WPM (Literary, one voice)
 - b. five minutes at 200 WPM (Jury charge, one voice)
 - c. five minutes at 225 WPM (Q & A, two voices)

B. The written knowledge test will consist of 100 multiple choice questions which will include 50 questions on English, grammar, spelling and word comprehension, 25 questions on medical terms and 25 questions on legal terms. The use of reference material will not be allowed.

C. Completion time for the written knowledge test is one and one-half hours. Four hours are allowed for transcribing the three segments of the dictated test. Transcripts must be typed.

D. Candidates may be required to read aloud any part of the dictated matter required by the board.

E. No candidate will be allowed to use electronic recording equipment, except stenomask, during the examination.

F. Upon completion of the examination all shorthand notes, stenomask tapes, transcripts, and other examination papers shall become the property of the board.

G. Stenomask applicants will also be tested according to NSVRA standards for silence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified

Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16: (May 1990).

§309. Grading of Examination

A. Each candidate's examination will be graded on the basis of his ability to accurately transcribe his notes, the time occupied in the transcription, his knowledge of court reporting procedure, and its related terminology, spelling, and punctuation, and the general style of the transcript.

B. Seventy-five percent accuracy is required on the written knowledge test with a maximum of 25 errors.

C. The maximum number of errors allowed to pass the dictated and transcribed portions of the skills test is 57 errors on the Q & A portion; 50 errors on the jury charge portion; and 45 errors on the literary portion.

D. If an examinee passes the written knowledge portion of the test but fails the dictated and transcribed portions, he will be exempt from taking the written knowledge portion of all subsequent tests.

E. If an examinee fails any portion of the dictated and transcribed portions of the test, all portions of the dictated and transcribed portions must be taken at subsequent tests.

F. For the purpose of grading stenotype tests, errors will be assessed in accordance with the guidelines accepted by the National Shorthand Reporters Association. For the purpose of grading stenomask tests, errors will be assessed in accordance with the National Stenomask Verbatim Reporters Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), LR 16: (May 1990).

Chapter 5. Certificates

§503. Temporary Certificates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:529 (August 1988), Repealed LR 16: (May 1990).

Justice James L. Dennis
Chairman

RULE

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1791. Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substance as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961 et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or

ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or order from a licensed practitioner when requested.

B. Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other non-invasive fluid test at the discretion of the state steward in a manner prescribed by the commission. Any licensed person who fails to submit to a urine test when requested to do so by the state steward shall be liable to the penalties provided in R.S. 4:141 et seq. and/or the Rules of Racing.

C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the commission. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested person. The portion of the form which is provided to the laboratory for analysis shall not identify the individual by name. It shall be the obligation of the licensed person to cooperate fully with the chemical inspector in obtaining any sample who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be fined and/or suspended as provided for by R.S. 4:141 et seq. and/or the Rules of Racing.

D. A positive controlled dangerous substance or prescription drug result shall be reported in writing to the commission or its designee. On receiving written notice from the official chemist that a specimen has been found positive for a controlled dangerous substance or prescription legend drug, the commission or its designee shall proceed as follows.

1. The licensed person shall, as quickly as possible, be notified in writing.

2. For a licensed person's first violation, he shall be suspended 15 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement shall be contingent upon evaluation by a commission approved board certified drug evaluator or counselor, and after providing a negative urine report.

3. For a licensed person's second violation, he shall be suspended 60 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement may be allowed upon proof of enrollment, and continued attendance in a commission approved drug rehabilitation program.

4. For a licensed person's third violation, he shall be suspended six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. He shall be required to enroll in a residential alcohol/drug treatment facility recommended by the commission approved board certified drug evaluator or counselor.

5. For licensed person's fourth violation, he shall be suspended 12 months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement is contingent upon his appearing before the commission and upon furnishing proof of a drug-free lifestyle for 12 months prior to his appeal via a continuous negative urine analysis.

6. The stewards and/or the commission approved board certified drug evaluator or counselor may require

urine/hair analyses or other non-invasive body fluid tests at any time during rehabilitation for reasonable cause.

7. Unexcused absences from a drug rehabilitation program shall result in the participant being suspended for seven days from racing.

8. Excused absences from a drug rehabilitation program must be approved prior to the participant's absence by the commission approved drug evaluator or individual counselor.

9. Amphetamines are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that multiple dietary attempts to control exogenous obesity have failed and that he is participating in a medically supervised dietary program which includes the short term (two to three weeks) usage of amphetamines.

E. Any information received in the process of obtaining a urine sample, including but not limited to, medical information, the results of any urine test, and any reports filed as a result of attending a drug rehabilitation program, shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a drug rehabilitation program shall be limited to the commissioners of the Louisiana State Racing Commission, the commission and/or its designee, counsel to the commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the commission or its designee.

F. Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the commission for a period of one year, after which time they shall be destroyed. However, the commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Racing Commission LR 13:289 (May 1987), amended LR 15:620 (August 1989), amended LR 16: (May 1990).

Claude P. Williams
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published February 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following rule establishing accountability for the allocation and expenditure of public education monies:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 17. Finance and Properties

§1715. Expenditure of Public Education Monies

A. All expenditures allocating or obligating public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations and policies. Any public employee of the Office of the State Board of Elementary and Secondary Education who recommends or authorizes contract awards and/or expenditure of funds knowingly to be in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

B. The accompanying executive summary for all contracts and allocations for funds submitted to the State Board of Elementary and Secondary Education for approval shall bear the following language and shall be signed by the appropriate submitting BESE/SDE personnel:

"I have reviewed the attached contractual and/or fiscal commitment and certify that the proposed expenditure is in compliance with all applicable federal and state laws and regulations and BESE policy. I am aware that I am subject to disciplinary action if my assurance is knowingly in violation of public laws or BESE policy."

C. All contracts and allocations for funds submitted to the state board for approval shall bear the following language:

"I have reviewed the attached contractual and/or fiscal commitment and am in agreement with all provisions set forth within. Based upon information and belief everything delineated within this contract or allocation is in keeping with all applicable federal and state laws and regulations and BESE policy."

AUTHORITY NOTE: Promulgated in accordance with Act 800 of 1979.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16: (May 1990).

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published February 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the following addendum to the Revised Procedures for Appeals to BESE to include Chronological Age Waivers, to begin with the 1990-91 school year:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 3. Rules of Procedure

§313. Waivers of Minimum Standards: Procedures

A. - B...

C. Administrative Waivers of Bulletin 741 Standards

1. - 2....

3. Chronological Age Waivers

The Department of Education may waive chronological age requirements based on the following:

a. A request from the parish or system superintendent for deviation of the standard on the required form provided by the Office of Special Educational Services.

b. A letter from the parish or system supervisor/director of special education stating a rationale for the deviation and assuring that parents have been made aware through documented notification procedures of the deviation from standard.

c. Technical assistance will be provided by the regional coordinator and a recommendation on the request will be made to the Office of Special Educational Services.

d. The OSES will notify the city or parish systems or schools of the recommendation.

e. If denied, the city or parish systems may ask for a waiver from the Board of Elementary and Secondary Education.

Implementation to begin with the 1990-91 school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; and R.S. 17:7.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16: (May 1990).

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published February 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, approved the implementation of computer literacy being offered in the elementary grades rather than the secondary, with the revision to be phased in over the next two years. This is an amendment to Bulletin 741, page 67 to add the following standard and procedural block:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

§901. School Approval Standards and Regulations

A. Bulletin 741

Amend to add the following standard and procedural block:

Standard

By completion of the eighth grade, students shall have received a minimum of one semester of instruction in computer literacy.

Procedural block

School systems shall implement the standard prior to the 1992-93 school year. Each school system shall determine

the grade level and the subject area in which computer literacy shall be taught.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A), R.S. 17:7, 17:10-11, R.S. 17:22, R.S. 17:151.1, R.S. 17:151.3, R.S. 17:176, R.S. 17:232, R.S. 17:391.11, R.S. 17:1941, R.S. 17:2007, R.S. 17:2050, R.S. 17:2501 - 2507; PL 94-142.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16: (May 1990).

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published February 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the following policy regarding independent certification of the student count submitted to the State Department of Education for MFP funding which will be implemented with the 1990-91 school year:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 17. Finance and Property

§1709. Budgets

- A. - G...
- H. MFP: General Provisions
- 1. - 2. ...
- 3. Student Count for MFP Funding

Reporting documents submitted by the local city and parish school systems shall be in accordance with the rules and regulations of the State Department of Education and the Louisiana Revised Statutes that pertain to the Minimum Foundation Program. This information is to be tested by the independent auditor(s) of the local city and parish school systems for compliance. The independent auditor(s) shall provide both positive and negative assurance that the student count and other information provided by the local city and parish school systems is free of material misstatements. Arrangements for providing this test of information shall be included in the engagement agreement for audit services. (Policy to be implemented with the 1990-91 school year.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A); R.S. 17:7; R.S. 17:22; R.S. 17:2006; R.S. 39:41 - 62; R.S. 39:454; R.S. 39:461.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398, 541 (September, December 1975); LR 3:404 (October 1977); LR 14:789, 790 (November 1988); amended LR 16:297 (April 1990), LR 16: (May 1990).

Em Tampke
Executive Director

RULE

**Department of Environmental Quality
Office of Air Quality and Nuclear Energy
Air Quality Division**

Under the authority of the Louisiana 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 Louisiana Air Quality Regulations, LAC 33:III.Chapter 27, Asbestos-containing Materials in Schools and Public Buildings.

These regulations will change the accreditation period from the January 1 through December 31 to September 1 through August 31 of the following year. The change improves the department's ability to collect and utilize fees, and improves compliance enforcement. Typographical errors in the Chapter are also corrected.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 27. Asbestos-Containing Materials in Schools and Public Buildings Regulation

§2701. Asbestos-Containing Materials in Schools and Public Buildings

C. Scope

2. Request for Deferral of Submission of Management Plan

a. Request for Deferrals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16: (May 1990).

§2731. Compliance and Enforcement

For failing to comply with the regulations of this Chapter, knowingly submitting false or inaccurate information, or directing others in such actions, civil and criminal penalties may be assessed under R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division LR 15:735 (September 1989), amended LR 16: (May 1990).

§2739. Agent Accreditation

B. Requirements

2. Except as provided in Paragraph B.3 of this Section, workers who participate in hands-on abatement and/or maintenance involving friable ACM shall have attended and received a passing score from a training organization recognized by the Air Quality Division of the Department of Environmental Quality that gives instruction specifically to asbestos abatement workers. New employees shall be trained prior to any commencement of work which may disturb ACM.

3. Workers who are engaged in maintenance that may

disturb ACM, but which does not involve its actual removal, enclosure, or encapsulation shall receive their initial and refresher training from recognized trainer.

a. Workers who participate in a project meeting the criteria given in Paragraph B.3 of this Section must work under the close direction of an accredited supervisor during any work they perform which may disturb asbestos.

4. Workers who are engaged in maintenance that may disturb ACM which does involve its actual removal, enclosure, or encapsulation shall receive their initial and refresher training from a training organization recognized by the Air Quality Division, Department of Environmental Quality.

b. The initial training program shall have a minimum of 24 hours of formal training, including hands-on training and eight hours of formal annual refresher training. The training program shall include at a minimum the following subjects:

5. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training from a training organization recognized by the Air Quality Division, Louisiana Department of Environmental Quality.

B. The initial training program shall have a minimum of 32 hours of training, including hands-on initial training and eight hours of formal annual refresher training. The training program shall include at a minimum the following subjects:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15: 735 (September 1989), amended LR 16: (May 1990).

Appendix A

(Note: This Appendix replaces Subchapter N of Chapter 25.)

E. Accreditation of Agents

2. Application for accreditation shall be completed using the latest revision of the Asbestos Accreditation Affidavit, Form AAC-1 (see following example) and as a minimum include:

i. Applications for the next year's accreditation may be received as early as July 1.

ii. Applications received between July 1 and August 31 must identify which year, the current or future, that is applicable. Applications received prior to July 1 will be issued an August 31 expiration date.

6. Approved applications

a. Accreditation numbers will be issued to all approved agents.

b. The accreditation is effective for one year from September 1 to August 31, provided the accredited agent:

F. Recognition of Training Organizations and Their Instructors

2. The application will as a minimum include the following.

i. Applications for the next year's recognition may be received as early as July 1.

ii. Applications received between July 1 and August 31 must identify which year, the current or future, is applicable. Applications received prior to July 1 will be issued an August 31 expiration date.

5. Training recognition numbers will be issued to all recognized training organizations and training instructors. The recognition is effective for one year from September 1 to August 31, provided that the following criteria are met:

Mike D. McDaniel, Ph.D.
Assistant Secretary

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Under the authority of the Louisiana 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 Louisiana Hazardous Waste Regulations, LAC 33:V.105, 1101, and 2201.

These amendments correct references to LAC 33:V.105.D.5, 1101, and C, and 2201.G in order to allow Louisiana to maintain equivalency with federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

D. Exemptions, Exceptions and/or Modifications to Otherwise Applicable Provisions of These Regulations

5. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Subpart 1 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.Empty Container.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16: (May 1990).

Chapter 11. Generators

§1101. Applicability

A. A generator who treats, stores, or disposes of hazardous waste on-site is not required to comply with the requirements of this Chapter except for the following with respect to that waste: LAC 33:V.1101.C, 1103, 1105, 1109.E, 1111.A.3, 1111.A.4, 1111.D, 1115, 1117, 1119, and 1121.

* * * *

C. A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of LAC 33:V.105.D.5 is not required to comply with other standards in this Chapter or LAC 33:V.Subpart 1 with respect to such pesticides.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984) amended LR 16: (May 1990).

Chapter 22. Prohibitions on Land Disposal
§2201. Purpose and Applicability

* * * *

G. The prohibitions contained in this Chapter do not apply to farmers disposing of waste pesticides in accordance with LAC 33:V.105.D.5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16: (May 1990).

Paul Temple
 Secretary

RULE

Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division

Under the authority of the Louisiana 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 Louisiana Hazardous Waste Regulations, LAC 33:Part V. (Non-HSWA Cluster IV).

These amendments correct the Louisiana Hazardous Waste regulations to conform to existing federal regulations.

Copies of the regulations are available for inspection at the following locations from 8 a.m. until 4:30 p.m. Monday through Friday.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA;
 Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Paul Temple
 Secretary

RULE

Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division

Under the authority of the Louisiana 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 Louisiana Hazardous Waste Regulations, LAC 33:V.4901.C.

These amendments will remove the "Beville Amendment" suspension and relist the referenced "K" wastes as hazardous wastes. This relisting will make this subsection equivalent to corresponding federal regulations.

Title 33
ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality -
Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * * * *

C. Hazardous wastes from specific sources are listed in Table 2.

Table 2. Hazardous Wastes From Specific Sources

Industry and EPA hazardous waste no.	Hazard code	Hazardous waste
		* * * * *
Iron and steel		* * * * *
Primary copper: K064	(T)	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.
Primary lead: K065	(T)	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.
Primary zinc: K066	(T)	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.
Primary aluminum: K088	(T)	Spent potliners from primary aluminum reduction.

Ferroalloys:		
K090	(T)	Emission control dust or sludge from ferrochromium-silicon production.
K091	(T)	Emission control dust or sludge from ferrochromium production.

Secondary lead

* * * * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984) amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16: (May 1990).

Paul Templet
Secretary

RULE

**Office of the Governor
Division of Administration
Office of Risk Management**

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management proposes to adopt the following rules:

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 2. Insurance and Related Matters

Chapter 33. Law Enforcement Officers and Firemen's Survivor Benefit Review Board

§3301. Survivors Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533(A), 33:1981, 33:1947, and 33:2201(B).

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

The rules will apply to all claims arising from LRS 33:1947, 33:2201, and 33:1981.

C. Definitions

1. *Act* - refers to Act 308 of 1989

2. *Law Enforcement Officer* - shall have the meaning defined in LRS 33:2201(B)(1) through 33:2201 (B)(17).

3. *Fireman* - shall have the meaning defined in LRS 33:1981(B).

4. *Line of Duty* - means any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of his official duties or

b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

5. *Spouse* - shall have the meaning defined in 33:1947(C)(1).

6. *Child* - shall have the meaning defined in 33:1947(C)(1).

7. *Board* - shall mean the Law Enforcement Officers and Firemen's Survivors Benefit Board.

8. *Qualifying Claim* - those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947(A).

E. Claims Requests

1. All claims shall be submitted by certified mail to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice - Attorney General.

2. All claim requests must include the following documentation:

a. notarized affidavit of event(s), reference by the claimant, of the appointing authority of the jurisdiction involved;

b. original death certificate of law enforcement officer or firemen involved;

c. validated marriage license of spouse;

d. validated birth certificate of children or judgment of adoption;

e. validated investigative report of the event generating the claim;

f. affidavit of employment from the appointing authority;

g. affidavit of divorce existed at the time of the law enforcement officer's or fireman's death.

F. Procedures for Hearings

1. Upon receipt of a claim the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may at its discretion entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

a. approval of the qualifying claim;

- b. denial of the claim;
 - c. deferral pending receipt of additional data.
6. The board shall inform the claimant in writing of its determination.

7. If approved the board chairman shall certify to the commissioner of administration and request payment in accordance with 39:1533.

G. Appeals

There shall be no right of appeal to the board of any decision rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16: (May 1990).

Seth E. Keener, Jr.
State Risk Director

RULE

**Office of the Governor
Division of Administration
Office of Risk Management**

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 3. Worker's Compensation Fee Schedule

Chapter 51. Fee Schedule

The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1203.1 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021.1361, and which arise in the state self-insured worker's compensation cases. The official Medical Fee Schedule is available for review at the Office of Risk Management, 2716A Wooddale Boulevard, Baton Rouge, LA 70805, with applicable conversion factors for services to be utilized in accordance with the following:

Conversion Factors for Health Care Providers

Service	\$ per Unit
Medicine	\$ 5.81
Surgery	145.08
Radiology (full service)	11.40
Professional component only	2.18
Pathology	1.75
Anesthesia	29.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1, R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16: (May 1990).

Seth E. Keener, Jr.
State Risk Director

RULE

**Office of the Governor
Division of Administration
Office of Risk Management**

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management proposes to adopt the following rules:

Title 37

INSURANCE

Part I. Risk Management

Subpart 2. Insurance and Related Matters

Chapter 31. Reporting of Claims

§3107. Reporting of Worker's Compensation and Maritime Claims

A. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

B. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of the accident), and the Pre-existing Condition Form (E-2, which was completed when hired).

C. Employer's Report of Occupational Injury or Disease Forms can be obtained from Forms Management, Box 94095, Baton Rouge, LA 70804-9095 and the Pre-existing Condition Form can be obtained from the Office of Risk Management, Claims Section, Box 94095, Baton Rouge, LA 70804-9095.

D. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation, 910 North Bon Marché Drive, Baton Rouge, LA 70806 within 10 days of actual knowledge of injury or death.

E. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

F. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

1. agency's FACS cost center number (located in a block below the Employer's Federal Tax I.D. Number);
2. the occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number;
3. an injured employee's monthly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form under "Other Wages."

G. Information which is to be contained on the Pre-existing Condition Form includes:

1. complete name, age, social security number, address and civil service position being applied for;
2. check list of possible pre-existing diseases, disabilities and/or conditions before employment;
3. description of particulars relative to any checked pre-existing permanent disabilities;

4. name and address of employer at time of previous injury;

5. witnessed and dated signature of applicant as to the completeness, accuracy and validity of the information contained on the Pre-existing Condition Form.

H. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to claims are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

K. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1208.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16: (May 1990).

Seth E. Keener, Jr.
State Risk Director

RULE

Office of the Governor Division of Administration Office of Uniform Payroll

Title 4 ADMINISTRATION Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract is a contractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manage a cafeteria plan.

Annual Listing referenced herein shall be the list maintained by the Office of State Uniform Payroll of Letters of Interest from which payroll deduction applicants may be selected.

Applicant referenced herein shall be any company, corporation, or organization selected from the Annual Listing to make application to be approved as a vendor for state payroll deduction.

Authorized Cafeteria Plan is one which has been entered into by the state with companies and/or corporations that meet or exceed the requirements of R. S. 42:455.

Control Number is the three-digit identifier in UPS which serves as a key for processing and reporting. It may

represent a single agency or a group of agencies.

Coordinator is a vendor representative who provides a single contact for communication between the vendor and the Office of State Uniform Payroll and systems independent of UPS.

Deduction shall be defined as any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute.

Department/Agency as referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof or any state university.

General Insurance Vendors are those insurance companies which market, through payroll deduction, non-tax qualified life and health insurance or annuity products.

Governing Board as referenced herein shall mean any one or all of: Board of Regents; Board of Supervisors of Louisiana State University Agricultural and Mechanical College; Board of Supervisors of Southern University; and The Board of Trustees for State Colleges and Universities.

Letter of Interest shall be defined as written notification (Form SED-1) from a company, corporation, or organization requesting an opportunity to become an applicant for payroll deduction authorization.

Non-Insurance Vendor is any vendor that offers a product or service that is not provided under definition of a general insurance vendor.

Organization as referenced herein shall be any charitable group qualified under Federal Code 501 (c) (3), state agency credit unions, labor union councils, or other deduction "permitted" by state statute.

Payroll Reporting Number (PRN) is the eight-digit number currently used in UPS to identify a payroll group - usually an agency; PRN replaced the six-digit budget unit number.

Permitted deductions are allowed by state statute rather than mandated.

Provider shall be defined as the individual or organization which renders service, provides goods, or guarantees delivery.

Reconciliation referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

Office of State Uniform Payroll is the section within the Division of Administration primarily responsible for the Uniform Payroll System and Administration of the rules governing state employee payroll deductions.

Third Party is defined as any agent for or representative of a provider.

University is any one of the state higher education facilities which falls under the jurisdiction of appropriate "governing board".

UPS is the state Uniform Payroll System.

Vendor referenced herein shall be an company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

Voluntary Deduction shall be defined as any deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§103. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA's are not permitted.

C. Any applicant requesting authority to implement a payroll deduction shall submit a completed application form to the Office of State Uniform Payroll. Companies requesting application for any state university shall submit the application to the governing board for that university. The application shall:

1. Be submitted on a currently approved Application (Form SED-2).

2. Include certification (Form SED-3) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R. S. 42:455; that said deduction will not represent a duplication of product or service of comparable value already provided by payroll deduction; that there is a recognized need for same; and that a reasonable evaluation of the product/service was made by the department which substantiates the request; and that the applicant has been advised of the statute and the rule governing payroll deductions.

3. Indicate whether the request is for participation within a specific agency, or campus by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s).

4. Include Letter of Interest (Form SED-1) requesting to be placed on the Annual Listing for consideration for statewide authority (if current authority is limited) for next available deduction authorization.

5. Designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product or service(s) to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees.

6. Respond to all applicable items (designated in instructions) on the form (SED-2) for new and annual renewal applications.

D. IntraAgency deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certify that collection of funds from employees is required by and is a benefit to the agency/department.

E. All vendors shall file annual renewal applications with Office of State Uniform Payroll or governing board as scheduled by that office.

F. Annual Listing shall be maintained by the Office of State Uniform Payroll as follows:

1. Each year as of July all entries to the Annual Listing resulting from Letters of Interest dated prior to April of the current year shall be stricken from the list.

2. A new list for the ensuing year shall be compiled from any Letters of Interest (Form SED-1) dated and received after April.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the

Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§105. Applicant and Vendor Requirements

A. Any applicant for payroll deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. Possess appropriate license or other required certification for providing the particular product or service for a fee.

2. Have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees.

3. Be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations.

4. Provide a fidelity bond of \$100,000; an irrevocable pledge of Letter of Credit in the amount of \$100,000; or an irrevocable pledge of a Certificate of Deposit in the amount of \$100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor. The company providing the bond shall be rated "A" or above by A. M. Best.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§107. Notification, Implementation, and Transition

A. 1. The Office of State Uniform Payroll or governing board shall notify applicants whether application, initial or renewal, has been approved.

2. The Office of State Uniform Payroll shall notify all UPS agencies and other departments and university governing boards that the application has been approved; governing boards shall notify universities.

3. Payroll systems independent of UPS will advise vendors whether the deduction will be established.

B. The vendor may elect to enroll employees for a bi-weekly or semi-monthly deduction amount providing the invoicing cycle is in agreement with the deduction mode as authorized by the Office of State Uniform Payroll or governing board prior to implementation of the deduction. Vendors granted deduction authority on UPS after September 1, 1986, will be permitted to use only semi-monthly deduction amounts. Payroll systems independent of UPS which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary state employee payroll deductions on the effective date of this rule shall continue to be approved as a vendor under the following conditions.

1. Has a currently approved application on file, provided:

a. general insurance vendors have met the rating requirements set forth in R.S. 42:455 B.

b. non-insurance vendors shall have met the requirements set forth in this rule as required in R. S. 42:455 B.

c. participation shall exceed 250.

d. proper monthly reconciliation is being accomplished.

2. All other permitted deduction vendors have filed ap-

plication for informational purposes.

D. Vendors currently participating in payroll deduction which do not meet the minimum requirements set forth in R.S. 42:455 A or are not in compliance with the requirements of this rule within six months of the effective date of this rule will be denied deduction privileges.

E. Vendors will be allowed 18 months after initial approval to meet the minimum participation requirements. Vendors currently participating in payroll with less than 250 participants must meet this requirement within six months or deduction authority will be revoked.

F. Companies, corporations, or organizations which have been placed on any waiting list for consideration of payroll deduction participation shall not be exempted from compliance with any part of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§109. Deduction Authorization

A. Vendors not exempted in §109 (F) of this rule shall provide and use the standard deduction authorization format (Form SED-4 or Form SED {UD}-4) authorized by the Division of Administration.

1. the SED-4 form provided by the vendor shall be no less than eight and one half inches in width nor 11 inches in length with a top margin (top of page to top of blocked area) of one and one eighth inches.

2. Within a blocked area (2 ⁷/₈" x 6 ¹/₂") the form as illustrated herein shall include:

- a. the employee name and social security number;
- b. the employer (agency) name and PRN or other appropriate I.D.;
- c. vendor name and payroll deduction code;
- d. amount of deduction, frequency, and beginning date;
- e. employee signature and date of signature.

3. Space on the form outside the designated blocked area may be used for additional data to identify specific amounts, coverage, etc. However, any disclaimer, contract, or term of participation agreement between the employee and any provider or vendor shall not be binding on the state. Employees may designate a 'cap' or annual maximum for a charitable organization deduction.

4. Vendors that are currently using the form as published in the November 20, 1986, *Louisiana Register*, may continue using that form until June 30, 1990. As of July 1, 1990, these forms must be replaced with the currently authorized (Form SED-4 or Form SED {UD}-4).

5. Vendors that are not currently using the form as published in the November 20, 1986, *Louisiana Register* must use only the authorized (Form SED-4 or form SED {UD}-4) as of July 1, 1990.

B. The authorization must specify the amount of deduction to be taken and the frequency of deduction (biweekly {26 annually} or semi-monthly {24 annually}). All "MS___" deductions in USP must be semi-monthly only. Payroll systems independent of UPS which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction (which may cover more than one benefit) authorization for a single

vendor effective at any one time. (Total current deduction amount must be included on any new form). The form shall indicate:

1. A total monthly amount and the appropriate bi-weekly OR semi-monthly amount.

2. The pay period in which the deduction was calculated to begin.

D. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification (PRN or other code/number for non UPS payrolls) to support monthly reconciliation process.

F. State Employee Group Benefits, Louisiana Deferred Compensation, United Way, U.S. "EE" Saving Bond, and Cafeteria Plan deduction authorization forms may be used in lieu of standard deduction forms (Form SED-4 or Form SED {UD}-4).

G. An employee may discontinue any voluntary payroll deduction amount that is not committed for participation in a current Cafeteria Plan Year by providing written notification of that intent to his or her payroll office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§111. Solicitation of State Employees

A. Employees may be solicited for payroll deduction only:

1. after notification to the vendor and state department/agencies from the Office of State Uniform Payroll, or notification from the governing board for universities, that the application has been approved, and

2. upon written authorization from employer department head and agency administrator.

B. Solicitation of employees shall be conducted within the guidelines established by the employer/department.

C. The coordinator shall be responsible for obtaining solicitation authorization department policy from the department secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by the Office of State Uniform Payroll.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for payroll deduction for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§113. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedure to vendor representatives.

B. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to

facilitate the monthly reconciliation.

C. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor invoices.

D. Monthly reconciliation shall include total monthly invoice amount, total remittance amount, and a listing of all exceptions between the invoice and deduction/remittance by employee within billing/payroll reporting groups.

E. Monthly reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number (PRN) and shall be grouped within payroll control numbers for UPS agencies and similarly for payroll systems independent of UPS as designated by that system.

F. Vendors shall furnish evidence of reconciliation to the Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems independent of UPS.

G. Monthly certification of reconciliation will not be required of vendors that provide participants/members with monthly or quarterly statements of activity and/or balances.

H. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Office of State Uniform Payroll.

I. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

J. Vendors must designate/identify specific products or basic services provided on the application form. Vendors must indicate whether the request (for each product or service) is for continuation/renewal or new/not previously approved for payroll deduction. Vendors shall not add products or services to payroll deduction which are not indicated on currently approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§115. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;

2. provide vendor coordinators a copy of department policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees.

3. certify the use of any IntraAgency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

4. insure that IntraOffice deductions such as flower, gift, and coffee funds will not be authorized;

B. Departments/agencies shall provide the Office of State Uniform Payroll a written report of acts of noncompliance by any vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of UPS agencies will not refund amounts previously deducted from any vendors which receive consolidated remittance without authority from the Of-

fice of State Uniform Payroll. Payroll systems independent of UPS shall establish written policy for remittance and refund of deductions taken.

D. Agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4 or Form SED {UD}-4) from vendor representatives;

2. verify that the vendor name and the payroll code on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§117. Reporting

A. Vendors shall promptly report within 10 days of final approval any change in the name, address, company status, principal officers, and designated coordinator to the Office of State Uniform Payroll.

B. Vendors shall provide as required by UPS data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing payroll deduction.

C. Annual renewal applications shall list specific products/services provided. No new products or services shall be added without prior approval through the annual renewal process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to the Office of State Uniform Payroll and/or appropriate governing board or boards.

E. Vendors shall be required to report the dismissal of any representative participating in state payroll deduction to the Office of State Uniform Payroll and/or appropriate governing board or boards.

F. Vendors with deductions "permitted" by statute shall provide annual renewal applications (Form SED-2).

G. Each governing board shall provide the Office of State Uniform Payroll an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§119. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the Uniform Payroll System or other state payroll system shall be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uni-

form Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§121. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state payroll deduction for any vendor.

C. Payroll deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455.

D. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§123. General

A. Payroll deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor.

C. Group Benefits HMO pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §113.E.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

§125. Appeal Process

A. Any vendor participating in payroll deduction debarred from participating for any reason by a department/agency or university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective governing board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the commissioner of administration. Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

**LETTER OF INTEREST
FOR
PAYROLL DEDUCTION VENDOR**

In accordance with the rule governing payroll deductions Title 4, (Chapter 1, §103, C, 4; F, 2) , I, _____,

NAME

TITLE

as duly authorized representative of _____

COMPANY NAME

hereby request that _____ be placed on

COMPANY NAME

the Annual Listing to be considered as an applicant for statewide or selected area state employee payroll deduction authorization.

This Letter of Interest submitted on behalf of:

A.

COMPANY NAME

ADDRESS

CITY/STATE/ZIP

PHONE (Area/Number/Extension)

To offer:

B.

PRODUCT/SERVICE NAME

Description

Product/Service

I have been advised of the statute and rule which govern payroll deductions for state employees. I attest that the company has been apprised of the requirements for application and deduction participation and has authorized this request. I further attest that the company supports the request, and possesses the capability to meet the reconciliation and/or reporting requirements to maintain the deduction.

Requested By _____

Signature _____

Title _____

Date _____

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1,
§103, C, 2), I, _____, _____,
NAME TITLE
on behalf of the employees of _____,
DEPARTMENT
hereby request favorable consideration of a payroll deduction application
submitted by:

A. (APPLICANT)

To offer:

B. (PRODUCT(S)
or SERVICE(S))

I further certify: that this request does not represent a duplication of
deductions currently available in the payroll system; that a review and/
or survey conducted by this department has indicated a need for this par-
ticular deduction; that the above named company applicant has provided
evidence of having met and/or exceeded all requirements of R. S. 42:455; and
has knowledge of the requirements of the rule governing payroll deductions

Department _____

Signature _____

Title _____

Date _____

{ VENDOR NAME HERE }

State of Louisiana Employee Payroll Deduction Authorization		
EMPLOYEE NAME	SOC. SEC. NO.	PAYROLL REPORTING NO.
DEPARTMENT/AGENCY/Section	PAYROLL CODE [][][][]	
<p>I hereby authorize my employer to deduct \$ _____ from my salary until further notice and remit same to _____ { Vendor Name Here }.</p> <p>Bi-weekly Deduction \$ _____</p> <p>Semi-Monthly Deduction \$ _____</p> <p>Monthly Deduction \$ _____</p> <p style="text-align: right;">Begin deduction _____ Date _____</p> <p>EMPLOYEE Signature: _____ Date _____</p> <p style="text-align: center;">(THIS FORM SUPERCEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)</p>		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Uniform Payroll, LR 12:763 (November 1986), amended LR 16: (May 1990).

Dennis Stine
Commissioner of Administration

ing Home Administrators, April 1970, amended LR 6:276 (June 1980) amended by the Department of Health and Hospitals, LR 16: (May 1990).

Winborn E. Davis
Executive Director

RULE

**Department of Health and Hospitals
Board of Examiners for Nursing Home Administrators**

In accordance with the notice of intent published in the March 1990 *Louisiana Register*, the Louisiana Board of Examiners for Nursing Home Administrators announces the adoption of changes to LAC 46:XLIX.103 effective May 20, 1990.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators**

Chapter 1. General Provisions

§103. General Definitions

A. - C. ...

1. - 4. ...

a. - c. ...

d. A *provider representative* is a person charged with general administration of a nursing home on a temporary basis when a home is without a licensed administrator, as approved by the Bureau of Health Services Financing.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2501 and R.S. 37:2504(C).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nurs-

RULE

**Department of Health and Hospitals
Board of Examiners for Speech Pathology**

The Louisiana Board of Examiners for Speech Pathology and Audiology hereby adopts the following rule which defines the use of aides, assistants and helpers by speech-language pathologists/audiologists.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXV. Speech Pathology and Audiology**

Chapter 3. Aides, Assistants and Helpers

§301. Qualifications

Licensed speech-language pathologists, sometimes referred to as speech therapists or speech clinicians and audiologists are legally, ethically and morally responsible for the services provided by aides, assistants or helpers who assist them hereunder. The requirements for the use of aides, assistants and helpers by speech-language pathologists/audiologists follow.

A. A licensed speech-language pathologist/audiologist may employ or utilize an aide, assistant or helper who meets the following qualifications:

1. The aide, assistant or helper shall be at least 18 years old.
2. The aide, assistant or helper shall possess appropriate communication skills for the population to be served.
3. The aide, assistant or helper shall have a high

school education or G.E.D.

4. The aide, assistant or helper shall have good moral character which is presumed by the board unless otherwise advanced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 16: (May 1990).

§303. Requirements of Speech-Language Pathologists/Audiologists in Monitoring Aides, Assistants and Helpers

A. The supervising speech-language pathologist/audiologist is responsible for determining that the aide, assistant or helper is satisfactorily qualified and prepared for the duties which he/she will be assigned. Appropriate areas for training may include any or all of the following:

1. normal processes in speech, language and hearing;
2. disorders of speech, language and hearing;
3. administration of activities designed only to collect and record data;
4. equipment and materials used in the assessment and/or management of speech, language and hearing disorders;
5. overview of professional ethics and their application to the assistant's activities.

It is highly recommended that the aide, assistant or helper be afforded ongoing continuing education opportunities.

B. The schedule of supervision by the licensed speech-language pathologist/audiologist must include direct supervision for at least 25 percent of the patient/client contact time of the aide, assistant or helper for the initial year of the aide, assistant or helper's employment. For the following years, the direct supervision time shall be developed by the supervising speech-language pathologist/audiologist on an individual basis and be no less than 10 percent of the clinical contact time. In all cases, 50 percent of the patient/client supervision must be in person, but other avenues of supervision may be pursued. The supervising speech-language pathologist/audiologist must be readily available for consultation at all times and for ongoing site visits as the need arises. Documentation by the supervising speech-language pathologist/audiologist is required to be submitted to the board upon request.

C. The supervising speech-language pathologist/audiologist must report annually to the Licensure Board the names and employment locations of aides, assistants and helpers supervised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 16: (May 1990).

§305. Services of Aides, Assistants or Helpers

A. The supervising speech-language pathologist/audiologist may allow an aide, assistant or helper to engage only in those services that are planned, designed and supervised by the licensed professional, including the following:

1. setting up room and equipment for evaluation/intervention/conference;
2. clearing room and storing equipment after evaluation/intervention/conference;

tion/intervention/conference;

3. preparing materials for use by the speech-language pathologist/audiologist in intervention, evaluation and carryover, such as making copies, typing forms;

4. transporting clients to and from clinical sessions;

5. assisting with field trips and other communication stimulation situations;

6. applying basic language stimulation strategies and exercises in daily living skills as directed and approved by the speech-language pathologist/audiologist;

7. performing basic speech, language or hearing screening with supervision of the speech-language pathologist/audiologist;

8. performing industrial audiometric testing;

9. recording, charting, graphing or otherwise displaying objective data relative to the client's performance;

10. reporting objective changes in performance to the speech-language pathologist/audiologist responsible for that client;

11. checking equipment to determine if the equipment is performing adequately.

B. Only the speech-language pathologist/audiologist shall exercise independent judgment in performing professional procedures for the client. The speech-language pathologist/audiologist may not delegate the exercise of his/her independent judgment to the aide, assistant or helper under any circumstances. Specifically, the speech-language pathologist/audiologist may not delegate any of the following to the aide, assistant or helper.

1. Diagnosis or treatment planning for individuals with speech, language or hearing disorders.

2. Interpretation or discussion of confidential information or test results despite the fact that this information may be requested by the patient, parent or referring agent.

3. Performance of any procedure for which they are not qualified and/or have not been adequately trained.

4. Use of the title "Speech Pathologist" or "Audiologist" either verbally or in writing. Aides may however, wish to refer to themselves as aides, assistants or helpers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 16: (May 1990).

Dianne P. Orlesh
Chairperson

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the Louisiana Department of Health and Hospitals, Office of Public Health has amended Chapter IX of the State Sanitary Code as follows:

Sanitary Code
Chapter IX
SEAFOOD

(MARINE FRESH WATER ANNUAL FOOD PRODUCTS)

9:001. DEFINITIONS: Unless otherwise specifically provided herein the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purpose thereof as follows:

Approved Area. The classification of a Louisiana shellfish growing area which has been approved by the state health officer with the assistance of the secretary of the Louisiana Department of Wildlife and Fisheries for growing or harvesting shellfish for direct marketing. The classification of an approved area is determined through a sanitary survey conducted by the Louisiana Department of Health and Hospitals in accordance with the guidelines set out in this rule and as hereafter amended and duly promulgated. An approved shellfish growing area may be temporarily made a closed area when a public health emergency resulting from, for instance, a hurricane or flooding, is declared by the state health officer.

Bacteriological Database. Bacteriological analysis organized and used as the basis for the classification of shellfish growing waters.

Central Laboratory in New Orleans - Public Health Laboratory for the State. It is the reference laboratory for the state and is certified for water, milk and shellfish analysis. This laboratory is also the certifying laboratory for the state. The central laboratory is with the Louisiana Department of Health and Hospitals, Office of Public Health.

Certified Laboratory. Laboratory conducting analysis for Louisiana State Shellfish Sanitation Program that has received a satisfactory rating during an on-site evaluation by the shellfish evaluation officer for the State of Louisiana for FDA evaluation officer. The purpose of the evaluation will be to assure the uniform application of standard procedures and methods in the sampling and analytical examination of shellfish growing waters and to determine and assure the adequacy of facilities, equipment and personnel to perform analytical testing necessary to meet the requirements recommended by the National Shellfish Sanitation Program and found to be acceptable by the Louisiana State Shellfish Sanitation Program. This evaluation only certifies that the laboratory facility and its staff meet the specifications of the National Shellfish Sanitation Program at the time of the evaluation.

Certified Laboratory Personnel. Individuals administratively attached to an officially designated laboratory of the shellfish sanitation laboratory system for the purpose of conducting microbiological analysis for LSSP who have achieved a satisfactory rating during an on-site evaluation by the shellfish evaluation officer for the state of Louisiana for the FDA evaluation officer.

Closed Area. A growing area where the harvesting of shellfish is temporarily or permanently not permitted. A closed area status is or may be placed on any of four classified area designations- approved, conditionally approved, restricted, or prohibited.

Closed Safety Zone. An area designated by the state health officer for the purpose of lessening the impact of an actual or potential pollution source.

Coliform Group. The coliform group includes all of the aerobic and facultative anaerobic, Gram-negative, non-spore-forming bacilli which ferment lactose with gas formation within 48 hours at 35 C.

Conditional Management Plan. A written management

program approved by the state health officer and the secretary of the Louisiana Department of Wildlife and Fisheries governing classification of shellfish harvesting water classified as conditionally approved.

Conditionally Approved Area. The classification of a Louisiana shellfish growing area determined by the state health officer to meet the approved area criteria for a predictable period. A conditionally approved shellfish growing area is a closed area when the area does not meet the approved growing area criteria and is temporarily closed by the state health officer.

Direct Impact. A pollution source or potential source which may have an immediate impact on shellfish harvesting waters. Examples are:

- a. any waste directly piped to shellfish harvesting waters;
- b. any waste discharged to a property which would drain directly to shellfish harvesting waters;
- c. domestic animals penned or confined so the animals have direct contact with the harvesting waters or their waste drain directly to growing waters;
- d. marinas;
- e. processing waste draining directly to harvesting waters.

Edible Crustaceans. Include any edible, commercially distributed shrimp, crab, crayfish, lobster or other member of the animal kingdom classified as crustaceans (*Crustacea*).

FDA Evaluation Officer. Individual attached to the Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch for the purpose of conducting on-site evaluations of an officially designated laboratory of the shellfish sanitation laboratory system.

Fecal Coliform Group. The fecal coliform group includes bacteria of the coliform group which will produce gas from lactose in a suitable multiple tube procedure liquid medium (EC or A-1) within 24 ± 2 hours at 44.5 ± 0.2 degrees C in a water bath.

Growing Area. An area which supports or could support live shellfish.

Habitable Structure. Any structure capable of giving shelter from the environment and has waste treatment facilities.

Harvester. A person who takes shellfish by any means from a growing area.

Indirect Impact. A discharge or pollution source which could reach shellfish growing waters in a roundabout way. Example: an outfall which discharges to a drainage system which discharges into the immediate area of shellfish growing waters.

Louisiana State Shellfish Sanitation Laboratory System. All laboratories that have been successfully evaluated during an on-site evaluation by the shellfish evaluation officer for the state of Louisiana or FDA evaluation officer and have been consequently officially designated as a shellfish sanitation laboratory for the Louisiana State Shellfish Sanitation Program.

Louisiana State Shellfish Sanitation Program, Oyster Water Monitoring Program. That program which regulates and monitors the growing, harvesting, handling and shipping of shellfish in the state of Louisiana. The program is with the Louisiana Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services.

Marina. Any commercial facility for five or more floating vessels which may be utilized for docking, storing, servicing, or otherwise mooring vessels for which a fee is charged.

Marina Policy. The prescribed plan approved by the state health officer to be used in the classification of shellfish harvesting waters in and around marinas.

Marine Biotoxins. Poisonous compounds accumulated by shellfish feeding upon toxin-containing dinoflagellates such as *Gonyaulax catanella*, *G. tamarensis* and *Ptychodiscus brevis* (formerly *Gymnodinium breve*).

Marine and Fresh Water Animal Food Products. As used in these regulations shall include any or all of the above defined products, and in addition, any animal used as food for human consumption whose normal life span, in whole or in part, is spent in fresh, brackish or salt water.

Most Probable Number (abbreviated MPN). The MPN is a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.

Narrative Report. Report submitted by the shellfish evaluation officer for the state of Louisiana or FDA evaluation officer following an on-site evaluation. The report shall include the identity of the laboratory, the date of evaluation, name of evaluator, information on personnel and procedures and conclusions and shall precisely and accurately describe the conditions which existed during the evaluation, including what recommendations were made to correct deficiencies and proposed timetable for any corrective action necessary to bring the laboratory into substantial conformity with the requirements of NSSP as approved by the Louisiana State Shellfish Sanitation Program.

National Shellfish Sanitation Program (NSSP). The cooperative State-FDA-Industry program for the certification of interstate shellfish shippers as described in the National Shellfish Sanitation Program Manual of Operations, Parts I and II. The National Shellfish Sanitation Program Manuals of Operations may be obtained by purchase from the Interstate Shellfish Sanitation Conference, P.O. Box 4460, Austin, Texas, 78765.

On-Site Evaluation. Inspection and evaluation of a laboratory and all appropriate personnel at the physical laboratory site by the shellfish evaluation officer or FDA evaluation officer for the purpose of ascertaining if there is substantial compliance with all requirements as listed in the Shellfish Laboratory Evaluation Check List (See Form C, Appendix A) provided by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch, if the laboratory complies with recommended procedures and capabilities and if the analytical results produced by the laboratory are in support of the Louisiana Shellfish Sanitation Program and are acceptable to FDA.

Opening/Closing Line. A boundary drawn on a map to delineate the classification of shellfish growing waters.

Person. Person includes any individual, partnership, corporation, association or other legal entity.

Point Source. Any discernable, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, or conduit that carries pollution.

Poisonous or Deleterious Substance. A toxic compound occurring naturally or added to the environment that may be found in shellfish for which a regulatory tolerance or action level has been established or may be established to

protect public health. Examples of naturally occurring substances would be paralytic shellfish toxins and trace elements geologically leached from the environment, such as mercury; examples of added substances would be agricultural pesticides and polynuclear aromatics from oil spills.

Pollution. The contamination of the shellfish waters by the discharge of noxious substances into these waters - (chemicals, bacterial, or biotoxins).

Prohibited Area. Louisiana waters that have been classified by the state health officer as prohibited for the harvesting of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for the harvesting of shellfish at all times. Harvesting of shellfish from a closed area may result in criminal charges pursuant to R.S. 56:254.

Relaying. The transfer of shellfish from restricted areas to approved areas for natural biological cleansing using the ambient environment as a treatment system.

Restricted Area. Louisiana waters that have been classified by the state health officer as an area from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process.

Sanitary Survey. The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.

Satisfactory Rating. An indication that, during an on-site evaluation by the shellfish evaluation officer for the state of Louisiana or FDA evaluation officer that the laboratory and laboratory personnel were found to be in substantial compliance with all requirements as listed in the Shellfish Laboratory Evaluation Check List provided by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch, that FDA recognizes that the laboratory complies with recommended procedures and capabilities and that the analytical results produced by the laboratory are in support of the Louisiana Shellfish Sanitation Program and are acceptable to FDA.

Shellfish. All edible species of oysters, clams, or mussels, either shucked or in the shell, fresh or frozen; whole or in part. Some of the common bivalves included in this definition are:

COMMON NAME	SCIENTIFIC NAME
Cockle	<i>Clinordium nuttalli</i>
	<i>Cardium corbis</i> (Pacific)
Geoduck	<i>Panope generosa</i>
Freshwater clam	<i>Rangia cuneata</i>
Soft shell clam	<i>Mya arenaria</i>
Hard or quahog clam	<i>Mercenaria mercenaria</i>
	<i>Mercenaria campechiensis</i>
Surf clam	<i>Spisula solidissima</i>
Mahogany or Ocean quahog, clam	<i>Artica islandica</i>
Gaper or Horse clam	<i>Tresus nuttalli</i> and <i>T. capax</i>
Razor clam	<i>Solen resaceus</i> , <i>Ensis directus</i> (Atlantic)
	<i>Solen viridis</i> , <i>Taqelus plebeius</i> and <i>Siliqua patula</i> (Pacific)
Bent-nose clam	<i>Macoma nasuta</i>
Pismo clam	<i>Tivela stultorum</i>
Butter clam	<i>Saxidomus gigantcus</i>
Calico clam	<i>Macrocallista maculata</i>
Sunray venus	<i>Macrocallista nimbose</i>

Pacific littleneck clam	<i>Protothaca tenerrima</i> and <i>Protothaca staminea</i>
Manila clam	<i>Tapes semidecussata</i>
Pacific (Japanese) oyster	<i>Crassostrea gigas</i>
Eastern oyster	<i>Crassostrea virginica</i>
Olympia or yaquina oyster	<i>Ostrea lurida</i>
European oyster	<i>Ostrea edulis</i>
Blue or bay mussel	<i>Mytilus edulis</i>
California sea mussel	<i>Mytilus californianus</i>
Green lipped mussel	<i>Perna canaliculus</i> (New Zealand)

Shellfish Evaluation Officer for the State of Louisiana. State health officer or his/her designee approved by letter by the federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch to conduct on-site evaluations of laboratories deserving official recognition as a member of the shellfish sanitation laboratory system other than the Central Laboratory in New Orleans. Official approval is based upon the individual meeting the requirements of Shellfish Sanitation Interpretation S.S. 35 entitled "Evaluation of Laboratories by State Shellfish Laboratory Evaluation Officers."

State Shellfish Patrol Agency. The enforcement agents of the Louisiana Department of Wildlife and Fisheries having the responsibility for the enforcement of lines concerning harvesting of shellfish.

State Waters. Waters that belong wholly to the State of Louisiana, including the Territorial Sea.

Transplanting. The moving of shellfish from one area to another area for improving growth, stocking depleted area and leases, and for other aquaculture purposes.

Worst Pollution Conditions. Conditions determined by changes in meteorological, hydrographic, seasonal, and point source conditions that have been historically demonstrated to adversely impact a particular growing area.

9:002-2 F (Change to read): The sanitary survey shall be reviewed and the growing area classification reevaluated at least every three years to assure the accurate classification of each growing area. The reevaluation shall include, at a minimum, an examination of the Oyster Water Monitoring Program's bacteriological database of at least the last five prior years. The minimum number of samples required within the five-year database is 15. For a harvesting area to be classified as approved, the requirements of paragraph 9:002-4 must be met. For a harvesting area to be classified as conditionally approved, the requirement of Paragraph 9:002-5 must be met. For an area to be classified as restricted, the requirements of Paragraph 9:002-6 must be met.

9:002-3 B (Change to Read): A closed safety zone will be established adjacent to all identified actual or potential pollution discharges which have a direct or indirect impact and, which have been determined to be of a significant nature in the growing area. The closed safety zone shall be sufficiently large enough in area or time of travel to afford the time necessary to close the area to shellfish harvesting prior to the pollution affecting the harvesting area.

9:002-4 Approved Areas (Change to read): Growing areas may be designated as approved when the sanitary survey and marine biotoxin surveillance data indicates that fecal material, pathogenic microorganisms, poisonous and deleterious substances are not present in the area in dangerous concentrations.

SATISFACTORY COMPLIANCE

This item will be satisfied when:

A. The fecal coliform median or geometric mean MPN of the water does not exceed 14 per 100 ml and not more than 10 percent of the samples exceed an MPN of 43 for a five-tube dilution test (or an MPN of 49 per 100 ml for a three-tube dilution test).

B. Sanitary Survey Report, as required in Paragraphs 9:002-1 and 9:002-2 are on file with the Oyster Water Monitoring Program.

9:002-4 A-2 (Add to paragraph): The sanitary survey reports, as required in Paragraphs 9:002-1 and 9:002-2 are on file with the Oyster Water Monitoring Program.

9:002-5 Conditionally Approved Areas (Add to paragraph) Shellfish growing areas that are subject to intermittent microbiological pollution may, at the discretion of the state health officer, be classified as conditionally approved when:

1. SATISFACTORY COMPLIANCE

a. The factors, environmental and otherwise, which affect a growing area are known and predictable.

b. A sanitary survey of less than one year is on file with the Oyster Water Monitoring Program.

c. Data review of the factors indicates the area will meet approved area criteria.

d. Statistical analysis shows the area to meet approved area classification under regulated factors.

e. Statistical analysis shows the factor(s) to be a significant contributor to the microbiological pollution event. In order for a factor(s) to be considered a significant contributor, the sample station(s) must meet approved area criteria when the factor(s) is eliminated from the bacteriological database.

2. If the growing area meets the requirements specified in 9:002-5 A-1 through 5, a conditional management plan will be developed. The conditional management plan will include, at a minimum, the following:

a. Definition of the growing area by use of a map or verbal description. When a verbal description is used, a map will be included as part of the conditional management plan.

b. An evaluation of each known or potential source of pollution which may have a direct or indirect impact on the growing area as defined in 9:002-5 B-1.

c. Criteria for opening and closing the defined area.

d. A patrol system to prevent illegal harvesting of shellfish.

e. An alert system for immediately notifying the Louisiana Department of Health and Hospitals, Office of Public Health and the Louisiana Department of Wildlife and Fisheries of an adverse change in the environmental conditions.

f. Specified performance factors for the defined conditionally approved area.

g. Random sampling schedule to ensure a cross section of all environmental and other factors are examined.

3. A conditionally approved area will be immediately closed to shellfish harvesting when the established criteria in the conditional management plan are not met. The management area will remain closed until:

a. the criteria established in the management plan are fully met;

b. a time period has elapsed to allow for the natural depuration of the shellfish;

c. when determined as necessary by the state health officer, bacteriological and/or chemical analysis to verify shellfish growing water and/or shellfish meat quality.

4. If the proposed conditionally approved area is affected by a waste water discharge, the following will be included within the conditional management plan:

- a. performance standards which, if not adhered to, represent a pollution threat to the management area;
- b. effluent volume at average and peak flow;
- c. identification of factors which cause plant failures;
- d. an established reporting procedure in the event of treatment failure;
- e. an established monthly reporting procedure of discharge parameters;
- f. the establishment of an immediate reporting procedure in the event of facility or collection system by-pass.

5. The conditional management plan shall specify the frequency and thoroughness with which the management area will be reviewed and/or reevaluated. Each review and/or reevaluation shall contain the following:

- a. review of compliance with the management plan;
- b. review of cooperation of all parties involved;
- c. review of agreed upon reporting;
- d. review of compliance with performance standards;
- e. a written report of the review.

6. The purpose of the conditional management plan will be agreed upon by the Louisiana Department of Health and Hospitals and the Louisiana Department of Wildlife and Fisheries.

7. A conditional management plan will not become effective until the order establishing the conditional management area has been signed by (1) the state health officer, (2) the secretary, Louisiana Department of Health and Hospitals, and (3) the secretary, Louisiana Department of Wildlife and Fisheries. Such a statement will be included in all conditional management plans when the plan is being prepared or upon the review/reevaluation of the management plan. In the event the last signature is obtained after the stated effective date of the management plan, the conditional management plan will become effective seven days after the latest signature affixed to the order.

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Public Health has amended Subsections 9:004, 9:006 and 9:051 of the State Sanitary Code and Chapter 4, Part I of the State Food, Drug and Cosmetic Regulations.

These regulations may be viewed in their entirety at the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

David L. Ramsey
Secretary

RULE

Department of Natural Resources Office of the Secretary

In accordance with R.S. 49:950 et seq., the Department of Natural Resources, Office of the Secretary, is amending LAC 43:1. Chapter 13 as follows:

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 13. Bohemia Spillway

§1305. Application, Processing and Certification

A. . . .

B. 1. Upon completion of the preliminary review, the department shall notify all applicants of the results of the review, and the requirement for an advance costs deposit. The written notification, with postmark date of mailing affixed by the department's postage meter, shall either state that the claim is being retained for further processing, or that it failed to satisfy one or more of the three criteria listed above. Applicants shall retain the envelope in which the notification is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in boldface, "RETAIN THIS ENVELOPE." In the event of failure to satisfy one or more of the criteria, the claim shall be returned to the applicant. Applicants filing rejected claims shall have 70 days from the postmark date affixed by the department's postage meter to file an amended claim and necessary supporting documents with the department. Amended claims filed more than the 70 days specified herein shall be invalid and no further processing by the department will be done. Documents attached to applications will be returned to applicant upon payment of photocopy and postage costs.

2. Prior to consideration of any claim beyond the preliminary review set forth above, an advance costs deposit in the amount of \$175 per claim shall be collected by the secretary. Failure by any applicant to deposit the full advance costs within 70 days of notification shall invalidate the claim upon which the deposit was due. The advance costs deposit shall be held by the secretary and be used to pay the costs of administering the claim. The actual costs shall be assessed by the secretary as hereinafter set forth. Additional advance costs may be required on a case-by-case basis, and no claim shall be processed without sufficient funds on deposit.

3. The secretary shall designate that the special master review the applications of applicants whose claims have a substantial likelihood of acquiring ownership in a tract of land in the Bohemia Spillway area and who have requested that they be declared indigent. The following applicants may file for indigent status:

- a. applicants who have received notification that their application is being retained for further processing, and
- b. applicants whose applications have been rejected and who file amended claims.

No other applicants will be considered for indigent status. Applicants in both groups a and b must request in writing for indigent status. Said requests for indigent status must be received by the secretary within 30 calendar days of the effective date of these rules or 30 calendar days of the post-marked date of the notification in B.1, whichever is later. Upon receipt of a request for indigent status the secretary

shall provide a questionnaire and three affidavits, requesting information that poverty and lack of means render the applicant unable to furnish an advance costs deposit. The completed questionnaire and executed affidavits, and if applicable, the amended claim, must be received by the secretary within 70 calendar days of the effective date of these rules or 70 calendar days of the postmarked date of the notification in B.1, whichever is later. Upon receipt of an amended claim along with the completed questionnaire and affidavits the special master will review each amended claim, pursuant to the criteria in A above, and only those applicants whose claims are determined to have a substantial likelihood of acquiring ownership in a tract of land in the Bohemia Spillway area will be reviewed for indigent status. Based upon the information provided in the questionnaire and the facts alleged in the affidavits, the special master may grant or deny the request for indigent status. An applicant whose request for indigent status has been reviewed and denied must submit the advance costs deposit within 30 calendar days of the postmarked date of notification of the denial and/or may seek judicial review by filing suit in the Twenty-fifth Judicial District Court within 30 days of the postmarked date of notification of the denial of indigent status by the department. Applicants shall retain the envelope in which the notification of denial of indigent status or notification of rejection of the amended claim is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in boldface, "KEEP THIS ENVELOPE." Those applicants filing an amended claim along with a request for indigent status whose amended claim is rejected and who wish to proceed with processing their claim will have 30 calendar days from the postmarked date of the notification of the rejection to submit the advance costs deposit. Those persons who received notification of the preliminary review pursuant to B.1. above, prior to the effective date of these rules and who do not file for indigent status shall have 70 calendar days from the effective date of these rules to submit the advance costs deposit. If an amended claim is filed, it must be filed with the necessary supporting documentation together with the advanced costs deposit within 70 calendar days of the effective date of these rules. Failure of an applicant to comply with any time period listed herein will void such claim.

C. During the preliminary review phase of application processing, the department shall concurrently evaluate the tracts of land described in the April 20, 1925 Report-Real Estate Committee to Executive Committee, Board of Levee Commissioners, Orleans Levee District, (identified in Subsection IIIa.3., above) to identify any lands and/or water bottoms which are located in the Bohemia Spillway and are or may be owned by the state of Louisiana, and to determine the extent of any such state ownership.

D. The secretary of the Department of Natural Resources shall designate a special master, who shall undertake the substantive evaluation of valid applications. The substantive evaluation of each application shall be based upon such information as is contained in the application, and generated pursuant to §1305.B and C, and any additional evidence the special master might require the applicant, the board or the department to furnish. Any request for additional evidence shall be satisfied in writing, within 70 days of written demand by the special master, as established by the postmarked date of mailing affixed by the department's post-

age meter. Applicants shall retain the envelope in which the notification is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in boldface, "RETAIN THIS ENVELOPE." Applicants failing to timely and adequately respond either to any request of the special master or the department, or pay the advance costs deposit shall have their applications invalidated, unless good cause is shown why the request was not timely or adequately responded to.

Upon completion of the evaluation of an application, the special master shall make one of the following determinations in writing:

1. the application does not establish an apparent valid claim for return of title to the tract indicated on the application;

2. the application establishes an apparent valid claim for return of title to the tract indicated on the application;

3. the application, and accompanying documentary evidence, establishes an apparent valid claim for return of title to the tract; however, there are heirs who remain unknown and/or unaccounted for;

4. the application is invalid for reasons set forth above, or otherwise.

F. The appropriate written determination, made pursuant to Subsection E above, shall be attached to the application. The application and all accompanying documentary evidence shall be certified by the special master, and shall be transmitted to the board for disposition pursuant to Section 4 of Act 819 of the 1985 Regular Session of the Louisiana Legislature.

G.1. Preceding transmittal of the documents to the board described in Subsection F. above, the special master shall assess each application for the actual cost of administering the claim. In those instances where the amount paid to the secretary as an advance costs deposit exceeds the full cost of reviewing and administering the claim, the balance of the deposit shall be returned to the applicant who paid it. In those instances where the full cost of reviewing and administering the claim shall exceed the advance costs deposit, the difference shall be paid by the applicant and received by the secretary prior to document transmittal.

2. The secretary shall give said applicant 30 days in which to make payment. Failure of the applicant to make payment within that 30-day period shall void said claim, except applicants granted indigent status shall not be required to pay costs preceding transmittal of the documents described in Subsection F above. However, successful indigent applicants shall remain liable for payment of the full cost of reviewing and administering their claims, and the cost shall be due and payable prior to the land transfers to successful applicants. The cost shall be paid by one or more of the parties to the claim, or may be apportioned by the secretary among all the applicants for an individual tract of property located within the Bohemia Spillway.

AUTHORITY NOTE: Promulgated in accordance with Act 644 of 1987, Act 233 of 1984 and Act 819 of 1985.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 11:40 (January 1985), amended LR 13:583 (October 1987), LR 14:799 (November 1988), LR 16: (May 1990).

Ron Gomez
Secretary

RULE

**Department of Natural Resources
Office of the Secretary**

In accordance with R.S. 49:950, et seq., the Department of Natural Resources, Office of the Secretary is amending LAC 43:I. Chapter 15 as follows:

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 15. Fishermen's Gear Compensation Fund

§1511. Hearing Examiner: Small Claims: Adjudicatory Hearings

A. - E. . .

F. The regulatory authority shall publish in the *Louisiana Register* a monthly report of the number and total dollar amount of the claims filed, the number of claims denied, the number of claims paid and the total dollar amount of the claims paid, and the Loran C coordinate locations of each claim for which it is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:515 (August 1980); amended LR 16: (May 1990).

Ron Gomez
Secretary

RULE

**Board of
River Port Pilot Commissioners
For The Port Of New Orleans**

FOREWORD

Following are the rules and requirements of the Board of River Port Pilots Commissioners for the Port of New Orleans for considering and recommending to the governor candidates desiring to become river port pilots associated with the Crescent River Port Pilots Associations under the board's jurisdiction.

All applicants must be experienced mariners who hold the appropriate Federal License, Any Gross Tons, before becoming apprentices for this association.

**DRUG USE, ALCOHOL USE, AND APPLICATION FOR
AND THE RECOMMENDING OF CANDIDATES FOR
COMMISSIONS AS RIVER PORT PILOTS**

§1. Terms

The following terms shall have the following meaning as used in these rules:

1. *Board* refers to the Board of River Port Pilots Commissioners as defined in R.S. 34:991.
2. *Pilot* refers to river port pilots as defined in R.S. 34:992.
3. *Commission* is the appointment by the governor authorizing one to perform the duties of a river port pilot.
4. *Commissioner* refers to a member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.

5. *Drug* refers to all controlled dangerous substances as defined in R.S. 40:961(7).

6. *Prescription Medication* refers to medication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

7. *Petitioner* refers to one who submits a petition to become a river port pilot.

8. *Candidate* refers to one whose petition has been certified by the commissioners.

9. *Apprentice* refers to one who has been selected to become a river port pilot pending successful completion of the apprenticeship program.

§2. Drug Use

Rule 1

A pilot shall be free of use of any "drug" as defined in Section 1, but excluding "Prescription Medication" as defined in Section 1 so long as use of such "prescription medication" does not impair the physical competence of the pilot to discharge his duties.

Rule 2

The Board of River Port Pilots Commissioners shall designate a testing agency to perform scientific test or tests to screen for the presence of drugs. These tests shall be conducted at random at the discretion of the Board of River Port Pilots Commissioners.

Rule 3

All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the Board of River Port Pilots Commissioners.

Rule 4

The results of the drug testing and screening shall be confidential and disclosed only to the Board of River Port Pilots Commissioners and the pilot tested, except that:

(1) the Board of River Port Pilots Commissioners may report the results to the governor and the Board of Directors of the Crescent River Port Pilots Association; and

(2) in the event that the Board of River Port Pilots Commissioners determines that a hearing is required pursuant to R.S. 34:991 and/or 1001 there shall be no requirement of confidentiality in connection with the hearing.

Rule 5

Any pilot testing positive for drugs or any residual thereof, shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 6

Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 7

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended and revoked.

Rule 8

Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the Board of River Port Pilots Commissioners.

§3. Alcohol Use

Rule 1

No pilot shall consume any alcoholic beverage within

six hours before, or during, the performance of his pilotage duties.

Rule 2

No pilot shall perform his duties as a river port pilot if his blood alcohol content is .04 or greater.

Rule 3

Any pilot who believes he would be in violation of any of these rules if he were to perform his duties as a river port pilot is obligated to remove himself from duty.

Rule 4

The Board of River Port Pilots Commissioners may request a pilot to submit himself to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing his duties as a river port pilot while under the influence of alcohol.

Rule 5

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

Rule 6

Any pilot who is required to undergo evaluation and/or treatment for alcoholism shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the Board of River Port Pilots Commissioners.

§4. Apprenticeship

Rule 1

All petitions for commissions to become river port pilots must be in writing, must be signed by the petitioner, and presented to the secretary of the board. As a prerequisite to being considered by the board, all applications must be accompanied by proof satisfactory to the board of compliance with the following requirements:

1) Petitioner must be of good moral character. While evidence of a clear police record will be considered, the board reserves the right to examine other sources of information as to the applicant's character.

2) Petitioner must have been registered as a voter of the State of Louisiana continuously for at least one year before submitting an application to become a river port pilot.

3) The petitioner must possess a high school diploma.

4) The petitioner must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the river port pilots.

Rule 2

Before being accepted as a candidate to become a river port pilot, each petitioner must meet the following requirements:

1) Each petitioner must hold a United States Coast Guard first class pilot license Steam or Motor Vessel of any gross tons for the Mississippi River from Southport to the Head of Passes and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain.

2) Each petitioner must hold United States Coast Guard Master's license of Steam and Motor Vessels of any gross tons upon rivers or inland waters (Master's License) or a United States Coast Guard Third Mate's License (or any upgrade thereof) of Steam and Motor Vessels of any gross tons upon oceans, or the petitioner must have a Bachelor's Degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools.

Rule 3

1) The petitioner must be examined by a physician, clinic or group of physicians of the board's choosing to determine the petitioner's physical condition. The examination report must reflect to the board's satisfaction that the petitioner's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

2) The petitioner shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the petitioner's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

3) The petitioners shall submit to drug screening in the same manner as pilots and apprentices.

Rule 4

The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft vessels over the operating territory of the river port pilots under the tutelage of not less than 20 commissioned river port pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned river port pilots. No apprentice shall be permitted to be examined for commissioning who has not made at least 18 trips on the operating territory of the river port pilots between Pilottown and Southport during each of the 12 months of his apprenticeship and serve at least one week of each month of the apprenticeship engaged in harbor shifting, docking, undocking and piloting on the Mississippi River Gulf Outlet. The apprenticeship work must be certified by the commissioner during the apprenticeship program. The commissioners reserve the right to require satisfactory completion of additional or extended apprenticeship, or terminate the apprenticeship when deemed necessary.

Rule 5

Before completion of the apprenticeship, the apprentice must obtain First Class Pilot's license of any gross tons for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and ICW to and including the Michoud Slip, and for the Mississippi River Gulf Outlet from the intersection of the Intracoastal Waterway to Beacon #78 in the Mississippi River Gulf Outlet.

Rule 6

The Board of Commissioners shall examine those apprentices who have complied with all the requirements. The apprentices will be examined as to their knowledge of pilot-

age and their proficiency and capability to serve as commissioned river port pilots. This examination shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

Rule 7

The Board of Commissioners shall certify to the governor for his consideration for appointments to commissions as river port pilots those apprentices who satisfactorily completed all requirements established by state law and these rules and who complete and pass the examination given by the board. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

Rule 8

The commission has established the following guidelines, which shall be adhered to whenever possible.

After being commissioned a river port pilot by the governor of Louisiana, the newly commissioned pilot shall be allowed to pilot the following vessels in the first four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 30.00 feet in draft,
- b) Vessels up to 25,000.00 Deadweight tons,
- c) Vessels up to 600.00 feet in length.

After the newly commissioned pilot has served the first four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the second four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 35.00 feet in draft,
- b) Vessels up to 50,000.00 Deadweight tons,
- c) Vessels up to 700.00 feet in length.

After the newly commissioned pilot has served the second four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the third four months subsequent to the issuance of the Pilots Commission:

- a) Vessels up to 40.00 feet in draft,
- b) Vessels up to 75,000.00 Deadweight tons,
- c) Vessels up to 800.00 feet in length.

The newly commissioned river port pilot shall be prohibited from piloting the following vessel during the first 12 months he holds a commission as a river port pilot:

- 1) passenger vessels regardless of draft, tonnage or length,
- 2) tank vessels with explosive or combustible cargo aboard, regardless of the draft, tonnage or length. Gas-free tank vessels are not subject to this prohibition.

After the newly commissioned pilot has served the third four months as a pilot subject to the restrictions of this section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

William H. Crawford, Sr.
President

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended Article 3, Section I (8) of its Plan Document of Benefits as follows:

8. Drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication and dietary supplements, provided, however, that Vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia shall not be considered a dietary supplement;

Amend Article 3, Section IX (W) as follows:

W. Birth control medication or devices, appetite suppressant drugs, dietary supplements and vitamins, except vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia.

Tommy D. Teague
Acting Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended Article 3, Section I (G)(18) of the Plan Document of Benefits whereby the maximum allowable charge per ambulance trip is increased from \$100 to \$200, as follows:

18. Professional ambulance services, subject to the following provisions:

a. Ground transportation--Medically necessary licensed professional ambulance service in a vehicle licensed for highway use to or from the nearest hospital with facilities to treat an illness or injury. The program will pay 80 percent of transportation charges incurred, said charges not to exceed \$200 per trip, plus 80 percent of charges for eligible medical expenses.

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits to remove language mandated by the Tax Reform Act of 1986, Section 89 (k) of the Internal Revenue Code, which was repealed by Congress, as follows:

1. Article I, Section V substitute the following language:

V. Contributions

Pursuant to the provisions of R.S. 42:851 the State of Louisiana may make a contribution toward the cost of accident and health coverage, as determined on an annual basis by the Legislature.

2. Amended Article 3, Section III Subsections B and C, as follows:

III. Utilization Review

B. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) refer to the process used to certify the medical necessity and length of any hospital confinement as a registered bed patient. PAC and CSR are performed pursuant to a contract between the Board of Trustees and August International Corporation (AIC). PAC should be requested by plan members or plan member's dependents through the treating physician for each inpatient hospital admission.

C. PAC shall include a second surgical opinion when required by AIC the PAC contractor. Such second surgical opinion shall be rendered by a physician approved by AIC the contractor and the cost for the second opinion will be covered at 100 percent. AIC the contractor may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations of the fee schedule.

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits as follows:

Amend Article 4, Section II, "Deadline for Filing Claims", by adding the following language after the first paragraph:

Failure to furnish notice of proof of loss within the time period provided shall not invalidate nor reduce any claim if it shall be shown to the satisfaction of the Claims Review Committee that it was not reasonably possible to furnish such notice, and that such notice of proof was furnished as soon as was reasonably possible.

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits as follows:

Add the following after item 2, under the sub-title PRE-EXISTING CONDITIONS, in the February 20, 1989 Health Maintenance Organization rule:

3. Effective July 2, 1990, if a covered person enrolled in an HMO voluntarily transfers coverage back to the State Plan during an open-enrollment period, a pre-existing condition limitation shall be imposed for a two-year period for any accident, illness or injury for which the covered person received treatment or services or was prescribed drugs during the 12-month period immediately prior to the effective date of the change; provided however that there shall be no pre-existing condition limitation imposed when 1) the covered person transfers coverage as a result of moving from the HMO service area or 2) when the HMO discontinues services for all state employees, unless the covered person had a pre-existing condition limitation with the State Employees Group Benefits Program at the time of the original transfer to the HMO.

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended Article 3 in the Plan Document of Benefits, as follows:

Delete the following in its entirety from Article 3, Section I (A):

3. The term Out of Pocket Expenses as used herein shall mean the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 20 percent of all such eligible medical expenses which exceed the deductibles for that calendar year and for which benefits were paid at 80 percent.

Add the following paragraph to Article 3, Section I (c) between items 1 and 2 and renumber item 2 accordingly:

2. ninety percent of the first \$5,000 of eligible expenses (except for mental and nervous, and non-confining alcoholism and/or substance abuse) in the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum Medical Fee Schedule adopted by the board, and

3. ...

Add the following paragraph to Article 3, Section XI in the Plan Document of Benefits:

In the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such service at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, the program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits effective July 1, 1990.

Article 3, Section VI (B) shall be amended to read as follows:

B. No deductible amount shall apply to benefits payable under this Section and expenses in excess of the amounts shown in the Schedule of Dental Surgical Procedures shall not be considered eligible Out of Pocket Expenses as defined in Article 3, Section I (A) (3).

Tommy D. Teague
Acting Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended language in the Plan Document of Benefits as necessitated by the Congressional passage of the Omnibus Budget Reconciliation Act of 1989, as follows:

Amend Article 1, Section III (E) (2) and (4) as follows:

(2) coverage under another group health plan, except as provided under Article 2, Section III (K) (4);

(4) eighteen months from the date coverage would have terminated in the absence of this Section III (E), except as provided under Article 2, Section III (K) (6);

Amend Article 1, Section III (F) (2) (surviving spouse) and (2) (surviving dependent child) as follows:

Coverage for the surviving spouse under this Section III (F) will continue until the earliest of the following events occurs:

...(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (5);...

Coverage for a surviving dependent child under this Section III (F) will continue until the earliest of the following events occurs:

...(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);...

Amend Article 1, Section III (G) (2) as follows:

(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);

Amend Article 1, Section III (H) (2) as follows:

(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);

Amend Article 1, Section III (K) by adding Subsections (4) (5) and (6):

(4) Effective January 1, 1990, if a covered person under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such covered person had prior to the effective date of the latter coverage, then such covered person may continue coverage under this Plan AT HIS OR HER OWN EXPENSE, until such time as he or she would no longer qualify for benefits under the applicable provisions of Section III (E) (F) (G) or (H) or, if earlier, until such time as the pre-existing condition limitation or exclusion under the latter health plan no longer applies. The covered person shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

(5) Effective January 1, 1990, if a surviving spouse under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such surviving spouse had prior to the effective date of the latter coverage, then such surviving spouse may continue coverage under this Plan AT HIS OR HER OWN EXPENSE, until the earlier of the following events:

1. the date the pre-existing condition limitation or exclusion of the latter group health plan no longer applies;

2. thirty-six months from the date coverage would have otherwise terminated under the provisions of Article 2, Section II (A); or

3. pursuant to the other termination provision of Article 2, Section III (F).

The surviving spouse shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

(6) Effective July 1, 1990, if a covered employee or covered dependent is determined by Social Security to have been totally disabled on the date the employee no longer meets the definition of employee as defined in Article 1, Section I (E) and such person elects to continue coverage pursuant to the provisions of Article 2, Section III (E) or (J), coverage under this plan for the covered person who is totally disabled may be extended AT HIS OR HER OWN EXPENSE up to a maximum of 29 months from the date coverage would have otherwise terminated in the absence of Article 2, Section III (E). To qualify under this Section III (K) (6) the covered person must submit a copy of his or her Social Security disability determination to the program before the initial 18-month continued coverage period as described in Article 2, Section III (E) or (J) expires and within 60 days after the date of issuance of the Social Security determination. Coverage under this Section III (K) (6) will continue until the earliest of the following events:

1. thirty days after the month in which Social Security determines that the covered person is no longer disabled; covered persons must report any such determination to the program within 30 days after the date of issuance by Social Security;

2. twenty-nine months from the date coverage would have terminated in the absence of Article 2, Section III (E) or (J); or

3. pursuant to the other termination provision of Article 2, Section III (E).

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended language in the Plan Document of Benefits relative to the medical fee schedule as follows:

Amend Article 3, Section II, Paragraph A by removing the date "July 1, 1989", and substituting the date "January 1, 1990"; amend Paragraph D by removing the word "five" and substituting "13" and also in Paragraph D after the word "the" and before the word "usual" eliminate the words "statistical mean", as follows:

II. FEE SCHEDULE

A. This Section, Article 3, Section II, Fee Schedule, is effective January 1, 1990.

D. The Fee Schedule is geographically divided into 13 zip code areas for the State of Louisiana. The maximum reimbursable fee is limited to the usual and customary charges for medical services in the corresponding zip code area.

Tommy D. Teague
Acting Executive Director

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits as follows:

Under Article 3, following Section X. Coordination of Benefits, add the following section:

XI. Preferred Provider Programs

The Board of Trustees may implement from time to time, at its sole discretion, Preferred Provider Organization arrangements or other agreements to discount payable fees. The board reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which shall be a part of any discount fee arrangement.

Tommy D. Teague
Acting Executive Director

RULE

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

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§333. Sanctuaries; Calcasieu Lake, Sabine Lake

The areas within a one-quarter-mile radius on the lake side only of the Lambert, Grand Bayou, Mangrove, and Peconi water control structures (otherwise identified as structures no. 5, 1, 8 and 4 respectively), and the area within a one-eighth-mile radius on the lake side only of the water control structure on No Name Bayou, all within the Calcasieu Lake system; the area within a one-quarter-mile radius on the lake side only of the mouths of West Cove Bayou. West Cove Canal and the Sabine Refuge Headquarters Canal where they empty into Calcasieu Lake; and the area within a one-quarter-mile radius on the lake side only of the mouths of Three Bayous and Willow Bayou where they empty into Sabine Lake, are fish sanctuaries and closed zones, and that all netting of fish by any means or method, including but not limited to trawls, butterfly nets, gill nets, seines, or trammel nets, is hereby prohibited, with the exception of hand-cast nets, crab traps and crab drop nets.

AUTHORITY NOTE: Promulgated in accordance with R S. 56:315.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (May 1990).

Warren Pol
Chairman

RULE

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

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fisheries

§145. Sturgeon, Taking and Possession

The taking and possession of the Gulf Atlantic Sturgeon, *Acipenser oxyrinchus*; the Pallid Sturgeon, *Scaphirhynchus albus*; and the Shovelnose Sturgeon, *S. platyrhynchus*; or sturgeon body parts, including eggs (roe) is hereby prohibited for a three-year period beginning May 1, 1990 and ending at sunset April 30, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (May 1990).

Warren Pol
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Quarantine Program

The Louisiana Department of Agriculture and Forestry will consider amending the Plant Quarantine Regulations, LAC 7:XV, Chapter 95, as follows:

Title 7

AGRICULTURE AND ANIMALS Part XV. Plant Diseases

Chapter 95. Crop Pests and Diseases

Subchapter C. Sweetpotato Weevil Quarantine

§9537. Issuance of Certificate Permits, Fumigation Certificates and Certificate Permit Tags for the Movement of Restricted Material

A. From Pest-free Areas

1. Green certificate permit tags will be issued to persons in the pest-free areas who possess a Sweet Potato Dealer's Certificate Permit as required under the provisions of LAC 7:9547 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from the pest-free area to points within and outside of Louisiana will be issued by the state entomologist under the following conditions:

a. The person desiring such movement has a Sweet Potato Dealer's Certificate Permit if required to possess such permit under the provisions of LAC 7:9547 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is free of the sweetpotato weevil.

c. Green certificate permit tags are properly dated and attached to or within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such.

B. From Quarantined Areas

1. Pink certificate permit tags will be issued to persons in the quarantined areas who possess a Sweet Potato Dealer's Certificate Permit as required under the provisions of LAC 7:9547 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from or within the quarantined areas will be issued by the state entomologist under the following conditions:

a. The person desiring such movement has a Sweet Potato Dealer's Certificate Permit if required to possess such permit under the provisions of LAC 7:9547 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is apparently free of the

sweetpotato weevil.

c. Pink certificate permit tags are properly dated and attached to or within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such.

d. The regulated material is not moved from a quarantined area into a pest-free area, unless fumigated under the provisions set forth in LAC 7:9538, or to any state which may prohibit entry of such restricted material.

e. The lot of sweet potatoes, if moving by truck to an area which permits entry of restricted material, is sealed in the truck body by the use of not more than two seals.

Tarpaulins or other means used to seal the truck body must be approved by the department in advance of moving sweet potatoes. The seal shall not be broken until the truck reaches the destination shown in the certified permit authorizing the movement of the sweet potatoes. If the truck load is comprised of mixed produce including one or more containers of sweet potatoes, the entire load of produce must be sealed in the truck before leaving the loading point; a permit covering the sweet potatoes must be issued.

f. Fumigation certificate permits authorizing the movement of restricted material from quarantined areas will be issued when such restricted material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in LAC 7:9538.

C. No sweet potatoes may be moved or shipped within or out of Louisiana unless a valid certificate permit is issued for each shipment.

§9538. Fumigation and Maintenance of Weevil-free Status of Restricted Materials Originating in Quarantined Areas

A. Fumigation Measures

Persons operating storage houses and/or packing sheds who desire to move restricted materials outside of the quarantined areas shall:

1. Fumigate only "quick cured" sweet potatoes.

a. Quick cured sweet potatoes must have been cured at 85° F (29.5° C) and 85 percent relative humidity for five to seven days.

b. Only good quality sweet potatoes with a minimum of bruises or other skin damage shall be fumigated.

2. Enlist the services of a certified fumigator to perform the fumigation.

3. Possess a valid fumigation certificate issued by a certified fumigator, indicating that sweet potato fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation.

4. Fumigate with hydrogen phosphide or any other fumigant approved for use on sweet potatoes and formulated and used in a manner approved by the department.

B. Maintenance of Weevil-free Status

Restricted materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. Fumigation chamber - Fumigated sweet potatoes may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing sweet potatoes. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1000 cubic feet

of space, and larger chambers must be designed to contain an even multiple of 1000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other restricted materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows an adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber is not available, fumigation and storage of restricted materials shall:

a. be in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated restricted materials. Storage area must be cleaned of all sweet potatoes, parts, and any other restricted materials between periods of storage;

b. be in a storage area that has been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season; and must not be used to store any non-fumigated restricted materials;

c. fumigation shall be accomplished by tenting the restricted material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with hydrogen phosphide or other commercial fumigants.

d. restricted materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes.

4. Packing house or shed - Sweet potatoes fumigated, screened and stored according to Paragraphs (A)(1-4) and (B)(1-3d) above may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. Packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other restricted materials prior to washing and packing of fumigated sweet potatoes.

b. Packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to Paragraphs (A)(1-4) and (B)(1-3d) above.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled

with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from quarantined areas shall be cleaned of all sweet potatoes, parts, and any other restricted materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated restricted materials that were moved from or within quarantined areas must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment. No non-fumigated sweet potatoes shall be loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags

(Color) certificate permit tags will be issued by the department to persons meeting all sweet potato quarantine regulation requirements and desiring to ship restricted materials that have been properly fumigated from quarantined areas to pest-free areas or to states that may prohibit entry of such restricted materials. Permit tags shall be properly dated and attached to or within each container in a load or shipment of fumigated sweet potatoes.

Persons interested in making written comments relative to this notice may do so to Tad N. Hardy, Administrative Coordinator, Horticulture and Quarantine Programs, Box 3118, Baton Rouge, LA 70821-3118. The deadline for submitting comments is June 7, 1990.

Bob Odom

Commissioner

John W. Impson

Asst. Commissioner

and State Entomologist

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Part XV - Plant Diseases

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will carry no implementation costs. Existing staff will enforce the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule will result in increased costs and workloads due to facility expansion and certified fumigator expenses only for those sweet potato packers and shippers electing to participate in an optional sweet potato fumigation program. In turn, receipts and/or income of participating packers and shippers, and certified fumigators providing services would be expected to increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will result in a competitive advantage to sweet potato packers and shippers electing to participate in an optional sweet potato fumigation program due to expansion of potential markets. Increased employment opportunities for certified fumigators providing services may occur.

Richard Allen
Asst. Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING**

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5727. Access by Commissioners

Commission members and its representatives shall have the right to full and complete entry to any and all points of the grounds of any association or its other facilities. All racing associations shall recognize and honor buttons issued by the Association of Racing Commissioners International, Inc. and parking permits issued by the Louisiana Racing Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 153.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:434 (December 1976), repromulgated LR 3:30 (January 1977), LR 4:278 (August 1978), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 35:III.5727 "Access by Commissioners"

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits all parties concerned by reflecting the new name of the nationwide racing organization -- from "National Association of State Racing Commissioners" to "Association of Racing Commissioners International, Inc."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance which law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part V. Racing Procedures**

Chapter 83. Appeals to the Commission

§8305. Deposit for Expenses

A deposit of not less than \$50 nor more than \$500 may be required by the commission to defray the necessary expenses of witnesses called and necessary equipment required by the commission upon appeal to the commission by stewards' final rulings. If the commission upholds the stewards' ruling, the commission shall retain the full deposit. If the commission finds in favor of the appellant, the deposit shall be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S 4:144. 148 and 197.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission LR 4:289 (August 1978), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B. New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 35:I.8305 "Deposit for Expenses"

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits the commission by simplifying the existing rule: judges' rulings are eliminated, since judges do not issue rulings; balance of a suspensive appeal deposit is not refunded if appellant loses, but the entire amount is retained by the commission. (In fact, costs incurred as a result of an appeal normally exceed \$500 anyway.)
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING**

Part III. Personnel, Registration and Licensing

**Chapter 57. Association's Duties and Obligations
§5711. First Aid Room**

Each association shall provide, equip and operate an adequate first aid room within its enclosure, having not less than two beds therein except such enclosure of an association for which approval thereof has been given by the commission on or prior to June 1, 1983. Each such first aid room shall have in attendance during the training and racing hours of such association, a licensed physician and a registered nurse or a licensed practical nurse or one registered paramedic and one certified emergency medical technician with not less than one year experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission in 1971, amended LR 2:434 (December 1976), repromulgated LR 3:30 (January 1977), LR 4:278 (August 1978), amended LR 9:546 (August 1983), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P.

Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 35:III.5711 "First Aid Room"

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits horsemen by and patrons by requiring only certain qualified medical personnel in the first aid room. (Now provides for paramedic and medical technician to be in attendance.)
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices
§1737. When Horse Found Drugged**

Should the chemical analysis of any sample of the blood, saliva, urine or other excretions of body fluids of a horse contain any prohibited drug or substance of any description, not permitted by LAC 35:I.1501 et seq. or prohibited by LAC 35:I.1719, the trainer of the horse may, after a hearing of the stewards, be fined, suspended or ruled off, if the stewards conclude that the prohibited drug or substance contained in the sample could have produced analgesia in, stimulated or depressed the horse, or could have masked or screened a drug or substance, not permitted by LAC 35:I.1501 et seq. or prohibited by LAC 35:I.1719, that could have produced analgesia in, stimulated or depressed the

horse. The stable foreman, groom and any other person shown to have had the care or attendance of the horse may be fined, suspended or ruled off. The owner or owners of a horse so found to have received such administration shall be denied, or shall promptly return, any portion of the purse or sweepstakes and any trophy awarded to such horse, and the said purse, sweepstakes, and any trophy shall be distributed as in the case of a disqualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 141.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission in 1971, repromulgated LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978).

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC 35:I.1737 "When Horse Found Drugged"

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule change benefits horsemen and the commission by correcting the existing rule to include LAC 35:I 1501 et seq. and LAC 35:I.1719 prohibitions of illegal drugs and substances found in a horse's system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Racing Commission

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLI. Horseracing Occupations

Chapter 5. Assistant Trainers and Other Employees §515. License Required for Activities

No person requiring a license from the commission shall carry on any activity whatsoever upon the premises of a licensed association unless and until he has been duly licensed. The commission will accept the Association of Racing Commissioners International, Inc. uniform owner's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 150 and 169.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:428 (December 1976), promulgated LR 3:24 (January 1977), repromulgated LR 4:274 (August 1978), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC 46:XLI.515 "License Required for Activities"

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule change benefits all parties concerned by reflecting the new name of the nationwide racing organization -- from "National Association of State Racing Commissioners" to "Association of Racing Commissioners International, Inc."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices
§1719. Masking Agents**

The use of any drug or substance, regardless of how harmless or innocuous it might be, which by its very nature might mask or screen the presence of a prohibited drug as provided in the Rules of Racing is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R S. 4:148.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission in 1971, repromulgated LR 2:449 (December 1976), LR 3:44 (January 1977), LR 4:287 (August 1978), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 35:I.1719 "Masking Agents"**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits horsemen by stipulating that drugs AND substances (those not classified as "drugs") which could mask any illegal drug in a horse's system are prohibited.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part III. Personnel, Registration and Licensing**

**Chapter 19. Racing Officials
§1903. Monetary Interests Prohibited**

No person while licensed and/or serving as a racing official shall own an interest in (i) a horse that races at a race meeting where he is employed, (ii) a jockey contract, or (iii) an association under his supervision. Nor shall any such person buy or sell, or cause to be bought or sold for himself or another, any thoroughbred, quarter horse or Appaloosa under his supervision. Nor shall any such person wager on any race under his supervision. No such person shall write or solicit horse insurance or have any monetary interest in any business which seeks the patronage of horsemen or racing associations.

For the purposes of this section only, "racing official" as used herein shall mean and include a: (1) steward, (2) placing judge, (3) patrol judge, (4) paddock judge, (5) clerk of scales, (6) starter, (7) assistant starter, (8) handicapper/racing secretary, (9) assistant racing secretary, (10) track superintendent, (11) general superintendent, (12) jockey room custodian, (13) valet, (14) outrider, (15) jockey, (16) identifier, (17) association and state veterinarian, (18) official state chemist (including the persons under his supervision), (19) member of the State Police Racing Investigations Unit, (20) director of racing, and (21) stall superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission in 1971, amended LR 2:424 (December 1976), repromulgated LR 3:20 (January 1977), LR 4:271 (August 1978), amended LR 16:

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 35:III.1903 "Monetary Interests Prohibited"**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule change benefits horsemen and patrons by preventing certain categories of licensed officials from owning race horses racing at the same track where he/she is working. These categories are now specified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 35:I.1511 "Violations"**

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule change benefits horsemen by preventing violators of the medication rules from receiving any type of award money (purses) and/or trophies, etc.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part I. General Provisions**

**Chapter 15. Permitted Medications
§1511. Violations**

After notice and hearing, any person found to have violated the provisions of the permitted medication rule may be punishable by fine and/or suspension and/or revocation of his/her license. Any owner or owners of a horse found to be in violation of the permitted medication rule shall be denied, or shall promptly return, any portion of the purse or sweepstakes and any trophy in such race, and the same shall be distributed as in the case of a disqualification.

AUTHORITY NOTE: Promulgated in accordance with R S. 4:141 and 142.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended LR 16:
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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B. New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING
Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices
§1743. Possession of Drugs, Syringes or Needles**

No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (off-track) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any prohibited drugs, hypodermic syringes or hypodermic needles or similar instruments which may be used for injection. Anything herein to the contrary notwithstanding, a licensed veterinarian may have in his possession such drugs, instruments or appliances, etc., as required in the practice of general veterinary medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana Racing Commission in 1971, repromulgated LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:288 (August 1978), amended LR 16:
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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to

this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

this rule through Monday, June 4, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: LAC 35:I.1743 "Possession of Drugs,
Syringes or Needles"**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits horsemen by permitting only qualified veterinarians to possess drugs, syringes and needles for administering medications to horses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 46:XLI.2101 "Stable Name"

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits all parties concerned by reflecting the new name of the nationwide racing organization -- from "National Association of State Racing Commissioners" to "Association of Racing Commissioners International, Inc."
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations**

Chapter 21. Stables

§2101. Stable Name

All stable names shall be cleared with the Association of Racing Commissioners International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971 amended LR 2:429 (December 1976), promulgated LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 16:
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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to

NOTICE OF INTENT

Board of Elementary and Secondary Education

Agriculture I and II - Nonpublic Sector

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to the nonpublic school standards to indicate that student credits earned in Agriculture I and II will satisfy one required unit in Science for high school credit.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Motion 18 Vocational Agriculture I & II

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The revision and distribution of Bulletin 741 will cost approximately \$100.

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

There will be no effect on revenue collection of state or local governmental units.

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

There will be no costs to directly affected non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Post-Baccalaureate Certification Program

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following alternate post-baccalaureate certification programs for lower elementary grades, for upper elementary grades, for special education areas, and for secondary areas as recommended by the State Department of Education.

Alternate Post-Baccalaureate Certification Program Lower Elementary Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution with an overall grade point average of 2.5 (4.0 scale).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

The general education component of the candidate's baccalaureate degree must meet the state minimum requirements as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

2. Specialized Academic Education

The specialized academic education component of Bulletin 746, Louisiana Standards for State Certification of School Personnel, must be satisfied. A baccalaureate degree from a regionally accredited institution will satisfy nine hours of the specialized academic education requirements of Bulletin 746.

3. Professional Education

Twenty-four semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, methods of instruction, reading diagnosis and remediation, and exceptionalities of children or at-risk children.

4. Student Teaching

Candidates for certification must complete one of the following requirements:

a. Student teaching

OR

b. One-year internship in the area(s) of certification with supervision provided by faculty in the College of Education.

5. NTE

The applicant must have attained a score on the NTE (National Teacher Examination) that meets state requirements for certification.

NOTE: No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Bureau of Higher Education and Teacher Certification has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification Program Upper Elementary Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution with an overall grade point average of 2.5 (4.0 scale).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

The general education component of the candidate's baccalaureate degree must meet the state minimum requirements as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

2. Specialized Academic Education

The specialized academic education component of Bulletin 746, Louisiana Standards for State Certification of School Personnel, must be satisfied. A baccalaureate degree from a regionally accredited institution will satisfy six hours of the specialized academic education requirements of Bulletin 746.

3. Professional Education

Twenty-one semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education. The professional education component should include courses in theories of teaching and learning, student

achievement and evaluation, human growth and development, methods of instruction, and reading diagnosis and remediation.

4. Student Teaching

Candidates for certification must complete one of the following requirements:

a. Student teaching

OR

b. One-year internship in the area(s) of certification with supervision provided by faculty in the College of Education.

5. NTE

The applicant must have attained a score on the NTE (National Teacher Examination) that meets state requirements for certification.

NOTE: No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Bureau of Higher Education and Teacher Certification has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification Program

Secondary

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution with an overall grade point average of 2.5 (4.0 scale).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

A baccalaureate degree from a regionally accredited institution will fulfill the general education requirements.

2. Specialized Academic Education

The candidate must have a degree (major) in the area of certification or meet the state minimum requirements as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

3. Professional Education

Eighteen semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, and methods of instruction.

4. Student Teaching

Candidates for certification must complete one of the following requirements:

a. Student teaching

OR

b. One-year internship in the area(s) of certification

with supervision provided by faculty in the College of Education.

5. NTE

The applicant must have attained a score on the NTE (National Teacher Examination) that meets state requirements for certification.

NOTE: No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Bureau of Higher Education and Teacher Certification has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification Program

Special Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution with an overall grade point average of 2.5 (4.0 scale).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

A baccalaureate degree from a regionally accredited institution will fulfill the general education requirements.

2. Specialized Academic Education

The candidate must have a degree (major) in the area of certification or meet the state minimum requirements as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

3. Professional Education

Eighteen semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, and methods of instruction.

4. Student Teaching

Candidates for certification must complete one of the following requirements:

a. Student teaching

OR

b. One-year internship in the area(s) of certification with supervision provided by faculty in the College of Education.

5. NTE

The applicant must have attained a score on the NTE (National Teacher Examination) that meets state requirements for certification.

NOTE: No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any

other course specified as a deficiency under this plan.

The State Department of Education, Bureau of Higher Education and Teacher Certification has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Alternate Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the cost of printing and postage associated with this rule change will be approximately \$50.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This proposed action will have no effect on individuals or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed action will result in an increase in the pool of certified teachers.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Flexible Scheduling for Elementary Classes -
Nonpublic Standards**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to the nonpublic school standards to permit flexible scheduling of elementary classes.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 741 Standard 6.090.05 Nonpublic
School Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that approximately \$200 would be needed to reprint page 13 of Bulletin 741, Nonpublic School Standards, and to disseminate this information to all nonpublic schools and local school systems.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collection at the state or local level.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There should be no effect on costs or benefits to directly affected persons in non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Health and Physical Education
Requirements - Bulletin 746**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revised certification requirements for health and physical education teachers. (Bulletin 746 amendment)

Health and Physical Education

The minimal requirements for certification in health and physical education are a total of 37 semester hours.

- 1. Foundations of Health and Physical Education 3 semester hours
- 2. Health Science Programs (Curriculum, Instruction, and/or Management 2 semester hours
- 3. Physical Education Programs (Curriculum, Instruction and/or Management 3 semester hours
- 4. Exercise Physiology 3 semester hours
- 5. Kinesiology (Biomechanics) . . 3 semester hours
- 6. Motor Learning/Motor Development or Adapted Physical Education . . 3 semester hours
- 7. Physical Education Skills and Techniques (selected from aquatics, dance, fitness and conditioning gymnastics, individual activities, recreational activities, team sports. Coaching courses are excluded.) 8 semester hours
- 8. Health Science Electives (selected

from community health, consumer health, critical health problems, environmental health, family living and human sexuality, mental health, non-communicable diseases, nutrition, personal health, prevention and control of communicable diseases, safety education, substance use and abuse, wellness and personal fitness) 8 semester hours

9. Measurement and Evaluation in Health and Physical Education 3 semester hours

10. Emergency Health Care (First Aid Including CPR) 1 semester hour

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Health and Physical Education**

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

It is anticipated that the cost of printing and postage associated with this rule change will be approximately \$50.

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

There will be no effect on revenue collections.

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

This proposed action will have no effect on individuals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 746

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved a revision to Bulletin 746, Louisiana Standards for State Certification of School Personnel, to reflect the changes mandated by Act 209 of the 1989 Legislature, by reducing the number of semester hours an applicant for teacher certification at the secondary level must complete in reading from six to three

semester hours.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reading requirement for secondary certification**

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

It is anticipated that the cost of printing and postage associated with this rule change will be approximately \$50.

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

There will be no effect on revenue collections.

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

This proposed action will have no effect on individuals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 746 -
School Psychological Services**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the addition of the following endorsement of School Psychological Services to be added to Bulletin 746 and that such endorsement be placed on the ancillary certificates of those qualified school psychologists.

Supervisor of School Psychological Services

The applicant shall meet the following criteria:

1. hold valid Louisiana Level A or B School Psychologist certification under current requirements;

2. have had at least three years of supervised experience as a school psychologist, at least two of which have been in Louisiana.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

tary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Certification requirements for Supervisor of School Psychological Services

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the cost of printing and postage associated with this rule change will be approximately \$50.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This proposed action will have no effect on individuals or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated as a result of this proposed action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Hearing Impaired and Visually Impaired-Carnegie units

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the cost of printing and postage associated with this rule change will be approximately \$50.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This proposed action will have no effect on individuals or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated as a result of this proposed action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revisions to Certification Requirements
for Teachers of the Hearing
and Visually Impaired

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revisions to the certification requirements for teachers of the hearing and visually impaired:

Specialized Academic Education: Secondary

The secondary teacher of hearing impaired who is to award Carnegie units in the secondary subject area(s) to hearing impaired students must meet the specialized academic requirements for the subject area(s) in which Carnegie units are awarded. (See Bulletin 746 for Specialized, Academic Requirements)

Specialized Academic Education: Secondary

The secondary teacher of visually impaired who is to award Carnegie units in the secondary subject area(s) to visually impaired students must meet the specialized academic requirements for the subject area(s) in which Carnegie units are awarded. (See Bulletin 746 for Specialized Academic Requirements)

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m.,

NOTICE OF INTENT

Board of Elementary and Secondary Education

Kindergarten Developmental Readiness
Screening Instruments

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the Department of Education's recommended list of four kindergarten developmental screening instruments for Cycle II of the state program as listed below:

- a) Chicago EARLY Assessment
- b) Miller Assessment of Preschools
- c) Developing Skills Checklist (DSC)
- d) DIAL-R Developmental Indicators for the Assessment of Learning-Revised

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m. July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: BESE Adoption of Cycle II Screening
Instruments**

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Review of Kindergarten Screening
Instruments on Five-year Basis in Lieu of Current
Three-year Cycle**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation costs of this rule are 1989-90 \$70,000, 1990-91 \$100,000, and 1991-92 \$150,000. In 1989-90 funds may be expended to purchase screening assessment instrument kits or to buy replacement materials. Funds for 1990-91 are expected to be used to purchase newly adopted materials. During 1991-92 additional funds will be provided to finalize purchases.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The local school boards will receive appropriated 8(g) funds estimated at \$70,000 for 1989-90 and \$100,000 for 1990-91. The 1991-92 appropriation is projected to be approximately \$150,000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The screening and assessment of entering kindergarten students is intended to provide essential information in the placement of the student in the regular kindergarten setting and to assist in instructional planning. Students as a result will have an increased chance of success in school and thus have increased economic benefits over their lifetime.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation costs of this rule are 1989-90 \$70,000, 1990-91 \$100,000, and 1991-92 \$150,000. In 1989-90 funds may be expended to purchase screening assessment instrument kits or to buy replacement materials. Funds for 1990-91 are expected to be used to purchase newly adopted materials. During 1991-92 additional funds will be provided to finalize purchases.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The local school boards will receive appropriated 8(g) funds estimated at \$70,000 for 1989-90 and \$100,000 for 1990-91. The 1991-92 appropriation is projected to be approximately \$150,000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The screening and assessment of entering kindergarten students is intended to provide essential information in the placement of the student in the regular kindergarten setting and to assist in instructional planning. Students as a result will have an increased chance of success in school and thus have increased economic benefits over their lifetime.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Review of Kindergarten Developmental
Screening Instruments**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted a procedure to review kindergarten developmental readiness screening instruments on a five-year basis in lieu of the current three-year cycle as now provided in board policy.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Screening Instruments/Transition Year

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education directed that FY 1990-91 be a transition year so that local school districts may opt to select a kindergarten developmental readiness screening instrument from the current list or from the new adopted list and fully implement Cycle II no later than 1991-92.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: FY 1990-91 Designated as Transition Year for
Implementing Cycle II of the Kindergarten Screening**

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

The estimated implementation costs of this rule are 1989-90 \$70,000, 1990-91 \$100,000, and 1991-92 \$150,000. In 1989-90 funds may be expended to purchase screening assessment instrument kits or to buy replacement materials. Funds for 1990-91 are expected to be used to purchase newly adopted materials. During 1991-92 additional funds will be provided to finalize purchases.

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

The local school boards will receive appropriated 8(g) funds estimated at \$70,000 for 1989-90 and \$100,000 for 1990-91. The 1991-92 appropriation is projected to be approximately \$150,000.

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

The screening and assessment of entering kindergarten students is intended to provide essential information in the placement of the student in the regular kindergarten setting and to assist in instructional planning. Students as a result will have an increased chance of success in school and thus have increased economic benefits over their lifetime.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

There will be no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Revised Procedures for Waiver
Requests from Nonpublic Schools**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revised procedures for waiver requests from nonpublic schools:

**Procedures for Appeals to BESE
for Waivers of Minimum Standards**

1.00.40.a Appeals Bodies

The President of the State Board shall appoint ad hoc committees and advisory councils and designate standing committees to serve as appeals bodies which shall have the responsibility to:

- 1) review requests for waivers of minimum standards;
- 2) review controversies concerning personnel actions including the revocation of any teaching or school personnel

certificate issued under Bulletin 746 and, at vocational-technical and special schools, reductions in force and tenure hearings;

3) consider other appeals and grievances requiring board action prior to further proceedings by the appellant, and

4) make recommendations to the full board for final action.

**1.00.40.b Procedures for Waivers of Bulletin 741
Standards**

1. The superintendent of the school system requesting deviation of any standard in Bulletin 741 shall submit documentation to the State Department of Education justifying the request.

2. Technical assistance for meeting the standard as stated in Bulletin 741 shall be provided to the local system by the State Department of Education.

3. When a deviation cannot be corrected by technical assistance, the department may consider a waiver of a standard using the guidelines in 1.00.40.c below.

4. The department will report to the appropriate board committee bi-annually on the waivers that have been granted.

5. Requests that do not meet BESE approved guidelines for administrative action shall be submitted by the State Superintendent of Education to the appropriate board committee with an executive recommendation for action.

6. The agenda of the appropriate board committee shall have a standing item for submission of reports from the State Superintendent required in (5) above.

**1.00.40.c Guidelines for Administrative Waivers of Bul-
letin 741 Standards by the State Department of Education.**

A. Waivers for class size/ratios

Waivers in the following categories will be considered only when the citation would place the school in an approved probational category.

1. Class Size Waiver

The department may waive class size requirements up to two students over the maximum allowable on receipt of the following:

a. a letter from the local superintendent detailing each class that exceeds the class size;

b. documentation from the principal and the superintendent showing how efforts have been made to comply with standards; and

c. a copy of the school's master schedule with class sizes included;

d. class sizes above the limit of two will go directly to the appropriate board committee with an executive recommendation from the department.

2. Guidance/Librarian Ratios

The department may waive the required guidance and librarian ratios on receipt of the following:

a. a letter of justification from the local superintendent;

b. a list of all administrative personnel in the school (part-time and full-time); and

c. a detailed plan stating how the services will be provided to students.

B. Waivers for Deadlines

1. Electives and Alternative School Programs

A letter must be provided by the local superintendent specifying the reasons the deadline was not met.

2. Programs of Studies/Time Requirements

A letter must be provided by the local superintendent justifying the request.

1.00.40.d Procedures for Administrative Action on Certification Appeals.

Certification appeals generally fall into several categories. These categories are listed below with guidelines for handling each area by the Bureau of Teacher Certification.

I. Reemployment on Temporary Certificate or Under Circular 665

A. Appeal Requested

1.) reissuance of a temporary certificate when the six-hour requirement is not met, and

2.) reemployment under Circular 665 when the six hours and the NTE requirements are not met.

B. Guidelines

A temporary certificate may be reissued or reemployment under Circular 665 may be permitted when one or more of the following conditions are met:

1. Medical excuse

When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the superintendent and teacher that the hours will be earned and/or the NTE will be taken if applicable.

2. Required courses not available

A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of school, parish or school system

A justification letter from the superintendent is required. Reissuance is permitted only if the change is not part of a continuous pattern.

4. Change of certification areas

A letter of justification from the superintendent is required to explain the new job assignment with assurance that the requirements for the next temporary certificate of employment under Circular 665 will be met.

5. Courses not applicable toward certification

A letter of justification from the superintendent is required with assurance that the teacher will become enrolled in the proper program.

II. Renewal of An Expired Certificate

When a certificate has expired and six semester hours of refresher credit must be earned for renewal, the Bureau of Teacher Certification may issue a temporary certificate on the request of an employing authority. The teacher will have one year to earn six semester hours for renewal of a standard certificate.

III. Certification of Out-of-State Graduates

A. Certification of out-of-state graduates requires the following:

1. Completion of a state-approved teacher education program;

2. Student Teaching;

3. Certificate from the state;

4. NTE scores

B. Appeal Requested and Guidelines

1) Certification of out-of-state graduates when teacher education program was not completed: Applicants may be certified based on a certificate from another state, student teaching or three years of teaching experience, and the appropriate Louisiana NTE scores.

2) Certification of out-of-state graduates who have not

completed student teaching (required after September 1975): Applicant may be certified based on a teaching certificate from another state, three years of teaching experience, and the appropriate Louisiana NTE scores.

3) Certification of out-of-state graduates who lack certificate from state in which program was completed: Applicant may be certified based on completion of a state-approved teacher education program, student teaching or three years of teaching experience and the appropriate Louisiana NTE scores in lieu of the out-of-state test if it is the only deficiency preventing the applicant from gaining a certificate from that state.

IV. Waiver of Practicum and Student Teaching Requirements When all Coursework is Completed

A. Appeal Requested and Guidelines

1) Waiver of practicum requirements: (a) practicum requirements may be waived with three years of experience in the appropriate area if all other coursework is completed, or (b) a temporary certificate may be issued if all academic requirements have been met. This will allow the teacher to continue his/her present position while gaining the necessary experience to apply for the waiver.

2) Waiver of student teaching when state-approved program is completed: Student teaching may be waived when the applicant has had three years of experience in the area and has the approval of the dean of education where the program is being completed. This will be granted only if all coursework has been completed.

V. Miscellaneous

A. Appeal Requested and Guidelines

1) Certification of Louisiana teacher education graduates whose applications were not submitted prior to 9/15/78: Applicant may be certified if all requirements for standard certification were met at an approved institution in Louisiana prior to 9/15/78.

2) Certification without the NTE: Applicant can appeal only if the Bureau of Higher Education and Teacher Certification states that there are circumstances that warrant the appeal.

Reference: BESE: 3-24-88

1.00.40.e Teacher Certification Appeals Council

A Teacher Certification Appeals Council shall be appointed by the board and shall consist of seven members, three of whom shall be representatives from the universities, one of whom shall be a representative of the Parish Superintendents' Association, and three of whom shall be classroom teachers. The classroom teachers shall consist of one representative each from the Louisiana Federation of Teachers, Louisiana Association of Educators, and the Associated Professional Educators of Louisiana. The board will be responsible only for paying travel expenses of council members at the state rate.

B. Duties and Responsibilities

1) The Teacher Certification Appeals Council shall perform the following duties:

a) Evaluate the appeals of persons seeking Louisiana certification under the standards in Bulletin 746, Louisiana Standards for State Certification of School Personnel whose appeals cannot be processed according to the guidelines in PM 1.00.40.C (above).

b) Submit a written record of its findings and recommendations to an appeals committee composed of board

members for its review and recommendations to the full board.

2) The responsibilities of the Teacher Certification Appeals Council shall be to:

a) Evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirement) waivers.

b) Hear oral testimony from appellants, their witnesses, and SDE personnel at the time of the credentials review.

c) Make recommendations to the appeals committee on waivers of minimum certification standards, including student teaching and course work.

3) The appeals council in the absence of mitigating circumstances shall not be required to consider appeals of persons who (a) are nondegree, (b) lack the required NTE scores, (c) are enrolled in university alternative programs.

1.00.40.f Appeals Council for the Providers of Psychological Services

A. Composition

An Appeals Council for Providers of Psychological Services shall be appointed by the board and shall consist of the members as follows:

1) one member to be recommended by the Louisiana Psychological Association;

2) one member to be recommended by the Louisiana School Psychological Association;

3) one member to be a state certified, practicing school psychologist employed full-time by a local education agency in the area of school psychology;

4) one member to be a full-time faculty member employed in a university setting engaged in the professional training of school psychologists; and

5) one member to be a practicing psychologist licensed under state licensure laws to practice psychology in the state of Louisiana.

B. Duties and Responsibilities

1) The Appeals Council for providers of Psychological Services shall perform the following duties:

a) Evaluate the appeals of persons seeking Louisiana certification as school psychologist under the standards in Bulletin 746, Louisiana Standards for State Certification of School Personnel whose appeals cannot be processed according to the guidelines in PM 1.00.40.c.

b) Submit a written record of its findings and recommendations to an appeals committee composed of board members for its review and recommendations to the full board.

2) The responsibilities of the Providers of Psychological Services shall be to:

a) evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirement) waivers;

b) interview each appellant who chooses to appear before the council;

c) make recommendations to the BESE Appeals Committee on waivers of minimum certification standards.

1.00.40.g Certification Appeals Procedures

Procedures for state level review of certification appeals in all categories and classifications shall be as follows:

A. Process

1) The applicant for certification must submit his request for certification to the Bureau of Teacher Certification

and Higher Education, State Department.

2) On denial of certification by the Bureau of Teacher Certification, the person denied must request an appeal application form from the State Board of Elementary and Secondary Education.

3) The state board office on receipt of the required appeals documentation from the appellant, will submit all original and official documents to the Bureau of Teacher Certification for a transcript and employment evaluation.

4) The Bureau of Teacher Certification then returns the evaluation form to the state board office.

5) The state board office will submit all documentation to the Teacher Certification Appeals Council for its review prior to the scheduled hearing.

6) The appellant, thereafter, receives notification of the hearing and the right to appear.

7) The Teacher Certification Appeals Council will meet to review the appellant's credentials. The appellant may or may not attend the reviewing process. Failure to appear will not affect the reviewing process; however, no other opportunity shall be given to the appellant to offer testimony.

8) The Teacher Certification Appeals Council will submit its written recommendations and all of the appellant's documentation to an appeals committee composed of board members.

9) The appeals committee will review only the records submitted by the Teacher Certification Appeals Council, and will consider each recommendation in the report, whether it be an approval, a denial, or deferral or other action, with no additional testimony being heard.

10) The appeals committee, as a result of its records review, may uphold the recommendations of the Teacher Certification Appeals Council in whole or in part; it may deny it whole or in part; it may remand the appeal to the Council for further review.

11) The appeals committee will submit its written recommendations to the full board.

12) The Board of Elementary and Secondary Education will take final and official action on all appeals based on a review of the records from the appeals bodies. The appellant will be notified of final board action.

13) All appeals shall be processed in a timely manner in accordance with the monthly schedule of board activities.

Interested persons may comment on the proposed policy changes and/or additions in writing, until 4:30 p.m., July 9, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Revised Procedure for Waiver Requests from Non-Public Schools

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

The revision and distribution of Bulletin 741 will cost approximately \$100.

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

There will be no effect on revenue collection of state or local government.

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

There will be no cost to directly affect non-governmental groups. Under this policy the school submits a request for a waiver and the Department of Education approves or disapproves the request.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Elections and Registration

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority vested in the commissioner of elections by Section 114 of Title 18 of the Louisiana Revised Statutes of 1950, the commissioner of elections is hereby giving notice of his intent to issue rules and regulations for the registration of voters at driver's license facilities. Interested persons may submit written comments on the proposed rules and regulations until 4:30 p.m. on Monday, June 4, 1990 at the following address: Jerry M. Fowler, Commissioner, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179. All interested persons will be afforded an opportunity to present their views.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 5. Voter Registration at Driver's License Facilities

Subchapter A. Department of Elections and Registration
§501. Objective

The objective of these rules and regulations is to provide a uniform method of conducting courses of instruction for deputy registrars at driver's license facilities; to provide for voter registration at driver's license facilities which is impartial, equitable and in the best interest of the citizens of Louisiana; and to provide for an annual review of the effectiveness of the new program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

§503. Commissioner of Elections

It will be the policy of the commissioner of elections to facilitate the implementation and support of the program for voter registration at driver's license facilities. The commissioner of elections will coordinate the activities of the parish registrars of voters with the Department of Public Safety and Corrections, and for the purpose he shall:

1. provide the Department of Public Safety and Cor-

rections with updates on the names and addresses of the parish registrars of voters;

2. provide notice to the registrars of voters of the intent of the Department of Public Safety and Corrections to offer voter registration at the driver's license facilities within their parish and the names of the officials or employees who desire to become deputy registrars;

3. provide list of eligible deputy registrars who have successfully completed general course of instruction conducted by parish registrars of voters to Department of Public Safety and Corrections;

4. provide voter registration application forms, as approved by the Department of Public Safety and Corrections, to said department;

5. provide to the Department of Public Safety and Corrections the notices to applicants stating parish registrars of voters must approve applications prior to registration; and

6. provide to the Department of Public Safety and Corrections standard notices to be displayed informing the public of the availability of voter registration at driver's license facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

§505. Parish Registrars of Voters

It is the intention of the parish registrars of voters to cooperate to their fullest extent in the registration of voters at driver's license facilities. In that regard, parish registrars shall:

1. notify the office of the commissioner of elections immediately of any change in the office mailing address of the registrar of voters;

2. at least two weeks prior to conducting a general course of instruction for deputy registrars, file a notice of intent to conduct course with the commissioner of elections and the driver's license facility within their parish;

3. conduct a general course of instruction relative to voter registration at least semi-annually during the months of May and November which course shall be open to any official or employees of the Department of Public Safety and Corrections who desires to become a deputy registrar of voters and who has applied to attend such course, and conduct subsequent instruction courses of instruction if necessary;

4. immediately following the general course of instruction, prepare a list of eligible deputy registrars, including names, addresses and telephone numbers, and file with the office of commissioner of elections and make available, upon request, to secretary for public safety services or his successor;

5. upon receipt of the registrar's office of voter registration application forms from the Department of Public Safety and Corrections, indicate date received on the application; and

6. review voter registration application form and register applicant if sufficient information is provided. Notify applicant of registration. If insufficient information is provided, send notice to applicant at the address provided on the application informing the applicant that he has ten days from the date on which the notice was mailed to appear in the registrar's office to provide the needed information. Register applicant upon receipt of needed information and mail notice of registration to applicant. The eligibility of an applicant to vote in a particular election will be based upon the completion of the registration process by the registrar of voters prior to the

close of the registration books for that particular election.

B. The parish registrar of voters shall prepare an annual report to the commissioner of elections which includes the number of voters registration applications transmitted by the Department of Public Safety, the number of applications with sufficient information to immediately register the applicant, the number of applications which required additional information from the applicant, and such other information as may be requested by the commissioner. Such report shall be filed within 15 days of the end of the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

§507. Deputy Registrars at Driver's License Facilities

A. Qualifications

A deputy registrar at a driver's license facility shall possess the following qualifications:

1. The person shall be an official or employee of the Department of Public Safety and Corrections who is employed at a department facility for the issuance of drivers' licenses.

2. The person shall be a registered voter.

3. The person shall have successfully completed a general course of instruction for deputy registrars conducted by the parish registrar of voters and any other subsequent instructional course required by the parish registrar.

4. The person shall not participate or engage in any political activity except to exercise his right as a citizen to express his opinion privately and to cast his vote as he desires.

5. The person shall not have been convicted of any election offense.

6. The person shall not be a candidate for public office.

B. Duties

A deputy registrar at a driver's license facility shall perform the following duties:

1. A deputy registrar shall provide voter registration applications and accept completed forms during regular working hours unless otherwise directed by the deputy secretary or his designee.

2. A deputy registrar shall provide a voter registration application form only to an individual who requests a voter registration application and who meets the following requirements:

a. A person who is requesting a driver's license or state identification card or renewal of a driver's license or other motor vehicle transaction.

b. A person who is at least 17 years of age and who is an actual resident of the state, parish, and precinct in which he seeks to register to vote. A person 17 years old will not be eligible to vote until the age of 18.

c. A person who is not under an order of imprisonment for conviction of a felony as defined in R.S. 18:2(2).

d. A person who has not been interdicted after being declared to be mentally incompetent.

e. If a foreign born applicant, a person who can provide proof of naturalization and also citizenship, if necessary, as required by R.S. 18:105.

3. A deputy registrar shall allow an applicant, who meets the above requirements and who resides at more than one place in the state with an intention to reside there indefinitely, to choose which residence will be used for registration purposes.

4. A deputy registrar shall request the applicant to surrender any voter registration card upon applying for registration.

5. A deputy registrar shall be unable to register any applicant who would require assistance in registering to vote unless that assistance consisted of the deputy providing the necessary registration form or answering any questions the applicant might have about completing the registration form until such time as R.S. 18:114(F)(2) has been amended to allow for further assistance by the deputy registrar in accordance with the provisions of R.S. 18:106.

6. A deputy registrar shall require the applicant to provide sufficient information to establish his age, identity, and residency.

7. A deputy registrar shall require an applicant to indicate "None" on the application form if the applicant does not declare a party affiliation.

8. A deputy registrar shall insure that the information provided on the voter registration application is legible and to the best of his knowledge accurate and complete.

9. A deputy registrar shall administer any oath required on the voter registration application as authorized by R.S. 18:114(F)(7) and shall sign and date the application.

10. A deputy registrar shall inform the applicant that the applicant is not officially registered to vote until the application has been received and approved by the parish registrar of voters. Upon approval by the registrar of voters, a voter identification card will be mailed to the applicant. In addition to verbally informing the applicant, the deputy registrar shall give written notice to the applicant.

11. A deputy registrar shall insure that the completed voter registration application is made available to the designated person who will be responsible for transmittal to the parish registrar of voters for the parish in which the applicant seeks to register. The date of transmittal shall be indicated on the application, and the transmittal shall be made within five working days of the completion of the application. Any surrendered voter registration card must be attached to the voter registration application at the time the application is transmitted to the register of voters.

C. Offenses

No deputy registrar shall knowingly, willfully, or intentionally:

1. offer, promise, solicit or accept money or anything of present or prospective value to secure or influence a vote or registration of a voter;

2. forge, alter, deface, destroy, or remove from proper custodial care any application for voter registration; or

3. intimidate, directly or indirectly, any prospective voter in matters concerning registration or nonregistration.

D. Termination

The appointment of the deputy registrar shall be valid as long as the deputy registrar remains in the employ of the Department of Public Safety and Corrections at a driver's license facility. However, a deputy registrar may be removed from the list of eligibles by the register of voters for cause.

Cause shall be defined as:

1. knowingly violating the prohibitions included in Section 114(F)(6) of Title 18,

2. consistent failure of a deputy registrar to perform his duties in a careful manner;

3. engagement in political activities; or

4. any action constituting an offense as provided

herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18.2(2), R.S. 18.52, R.S. 18.62, R.S. 18.101, R.S. 18.102, R.S. 18:105, R.S. 18:106, R.S. 18:108, and R.S. 18:1461.

§509. Course of Instruction

A. The registrar of voters shall be notified through the commissioner of elections by the Department of Public Safety and Corrections of its intent to offer voter registration at the driver's license facilities within their parish. The Department of Public Safety and Corrections shall provide the names, addresses, work telephone numbers, and driver's license facility location of any official or employee of Public Safety and Corrections who desires to become a deputy registrar to register voters at such facilities. If such notice is received at least three weeks prior to either the month of May or the month of November, the affected registrar of voters shall schedule a general course of instruction to be held during the appropriate month. To facilitate the operation of the driver's license facilities, the registrar may conduct multiple courses of instruction during the months of May and November.

The registrar shall determine the dates, time and location of such courses of instruction and shall give notice to the commissioner of elections and the appropriate driver's license facilities within their parish at least two weeks prior to the scheduled courses.

C. The registrars shall furnish to the person who attend the course a sample voter registration application form which will be used at the driver's license facilities and any materials as may be provided by the commissioner of elections.

D. The general course of instruction shall include but not be limited to the following:

1. conduct detailed study of the voter registration application with special emphasis on problem areas;
2. discuss information which may be used to establish applicant's age, identify, and residency;
3. discuss assistance that may be provided to applicant;
4. discuss documents which may be used for proof of naturalization or citizenship;
5. review responsibilities of deputy registrar in insuring accuracy and legibility of voter registration application and stressing the deputy registrar's responsibility for informing the applicant that the applicant is not registered until the parish registrar notifies the applicant of registration;
6. review transmittal requirements;
7. review offenses and causes for termination; and
8. review penalties established in R.S. 18:114(H) for noncompliance with the provisions of law relative to voter registration and driver's license facilities.

E. During the course of instruction, the registrars shall conduct and exercise in reviewing improperly completed voter registration applications to test the prospective deputy registrar's ability to detect errors or insufficient information on applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18:104, R.S.105, and R.S. 18:106.

§511. Review Process

An annual meeting between the office of commissioner of elections and the Department of Public Safety shall be held during the month of February of each year to monitor

and evaluate the annual report prepared by the parish registrars of voters to identify problem areas where changes in rules and regulations or the revised statutes may be necessary. The annual meeting may be discontinued upon mutual agreement when it is felt there is no longer a need to continue to hold such meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

§513. Implementation

In a letter dated October 11, 1987, the United States Justice Department has advised the commissioner of elections that any rules and regulations adopted relative to the implementation of the new program of registering voters at driver's license facilities will require preclearance by the United States Justice Department under the requirements of Section 5 of the Voting Rights Act. The provisions of Section 114 of Title 18 provide for implementation of the program, other than the promulgation of any rules and regulations required by Section 114, within 60 days after final adoption of such rules and regulations. The final date of implementation shall be determined by whichever date is the later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

Jerry M. Fowler
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Voter Registration at Driver's License Facilities

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

The cost to the Department of Elections and Registration is estimated at \$5,777 which includes printing of signs, voter registration applications for use at driver's license facilities, notices to applicants and instructional materials for conducting deputy registrar schools. The department will be responsible for the initial mailing costs of applications and notices to the five parishes designated to begin the program and all mailing costs associated with distributing instructional materials for the schools.

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

There is no effect on revenue collections of state or local governmental units.

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

There is no effect or economic benefits which can be calculated as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of this rule.

Carol H. Guidry
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Employment and Training Office of Workers' Compensation

Pursuant to R.S. 49:950 and R.S. 23:1081(9), the Department of Employment and Training, Office of Workers' Compensation, hereby gives notice of its intent to adopt rules regarding drug testing of employees who are involved in job related accidents.

Comments regarding these rules should be forwarded to Stephen W. Cavanaugh, Director of the Office of Workers' Compensation, Box 94040; Baton Rouge, LA 70804-9040; written comments will be accepted until the close of business, 4:15 p.m., on May 31, 1990.

Comments will also be accepted at a public hearing which will be held on May 31, 1990, at 9 o'clock a.m. in the fourth floor conference room of the Louisiana Department of Employment Training Annex, 1001 N. 23rd Street, Baton Rouge, LA 70804.

A copy of the proposed drug testing rules is available from the Office of Workers' Compensation Administration.

Stephen Cavanaugh
Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Drug Testing Programs in Job Related Accident Cases

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

The cost to print the proposed drug testing rules will be \$18,750. The cost to distribute the rules will be \$2,500. The proposed rules require the involvement of a medical review officer (MRO). The MRO may be an Office of Workers' Compensation contract employee. The cost to contract with a physician to provide the services of the MRO would be \$50,000.

There will initially be an increase in court litigation because of the rules: Affected employees will probably be more aggressive to obtain workers' compensation benefits; Likewise, employers will probably be more strident in defending against a claim for benefits. Nonetheless, in a relatively short time after these rules are implemented, there will be less litigation, as these rules very specifically define the parameters within which employers may act. Employers will be less prone to take controversial actions against employees; Also, employees would be fully apprised of the consequences of substance abuse, and they would be less likely to challenge a positive drug test result that is obtained through compliance with these rules that are specific in nature, promote confidentiality, protect against erroneous positive results, and protect against due process abuses.

Governmental units will also experience savings in those instances where they do not have to pay benefits to employees whose intoxication caused job related injuries.

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

Copies of the rules will be provided by the Office of Workers' Compensation at a charge of \$3.75 per copy.

There will be a \$50.00 charge to employers for each result that is sent to the MRO for evaluation.

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

Employers will likely have a more efficient staff as a result of these rules which promote drug free employees. Employers will not have to pay workers' compensation benefits for which they may otherwise have been liable. Employers will probably be paying less in legal fees as a result of these rules which clearly delineate the parameters within which they may act. Attorneys will not be needed to determine how employers may act.

Employers may save in cost of workers' compensation insurance premiums; Insurers may charge less for premiums, as a smaller number of claims may be paid after the rules are implemented.

Employers will have to maintain a collection site that must possess necessary personnel, materials, equipment, facilities, and supervision to provide for collection, security, temporary storage and transportation of specimens to drug testing laboratories.

Employers will be responsible for testing and transportation costs. Initially, there is likely to be more litigation expense to employees as shown in I., above; Shortly, thereafter, though, there is likely to be a decrease in litigation costs.

Laboratories will have more business and reap more profits as a result of the implementation of these rules. Labs may incur costs regarding the personnel, equipment, facilities, and supervision necessary to provide adequate testing, security, and transmission of results. Laboratories will also have to have qualified personnel available to testify in a legal or administrative proceeding against an employee which is based on a positive drug or alcohol result.

There will be a negative effect on employees who are tested positive for drugs; their workers' compensation benefits may be denied, and R.S. 23:1081(10) allows for the test results to be used against employees in claims for unemployment benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The drug testing rules will have a positive effect on businesses, public and private, and will make them more efficient and, hence, more competitive. The rules will provide the impetus for more efficient personnel: Employees are less likely to be intoxicated at work with the threat of denial of compensation benefits in existence; Consequently, employees will be less likely to be injured if they are fully alert and not impaired by drugs.

Stephen Cavanaugh
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Nuclear Energy

Under the authority of the Louisiana Environmental Quality Act, La.R.S. 30:2001, and in accordance with the provisions of the Administrative Procedure Act, La.R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Bulk Gasoline Handling Regulations, LAC 33:III.2131, 2133, 2135, 2137.

These regulations are being amended to add requirements for testing and record keeping. Also, the exemption level is changed from a "throughput" of 500,000 gallons per year to 120,000 gallons per year in seven non-attainment parishes (6 in the Baton Rouge area and 1 in the Lake Charles area). (52 FR 45044 (#226), November 24, 1987)

These proposed regulations are to become effective on July 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 1, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, June 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log # AQ13. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality,
Commerce Building, 6th Floor, 333 Laurel
Street, Baton Rouge, LA;

Department of Environmental Quality, 804
31st Street, Monroe, LA 71203;

Department of Environmental Quality,
State Office Building, 1525 Fairfield Ave-
nue, Shreveport, LA 71101;

Department of Environmental Quality, 1150
Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945
North I-10 Service Road West, Metairie, LA
70002;

Department of Environmental Quality, 100
Epler Road, Lafayette, LA 70505.

Mike D. McDaniel, Ph.D.
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

**Rule Title: Revision to LAC 33:III.2131, 2133, 2135 and
2137**

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

There should be no additional cost to state or local government. Regulations are made more enforceable and do not add any significant additional work load for state and local government.

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

No significant effect.

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

Capital cost to implement these regulations is estimated to be \$3,700,000. Annual operating cost is estimated to be \$970,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EM- PLOYMENT (Summary)

Small operators will be affected disproportionately and some will probably go out of business. Some, but not all, of the employees losing their jobs will be rehired by the surviving operators.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Nuclear Energy

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend Air Quality Regulations, LAC 33:III.509.

These amendments will add the control of nitrogen dioxide increments to the Prevention of Significant Deterioration (PSD) permitting rules. (53 CFR 40656 (#200). October 17, 1988)

These proposed regulations are to become effective on July 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 1, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, June 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA 70804. Commentors should reference this proposed regulation by the Log # AQ09. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m. Monday through Friday.

Department of Environmental Quality, Commerce
Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA;

Department of Environmental Quality, 804 31st Street,
Monroe, LA 71203;

Department of Environmental Quality, State Office
Building, 525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan
Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10
Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Mike D. McDaniel, Ph.D.
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revisions to LAC:33.III Section 509**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no significant additional cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These revisions will allow the state to continue processing permits for major new facilities and modifications thus avoiding the additional engineering costs and project delays for federal processing.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Nuclear Energy**

Under the authority of the Louisiana Environmental Quality Act, La.R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, La.R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the VOC Regulations, LAC 33:III.2100, 2108, 2115, 2121, 2125, 2129, 2143, and 2145.

These rules are being changed to add record keeping and testing requirements and to clarify the meaning of Section 2108. (52 FR 45044 (#226), November 24, 1987)

These proposed regulations are to become effective on July 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 7, 1990, at 1:30 p.m. in the A.D. Smith Memorial Auditorium, State Education Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, June 8, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log # AQ14. Copies of the proposed regulations are also

available for inspection at the following locations from 8 a.m. until 4:30 p.m. Monday through Friday.

Department of Environmental Quality,
Commerce Building, 6th Floor, 333 Laurel
Street, Baton Rouge, LA;
Department of Environmental Quality, 804
31st Street, Monroe, LA, 71203;
Department of Environmental Quality,
State Office Building, 1525 Fairfield Ave-
nue, Shreveport, LA 71101;
Department of Environmental Quality, 1150
Ryan Street, Lake Charles, LA 70601;
Department of Environmental Quality, 2945
North I-10 Service Road West, Metairie, LA
70002;
Department of Environmental Quality, 100
Eppler Road, Lafayette, LA 70505.

Mike D. McDaniel, Ph.D.
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revision to LAC 33:III. Sections 2101, 2108,
2115, 2121, 2129, 2143 and 2145**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no significant additional cost to state or local government. Regulations are made more enforceable and do not add any significant amount of additional workload for state and local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These revisions could postpone some capital expenditures by barge and ship owners.
For petroleum, chemical and polymer industries minor increases in recordkeeping costs and potentially significant, but indeterminate, increases in emission control costs would result.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant impact.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

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

seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart 1. (Non-HSWA V Regulations).

While these proposed regulations are less stringent than existing state regulations and are therefore not required to be adopted to maintain federal authorization, the proposed regulations would revise existing state regulations to be consistent with current federal regulations. The proposed regulations would facilitate research and development of treatment alternatives, expedite processing permit modifications, provide greater flexibility of statistical methods for evaluation of groundwater monitoring data, update hazardous waste listings and correct typographical errors and citation references.

These proposed regulations are to become effective on July 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 1, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, June 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA 70804. Commentors should reference this proposed regulation by the Log # HW21. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy W. Hardy
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Non-HSWA Cluster V Amendments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant implementation costs or savings to state or local governments as the proposed regulations will simply correct state regulations to conform to existing federal regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

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

These regulations will establish requirements for release detection and prevention, as well as corrective procedures at all underground storage tanks holding petroleum and other regulated substances. Promulgation of this rule will establish requirements for storing regulated substances, including petroleum products, in underground tanks. It will not apply to underground tanks storing non-petroleum hazardous wastes. These regulations will include performance standards for new tanks, establish a certification and licensing program for contractors, and establish requirements for demonstrating financial responsibility. These regulations substantially track the federal Underground Storage Tank regulations. (53 FR 37241, September 23, 1988; 53 FR 43370, October 26, 1988; 53 FR 51274, December 21, 1988; 54 FR 38788, September 20, 1989)

These proposed regulations are to become effective on July 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 1, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, June 4, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log # UT01. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m. Monday through Friday.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601
Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002
Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy W. Hardy
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana Underground Storage Tank
Regulations**

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

In 1988 the U.S. EPA promulgated technical and financial standards for underground storage tanks (USTs). The Department of Environmental Quality (DEQ), under a Memorandum of Agreement with the EPA, is currently enforcing those standards which are nearly identical to the proposed rule. The proposed rule is more stringent than the EPA regulations requiring additional reporting to DEQ, supplementary standards for tanks installed within 50 feet of existing water wells and establishment of a licensing and certification program for companies and individuals engaged in the installation, repair or closure of USTs. The department has proposed, as part of the FY 90-91 budgetary process, to expand its existing staff to effectively manage this program at a cost of approximately \$611,196.

Local government is required to comply with the existing federal regulations. Therefore, adoption of this rule will have little additional impact. However, a more stringent standard in the proposed state rule requiring secondary containment for new or replacement USTs installed within 50 feet of an existing water well will increase costs. For example, a 10,000 gallon double-wall fiberglass tank will cost approximately 167 percent more than a single-wall fiberglass tank. Another option, a steel tank with polyethylene jacket would cost approximately 50 percent more than a single-wall fiberglass tank. The cost for double-wall piping is approximately 100 percent more than the cost for single-wall piping. The increased reporting and notification requirements can be carried out at minimal if any additional cost.

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

The installer licensing and certification program should increase revenue collections by approximately \$17,500 in FY 90-91, and by \$5,000 to \$9,000 each year thereafter. These figures are based on an estimated 30 contracting companies and 100 individual contractors. There will be no effect on revenue collections of local governmental units.

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

1. Business costs for contracting companies and individual contractors will increase under the proposed rule. Contracting companies will be required to pay a \$250 application fee to obtain a license and \$150 bi-annually

renewal fee. Individual contractors will be required to pay an initial \$100 examination and certification fee and either a \$50 certificate renewal fee or \$100 reexamination fee annually thereafter.

2. The cost to owners for replacing or installing underground storage tanks located within 50 feet of a water well will increase. Tanks located in these areas will be required to have secondary containment. A 10,000 gallon double-wall fiberglass tank will cost approximately 167 percent more than a single-wall fiberglass tank. Another option, a steel tank with polyethylene jacket will cost approximately 50 percent more than a single-wall fiberglass tank. The cost for double-wall piping is approximately 100 percent more than the cost for single-wall piping.

3. Business expenses for owners of numerous USTs could increase due to additional reporting requirements. This would depend however, on the number of USTs owned and the amount of activity (i.e., closure, installation, repair) experienced. It is anticipated, however, that the increased cost will be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

1) A contracting company engaged in underground storage tank installation, repair and removal will be directly affected by these rules. The examination and qualification requirements for licensing and certification could impact employment in the private sector by prohibiting contracting companies which are unable to meet these requirements from working in this state. To the extent that this reduces the number of existing contracting companies licensed to engage in these activities, competition may therefore, be reduced.

2) There will be little effect on competition and employment by UST owners. Owners of numerous tanks may have to devote a few additional man hours to satisfy reporting requirements. Local governments typically own a small number of USTs and therefore, would be impacted only minimally.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Governor's Special Commission on Education**

**Reconciliation and Pro Rata Refund
Amendments**

In accordance with LSA R.S. 49:950 et seq., notice is hereby given that the Governor's Special Commission on Education Services (GSCES), advertises its intent to amend its 1987 Policy and Procedure Manual by amending policies V - "Institutional Participation", VI "Borrower Participation", VII "Origination", VIII - "Servicing During the Interim Period"; and amend procedures 4.0 - "How to Establish Eligibility to Participate as a School (or Branch School) in the Louisiana Student Loan Programs", 4.1 - "How to Maintain Eligibility to Participate As a School (or Branch School) in the Louisiana Student Loan Programs", 4.2 - "Loss or Limitation of Institu-

tional Eligibility to Participate as a School (or Branch) in Louisiana Student Loan Programs”, 10 - “How to Prepare and Submit a LGSL, LSLs, or PLUS Application for Guaranty”, and 15 - “How to Disburse LGSL or LSLs Proceeds”, 18 - “How to Return LGSL or LSLs Proceeds to the Lender”; and adopting new procedures 40.1 - “How to Administer a Deferment for Medical Internship or Residency Beginning Before January 1, 1990”, and 47.1 - “How to Administer LGSL, LSLs and LPLUS Forbearance for a Medical and Dental Internship/Residency”.

The 1987 Policy and Procedure Manual must be amended to bring GSCES’s policies and procedures into compliance with federal regulations.

GSCES supplies copies of the 1987 Policy and Procedure Manual and updates in the form of Loan Program Memoranda (LPM) to schools and lenders participating in the Commission’s federal guaranteed student loan programs. The manuals are maintained current in accordance with federal regulations by the issuance of LPM’s.

The LPM’s 89-105 and 90-101 addressed changes required by USDE’s Dear Colleague Letter, dated December 1989.

Interested persons may review and comment in writing on the amendments to the 1987 Policy and Procedure Manual from 7:45 a.m. to 4:30 p.m., until June 20, 1990 at the following address: GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room Number 250, Baton Rouge, LA.

A hearing on the proposed adoption will be held on June 22, 1990, Louisiana Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Reconciliation Amendments and Pro-rata Refund Amendments

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

Estimated costs included workshops to make informational presentations, printing costs, typing costs, and staff time (Loan Administration, Client Services, and Administrative Services). Costs were estimated for 1989-90 at \$7450 with federal funding sources.

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

There will be no effect on revenue collections.

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

Costs to participating schools and lenders will be staff time to comply with amended regulations. Schools with a default rate of 30 percent or more can not participate in the SLS program; therefore, students are not eligible for a SLS loan. Benefits are compliance with federal regulations, thus eligibility to participate in the loan programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Risk Management

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management proposes to adopt the following rules.

Title 37 INSURANCE

Part I. Risk Management

Subpart 1. Structured Settlements

Chapter 3. Structured Settlement Services

§301. Qualifying Criteria for Acceptable Structured Settlement Firms

A.1. ...

A.2. It employs at least one person who has actually been, for a period of three successive years or more, successfully engaged in performing the same or similar structured settlement services as defined in this Part and who will personally supervise the rendering of any such services to every state governmental entity receiving them from such firm. This broker shall be a member of the National Structured Settlement Trade Association (NSSTA).

3. It shall be able to make such purchases as agent or broker from at least 10 valid structured settlement annuity carriers which meet the qualifying criteria for plan offerors and providers established in these rules and regulations and with none of which it has an ownership, equity, capital, or proprietary relationship or interrelationship whatsoever. For each case the broker’s top three quotes and the names of the carriers will be furnished to the Office of Risk Management.

5. It shall provide the following information:

a. a copy of Louisiana agents/brokers license;

b. proof of coverage of \$1,000,000 for errors and omissions which specifically covers structured settlements;

c. ...

d. proof of National Structured Settlement Trade Association (NSSTA) membership;

e. a complete list of qualifying structured settlement carriers which the firm regularly utilizes in providing structured settlement services.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Manage-

ment, LR 12:235 (April 1986), amended LR 12:832 (December, 1986), LR 16:

§309. Qualified Plan Officers and Providers

A. ...

B. All annuities to be used in structured payment plans shall be purchased from plan offerors or providers which are insurance companies qualified to do business in Louisiana and which have, from the most recently issued Best Insurance Report, a rating of "A + " with a classification of "VIII" or higher.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April, 1986), amended LR 12:832 (December, 1986), LR 16:

Interested persons may comment on these proposed rules by contacting, State Risk Director, Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095. Telephone (504) 342-8500.

Seth E. Keener, Jr.
State Risk Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Structured Settlement Services**

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

Although there will be no significant implementation costs or savings to state or local governments, the proposed changes in the regulations will strengthen the requirements from the standpoint of both the structured settlement firm and the structured settlement annuity carrier. This will have the beneficial effect of reducing the potential liability of the Office of Risk Management.

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

There is no effect on revenue collections of state or local government units.

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

Implementation of the revised regulations will have the possible effect of eliminating from consideration structured settlement firms and structured settlement annuity carriers that do not meet the tougher requirements of the revised regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Seth E. Keener, Jr.
State Risk Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Wetlands Conservation and Restoration Authority**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under authority of R.S. 49:213.6, the Wetlands Conservation and Restoration Authority, Office of the Governor, gives notice that it intends to adopt the following rule.

The proposed plan provides policy, objectives, projects and programs specifically aimed at conserving, enhancing, creating and restoring Louisiana's coastal vegetated wetlands.

A public hearing will be held to receive comments on the Wetlands Conservation and Restoration Plan (Fiscal Year 1990-91) at 2:00 p.m. on May 31, 1990, in the Conservation Hearing Room, First Floor, State Lands and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral or written comments on the proposed plan.

The Coastal Wetlands Conservation and Restoration Plan is available upon request to: Coastal Activities, Office of the Governor, Box 94004, Baton Rouge, LA 70804 or by calling (504) 342-6493. The document may also be viewed on the Fifth Floor, State Capitol, Baton Rouge, LA, by contacting Becky Vincent at (504) 342-7015. A synopsis of the proposed plan is published in the emergency rule section of this issue of the *Louisiana Register*.

All interested persons are also invited to submit written comments on the plan. Such comments should be submitted no later than June 7, 1990, to David Chambers, Office of the Governor, Box 94004, Baton Rouge, LA 70804-9004.

David M. Soileau
Executive Assistant

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Coastal Wetlands Restoration and
Conservation Plan (Fiscal Year 1990-91)**

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

Total costs to implement the projects and programs contained in the Coastal Wetlands Conservation and Restoration Plan for Fiscal Year 1990-91 are estimated to be \$26,275,000, although it is not likely that all of these funds will be expended in one year. These monies are entirely dedicated mineral revenues from the Wetlands Conservation and Restoration Fund. State general fund appropriations for coastal restoration activities in the Department of Natural Resources (\$10,484,670 in Fiscal Year 1989-90) will be supplanted by these dedicated monies, with a resulting increase in expenditures for coastal restoration of \$15.8 million over the Fiscal Year 1989-90 level.

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

Revenue collections of the state and local government units in the coastal parishes may increase as expenditures related to construction on the restoration projects

occurs and the wetlands resource base is maintained. Revenues may be reduced if subsequent legislation and/or regulations increase costs to some users for compensation of wetland value losses. However, the net effect on revenues from wetlands restoration is expected to be positive.

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

Implementation of the rule (plan) will help protect the state's coastal wetlands and associated fish and wildlife resources. In addition, it will help maintain the storm protection and water quality improvement (cleansing) functions provided by our coastal wetlands. Continued loss of coastal wetlands would subject coastal communities and infrastructure to economic losses resulting from increasingly severe flooding and storm damages, further degradation of water quality and reduction in quantity and quality of fish and wildlife harvest.

Adoption of the plan itself will not result in increased costs to affected persons or groups, but the plan does call for the development of rules and/or legislation that would require compensation for or concurrent measures to restore coastal wetland functional values lost due to future permitted activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment opportunities associated with the plan's design, construction, and maintenance activities, and related support industries should increase. Some users may experience reductions in employment if subsequent legislation and/or regulations increase costs for compensation of wetland value losses. However, the net effect on employment from wetlands restoration is expected to be positive.

David M. Soileau
Executive Assistant
for Coastal Activities

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana State Board of Nursing hereby gives notice that the Board, at its July 19-20, 1990 meeting intends to adopt an amendment to the administrative rules by adding:

Proposed Rules

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3534. Procedure for Restructuring an Existing Program Into/Within Higher Education

A. Step I. Phasing out an Existing Nursing Program

1. Notification of Intent For Restructuring an Existing Program

a. A letter of intent shall be submitted to phase out an existing nursing program and phase in a new nursing program not less than one year prior to the planned implementation date. Twelve copies of the letter are to be submitted.

2. Termination of an Existing Nursing Program

a. A plan shall be submitted to phase out the existing nursing program to include:

i. dateline for final admission of students to the existing program;

ii. plan for the normal progression of students in the existing program;

iii. contingency plan for students who cannot follow the normal progression sequence in the existing program (i.e. failures, illness, etc);

iv. the projected date of graduation for the final class of the existing program.

b. All board's standards shall be maintained by the existing program until all students have transferred to another program or graduated.

c. All students shall have assistance with transfers to the new nursing programs or to another program of choice. A list of the names of these students shall be submitted to the board.

d. The following records of the existing program shall be retained:

i. students' application to the program (when applicable)

ii. students' final transcripts

iii. all curricula plans offered, including catalog course descriptions

iv. rosters of all graduation classes and dates of graduations.

e. The board shall be notified of the arrangements for the administrative control and safe storage of the permanent program and student records.

B. Step II. Phasing in a New Nursing Program

1. A plan for phasing in the new nursing program shall be submitted (12 copies) to include the following:

a. a written notice of intent to establish a new program in nursing stating the purpose and type of program;

b. documented evidence of approval from the parent institution to award the appropriate degree or diploma and a copy of the current bulletin or catalog; and

c. a report of a feasibility study documenting a need for the program. The study shall include evidence of:

i. nurse manpower studies which validate the need for the program as it relates to total state resources and nursing education in the state, and the potential impact on other nursing education programs within a geographical area of 100 miles;

ii. availability of qualified nursing faculty and support faculty;

iii. adequate academic and clinical facilities to meet the needs of the program, validated through cooperative arrangements with existing nursing programs utilizing those facilities;

iv. adequate financial resources for planning, implementing and continuing the program;

v. commitment of administration to support the program;

vi. community support;

vii. a proposed time schedule for phasing in the new program; and

viii. an available pool of potential students.

d. An articulation plan shall be submitted for students who are presently enrolled in the existing program for matriculation into the new program.

e. Representative of the parent institution shall meet with the board at a regularly scheduled board meeting to review the notice of intent, the report of the feasibility study, and any other information requested.

f. Based on its review, the board shall give written notification to the parent institution that:

i. supplementary information is needed; or,

ii. the notice of intent to establish a new program is sanctioned with stipulated contingencies; or,

iii. the notice of intent to establish a new program is sanctioned and the parent institution may continue with the plan to establish the program; or

iv. the notice of intent is not sanctioned, the reasons thereof, and all planning must cease.

g. Public announcements of the opening of the proposed program and pre-admission of students shall not occur prior to the sanctioning of the notice of intent fulfillment of all contingency(ies)

C. Step III. Developing the Nursing Program

1. If the parent institution is sanctioned by the board to proceed with the development of the program, a qualified program head shall be employed a minimum of 12 months prior to the admission of the first class of students.

2. The program head shall have the authority and responsibility to develop:

a. an organizational structure and chart;

b. a constitution and bylaws;

c. administrative policies and procedures;

d. policies for screening and recommending candidates for faculty appointments, retention, and promotion. (See Standard 3515)

e. a budget;

f. a plan for the use of clinical and cooperating agencies;

g. a sample contractual agreement with clinical and cooperative agencies; and

h. a plan for the use of academic facilities and resources.

3. The program head shall appoint a minimum of four full-time nurse faculty whose backgrounds include:

a. experience in curriculum design;

b. previous teaching experience in a nursing education program of the same academic level as the proposed program; and

c. all faculty qualifications as outlined in Standard 3515.B. 1 thru 5.

4. The faculty shall be appointed at least six months prior to the admission of students to the program and be responsible only to the new program.

5. The nurse faculty shall develop the proposed program and plan for its implementation. The faculty shall develop the:

a. philosophy, purpose and objectives;

b. curriculum plan;

c. course objectives;

d. course outlines and syllabi;

e. evaluation plan(s) and methods for evaluating nursing courses;

f. program evaluation plan (refer to 3523.A.1 thru 8)

g. admission, progression and graduation criteria;

h. policies for protecting students' rights, safety and welfare, guidance, and counseling; and

i. plan for utilization of clinical facilities and cooperating agencies for student learning activities.

6. Upon completion of this phase of the development of the proposed program, the program head may petition the board for an initial survey visit.

D. Step IV. Initial Approval of the Nursing Program

1. Initial approval may be requested after an on-site survey by a representative of the board.

2. After initial approval is granted, students may be admitted to the program.

E. Step V. Evaluation of the Nursing Program

1. Within three months following the implementation of the first academic year, the program head shall submit a progress report which addresses those areas outlined in Step III C.5. a through i., and any proposed anticipated changes for the continued implementation of the program.

F. Step VI. Full Approval of the Nursing Program

1. After members of the first class of graduates receive the results of the licensure examination, an on-site survey shall be conducted to evaluate the program's compliance with L.A.C.46:XLVII.3523.A and B.

2. Following the board's review of the on-site survey report, the board may grant:

a. continuation of Initial Approval;

or

b. full Approval of the nursing program.

3. Initial Approval shall not be continued for more than two consecutive one-year periods following the nursing program's eligibility to apply for full approval.

Public notification made herein indicates no final approval.

The public is made aware of the proposed amendments in compliance with R.S. 49:950 et seq.

Written comments may be addressed to Betty N. Adams, M.N., R.N., Associate Director/Nursing Consultant For Education, Louisiana State Board of Nursing, 907 Pere Marquette Building, 150 Baronne Street, New Orleans, LA, 70112-2382 until 4:30 p.m. on June 13, 1990.

Betty N. Adams MN, RN
Associate Director/
Nursing Consultant
for Education

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Chapter 35: Nursing Educational Programs LAC46: XLVII.3534

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed Standards would provide Rules and Procedures to assist officials of nursing programs "to Phase out of one kind of registered nursing program and establish another kind of registered nursing program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment in nursing.

Betty N. Adams, M.N., R.N.
Associate Director/
Nursing Consultant
for Education

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Current federal law requires states to offer Medicaid coverage to certain children (known as "qualified" children) born after September 30, 1982 and younger than age seven if their family incomes were below the AFDC financial eligibility levels. Louisiana has also chosen the option to cover children born after September 30, 1983 and younger than age eight.

Under the mandatory provisions of the Omnibus Reconciliation Act of 1989, states are required to cover children born after September 30, 1983, who have not attained six years of age, and whose family income is below 133 percent of the federal poverty guidelines. This law allows the state to continue to cover children from age six through age seven whose family incomes are up to 100 percent of the federal poverty guidelines.

Implementation of this provision is mandated by the Omnibus Reconciliation Act of 1989. This rule is necessary to ensure compliance with mandated federal regulations and to avoid sanctions from HCFA.

This rule was adopted under the Emergency Rule-making Provisions of R.S. 49:953 B effective April 1, 1990 and was published in the April, 1990 issue of the *Louisiana Register* (Volume 16, No. 4 published April 20, 1990).

PROPOSED RULE

The upper income eligibility limitation for children born after September 30, 1983 who have not attained six years of age, is a family income up to 133 percent of the federal poverty level as required by the Omnibus Reconciliation Act of 1989.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 7082-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested per-

sons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Coverage of Children Below Age Six with Income to 133% of FPL

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs to the state for the proposed change are projected to equal \$296,829 for FY 89/90, \$1,193,857 for FY 90/91, and \$1,254,741 for FY 91/92.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Under this proposed rule, federal funding will increase \$786,934 for FY 89/90, \$3,422,758 for FY 90/91, and \$3,661,954 for FY 91/92.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
An average yearly benefit of \$920 each for the children under age six anticipated to become eligible and apply for benefits is expected. The value of services which will be utilized is anticipated to be \$1,083,713 in FY 89/90, \$4,616,615 for FY 90/91, and \$4,916,695 for FY 91/92.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Under the authority of Section 1915(c) of the Social Security Act created by Section 2176 of Public Law 97-35, the Omnibus Reconciliation Act of 1981, the Department of Health and Hospitals has obtained a Home and Community Based Services waiver designed to meet the needs of developmentally disabled individuals by providing an array of residential and family support services. Public Law 100-203, which mandates preadmission screening and annual resident review for nursing care to ensure that individuals with a diagnosis of mental illness or mental retardation receive appropriate levels of care, will result in the deinstitutionalization

or diversion of many individuals now placed or applying for placement in nursing facilities (Long Term Care facilities other than an ICF/MR).

Under this waiver, federal financial participation is approved under Title XIX (Medicaid) for family and community services as alternatives to institutionalization for a limited number of Medicaid eligible individuals with a developmental disability who would otherwise require an ICF/MR level of care. This includes all mandatory and categorically needy groups and uses the institutional income and resources regulations.

This proposal has no effect on current regulations, criteria, admissions policies, or reimbursement methodology for ICF/MR institutions. Recipients will continue to be placed in ICF/MR institutions when such placement is determined to be appropriate.

The waiver document, as approved, conforms to federal requirements and provides definitions of services, assurances, and documentation as specified in implementing regulations. The following services are included: personal care services, respite care, substitute family care, supervised independent living, and habilitative/supported employment. These services are designed to provide alternative residential living opportunities for individuals with developmental disabilities who currently reside in an ICF/MR or are in need of an ICF/MR level of care, including those removed from Long Term Care facilities other than an ICF/MR.

Under the terms of this waiver, a limited number of SSI recipients who meet the criteria for ICF/MR institutionalization could receive waiver services. Services to be provided are determined by an interdisciplinary team which formulates an individual plan of care (composed of an Individual Service Plan and an Individual Habilitation Plan) for each recipient. The per client expenditure for all waiver services is not to exceed the per client Medicaid expenditure that would have been spent if the client were in an ICF/MR.

The following services are to be provided:

1. Personal Care Services

Definition of Services

Personal care services are those services which meet the needs of those diverted or deinstitutionalized recipients whose disabilities preclude the acquisition of certain independent living skills related to the activities of daily living. Examples of these activities include bathing, dressing, grooming, and food preparation. These services also include performance of tasks related to maintaining a safe, healthy, and stable living environment for recipients.

Personal care services include assisting recipients in transfer and/or ambulation, assisting with bladder and/or bowel requirements, and assisting in any services in the individual habilitation plan (IHP) or individual service plan (ISP). The IHP and/or ISP constitute the individual's Plan of Care.

Extent of Services

The frequency of personal care services and the number of hours to be provided to each recipient will be determined by an interdisciplinary team as defined in the waiver document. Either habilitative or other services will be specified on either an IHP or an ISP with programmatic approval by the Division of Mental Retardation/Developmental Disabilities (DMRDD). The IHP and/or ISP is subject to the approval of the Medicaid Bureau (Bureau of Health Services Financing) to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines.

Personal care provider staff will participate as members of the interdisciplinary team and will assist in the development of goals and objectives for the IHP and/or ISP.

Providers of personal care services will be reimbursed a prospective rate for each approved unit of service provided. A unit of service for personal care will be one-hour. Providers will not be allowed to bill for a unit of services unless at least one half (1/2) hour of services has been provided. A maximum of 1,825 hours per recipient per waiver year will be reimbursed under this waiver. Personal care services needed, exceeding the maximum of 1,825 hours, may be requested on an individual case-by-case basis. Such a need must be recommended by the interdisciplinary team, supported by documentation justifying that the client would be in jeopardy of losing independence and requiring institutional care, and be approved by the DMRDD central office and the Medicaid Bureau prior to the delivery of additional personal care services.

Provider Qualifications

In order to provide personal care services under this waiver, the agency must be licensed as a personal care service provider by the State of Louisiana. The minimum qualifications for Personal Care Attendant providers are described in State Licensure Standards.

2. Respite Care Services

Definition of Services

Respite care service is the temporary care of recipients on a short-term basis who are unable to care for themselves because of the absence of, or need for, relief of the primary caregiver(s). This care is not habilitative or remedial in nature, but includes procedures for maintenance of client's IHP and/or ISP whenever feasible. Services may be provided to any recipient on either an emergency or planned basis. Respite care may be provided either in the recipient's home or a licensed respite center.

Extent of Services

The need for planned respite services will be determined by the interdisciplinary team and will be included in an IHP and/or ISP with programmatic approval by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines. Respite care provider staff will participate in the interdisciplinary team process regarding maintaining goals or objectives on the IHP and/or ISP.

Emergency respite care will be reviewed retroactively by the interdisciplinary team within ten working days of the onset of the respite care of the recipient to determine if the service was utilized as specified in the approved waiver proposal. The reimbursement for in-home respite will be a prospective rate for one-hour units.

Center-based respite, provided only in state-licensed respite care centers or in skilled nursing facilities which are also state-licensed will be reimbursed in one-hour units of service. Services under this waiver for center-based and in-home respite services will not exceed 30 24-hour periods of time or 720 hours per recipient per waiver year. The 720-hour limit per waiver year includes any combination of center-based and in-home respite services. In order to maintain client eligibility, respite care is not to be delivered for more than 14 consecutive days.

Provider Qualifications

In order to provide respite care services under this

waiver, a respite care center must be licensed as a respite care provider by the State of Louisiana. The qualifications for respite services providers are described in the State Licensure Standards. Skilled Nursing Facilities (SNF) must be licensed by the state to provide both SNF and respite care center services. The state also requires that a SNF providing respite care under the waiver be certified for Title XIX SNF services. SNF's providing both skilled nursing services and respite services will be separately enrolled for each service with a separate provider code being assigned for each type of service.

3. Substitute Family Care Services

Definition of Services

Substitute family care is defined as personal care and supervision appropriate to an individual provided for children and adults in family homes. Substitute family caregivers serve as surrogate parents and assume the direct responsibility for the recipient's physical, social, and emotional well-being and growth, including the maintenance of natural family ties, when indicated in the IHP and/or ISP. Substitute family care services included in the waiver are day programming, transportation, training in independent living skills, and community integration. The cost of room and board for recipients of substitute family care will not be reimbursed under this waiver.

Extent of Services

The need for substitute family care is determined by an interdisciplinary team and identified in an IHP and/or ISP which is approved for programmatic considerations by DMRDD. The IHP and/or ISP must also be approved by the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines. Reimbursement for Substitute Family Care shall be a prospective per diem rate for service-related costs only.

Provider Qualifications

In order to provide substitute family care under this waiver, the agency must be licensed as a Substitute Family Care (SFC) agency by the State of Louisiana. Qualifications for SFC agencies and individual caregivers are described in State Licensure Standards.

4. Supervised Independent Living Services

Definition of Services

Supervised Independent Living is defined as either cluster or individual apartment living arrangements designed to allow recipients to live as independently as possible in the community.

Extent of Services

Services to be provided in supervised independent living arrangements are designed to prevent reinstitutionalization or to divert individuals from becoming institutionalized. These services include training in community living skills for all areas of independent functioning. Assistance is provided to recipients in obtaining financial aid and accessing other benefits available. Recipients are also provided emergency support and training in self advocacy as appropriate.

The need for supervised independent living services is determined by an interdisciplinary team and identified in an IHP and/or ISP which must be approved by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines. Provider staff participate as members of the interdisciplinary team and assist in the development of goals and objectives. Reimburse-

ment for supervised independent living is a prospective per diem rate for service-related costs and not room and board costs. Services costs represent the expected number of hours of staff support that will be provided to keep recipients in the supervised independent living setting. These costs include IHP/ISP program development, implementation, and monitoring. Room and board costs are those associated with rent, utilities, food, and related items such as administrative costs not associated with service provision, and are offset by the recipient's income, principally SSI, food stamps, and earnings. Room and board costs are excluded from services covered by the waiver.

Provider Qualifications

In order to provide supervised independent living under the waiver, an agency must be licensed as a supervised independent living provider by the State of Louisiana. The minimum qualifications for supervised living providers are described in State Licensure Standards.

5. Habilitative/Supported Employment Services

Definition of Services

Habilitative/supported employment is paid employment which is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely, and who, because of their disabilities, need intensive ongoing support to perform in a work setting. Habilitative/supported employment is conducted in a variety of settings, particularly worksites in which persons without disabilities are employed.

To be eligible for Habilitative/Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF, or ICF/MR. A copy of LA OFS Form 148 (Title XIX Longterm Care Facility Notification of Admission or Change) will be filed in the recipient's file. Individuals receiving this service either are not eligible or have been referred and rejected for participation in Section 110 or the Rehabilitation Act of 1973 or programs funded under P.L. 94-142. Documentation of the referral and/or rejection will be maintained in the recipient's file.

Extent of Services

The need for habilitative/supported employment services is determined by an interdisciplinary team and identified in a written IHP and/or ISP which must be approved for programmatic content by DMRDD. The plan is also subject to the approval of the Medicaid Bureau to determine that services are within the acceptable amount, duration, and scope of the waiver guidelines.

The scope of activities included in habilitative/supported employment is any activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation. In this waiver, supported employment models include supported jobs, enclaves, and mobile work crews.

Supported job programs typically are full- or part-time jobs located in conventional, private sector companies, and persons with disabilities are placed in these jobs. A trainer usually performs the job for a few days to determine the exact job requirements and necessary social and personal skills. After this job analysis, continuous onsite training is provided in the work place until the new employee competently performs the job. Continuing support is then provided as needed. Enclaves follow this same model except that a group of individuals work in proximity and training support is available to the group over longer periods of time. Mobile

work crews are small businesses that work for customers at their regular workplaces. While the type of work varies, mobile work crews typically are involved in janitorial, groundskeeping, or related services. Reimbursement for habilitation/supported employment services is a prospective per diem rate.

Provider Qualifications

In order to provide habilitative/supported employment under this waiver, there are two requirements. First, the agency must meet health and safety requirements established by the state for places of business. Secondly, the agency must have individuals who have specialized training in the area of supported employment which is approved by the DMRDD.

State Licensure Requirements

Where the State of Louisiana has licensure or certification requirements for service providers or for individuals who furnish services, these standards will be met.

A copy of the approved waiver may be viewed at the Office of the State Register, 900 Riverside North, Baton Rouge, LA, or may be obtained by writing the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095, or by calling (504) 342-5015.

This rule was previously adopted under the Emergency Rulemaking Provisions of R.S. 49.953 B effective February 16, 1990 and published in the *Louisiana Register*, Volume 16, Number 3 on March 20, 1990.

Proposed Rule

The Family and Community Services Program, a home and community-based services program providing alternative services to persons with developmental disabilities, shall be covered under the state's Title XIX Medical Assistance Program in accordance with all regulations applicable to such programs, as specified in Section 1915(c) of the Social Security Act and as approved in the waiver request document and attachments.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Service Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: MR/DD Waiver Implementation

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

Net savings to state government is anticipated to be \$18,083 in FY 1989/90, \$293,861 in FY 1990/91, and \$578,264 in FY 1991/92.

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

It is anticipated that federal financial participation will decrease by \$53,237 in FY 1989/90, \$977,330 in FY 1990/91, and by \$1,936,009 in FY 1991/92.

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

No revenue impact for Medicaid recipients is anticipated as the result of implementation of this rule. It is anticipated that Medicaid reimbursement for ICF/MR services will decline by \$141,954 in 1989/90, by \$2,860,111 in FY 1990/91, and by \$5,362,160 in FY 1991/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medicaid Assistance Program. This proposed rule was published as an emergency rule in the *Louisiana Register*, Vol. 16, No. 4 dated April 20, 1990.

The Health Care Financing Administration (HCFA) has established a new focus on the Nation's problem of infant mortality and morbidity. The number of low birthweight babies born in the United States continues to be too high, and this is an important factor leading to infant mortality and morbidity, costly intensive care for newborns and extremely expensive long term care for children disabled by this poor beginning. Medicaid, a major source of financing health care for poor women and children, has been shown to improve perinatal outcomes by improving access to health care for indigent pregnant women and children.

In 1986, Louisiana's percentage of low birthweight babies (8.7 percent) was exceeded or equaled in the United States only by that of Washington, D.C. (12.2 percent) and Mississippi (8.7 percent). Louisiana's rate was 28 percent higher than the rate occurring in the U. S. as a whole (6.8 percent). Louisiana's infant mortality rate for 1986 (11.9 per 1000 live births) was 14 percent higher than that for the U. S. as a whole (10.4 per 1000) and Louisiana's rate for 1987 (11.8 per 1000) was 17 percent higher than the U. S.

This rule is necessary in order to ensure that targeted groups of at-risk pregnant women are able to receive Medicaid-reimbursed case management services as soon as possible. Effective case management contributes to cost containment, quality assurance and continuity of care. Adoption of this provision will contribute materially to maternal and child health and is cost effective. Failure to adopt this provision could result in seriously jeopardizing the lives and future health of pregnant women and their offspring. Therefore, the rule shall be effective April 1, 1990.

PROPOSED RULE

The Medicaid Program shall implement case management services for a new targeted group of Medicaid recipients defined as at-risk pregnant women.

A. Case Management for at-risk pregnant women is defined as:

1. arrangements for and compilation of Interdisciplinary Team or other evaluative materials;
2. coordination and participation in the development of a comprehensive service plan for each recipient;
3. training and support of the recipient and her family in the use of personal and community resources identified in the service plan;
4. advocacy on behalf of recipients to assure that they receive appropriate benefits or services;
5. coordination of care between the recipient and all other individuals/agencies involved in care;
6. referral of recipients for appropriate benefits and services;
7. scheduling appointments for these benefits and services;
8. following up on a recipient's attendance at appointments, identification and resolution of barriers to care, and rescheduling of appointments, if necessary;
9. monitoring a recipient's progress in relation to his or her interdisciplinary service plan;
10. periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs.

This service will be reimbursed when provided to pregnant women subject to the limitations specified below.

B. Standards for Participation

The provider of case management services must:

1. enter into a provider agreement with the Bureau of Health Services Financing, including a supplement to the provider agreement which specifies the Bureau of Health Services Financing requirements for the provision of case management services;
2. be licensed to provide case management services in the state;
3. have been certified by the Office of Public Health as having adequate programming and administration to provide the services effectively and efficiently.

C. Standards for Payment

In order to be reimbursed by the state, the provider of case management services must:

1. insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:
 - a. an individual with at least a bachelor's degree from an accredited institution and a minimum of one year of experience in a human services field;
 - b. a licensed RN with at least one year of experience in public health nursing or a related field;
2. insure that a recipient of services meets the criteria listed below:
 - a. the recipient must be at risk of an unfavorable physical, psychosocial, or developmental outcome;
 - b. the recipient must require services from multiple health and social services providers;
 - c. the recipient must be unable to arrange the necessary services;

3. insure that a recipient agrees voluntarily to receive case management services for which he may be eligible;

4. insure that case management services under this provision will not be used to restrict the access of the recipients to other services available under the State Plan;

5. insure that payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose;

6. insure that the maximum units of service covered by this provision per individual per calendar year shall not exceed the limit set in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration;

7. insure that these services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration;

8. insure that services are provided according to an individualized service plan developed by an interdisciplinary team of professionals;

9. insure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;

10. insure that the case manager visits the recipient on site at her place of residence or assures that such a visit is made in the first month of service. This visit is intended as part of the assessment of the client's needs and barriers to obtaining care;

11. insure that the case manager maintains regular contact with the recipient after the recipient begins to receive case management services, in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing;

12. insure that the case manager, as well as any other employee of the case management provider who is providing services, maintains separate records for case management for each recipient and that these records contain documentation of contacts and address the efficacy of the service plan in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing;

13. insure that appropriate professional consultation is available to each case manager when necessary;

14. insure that appropriate and timely referrals for services are made, documented and followed up for each recipient served under this provision;

15. insure that the maximum caseload for a case manager for at-risk pregnant women, established in the supplement to the provider agreement with the Bureau of Health Services Financing, is not exceeded;

16. insure that each recipient has freedom of choice with regard to providers of any services, including case management services;

17. although the recipient may receive services on an inpatient or an outpatient basis, the provider must insure that specific services provided to individuals in institutional settings are not charged as case management services when those services are included in the per diem rate for the institution;

18. abide by the articles of the provider agreement and the supplement to the provider agreement entered into with the Bureau of Health Services Financing;

19. collect data which is used by the Bureau of Health

Services Financing to evaluate the effectiveness of the services provided, in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing guidelines.

D. General Provisions

1. Providers of case management services will be reimbursed on a unit of service basis as described in the supplement to the provider agreement with the Bureau of Health Services Financing. Separate unit of service fees will be established for the units of service based on the cost of providing case management services. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

2. Providers of case management services shall maintain case records for each recipient which are completed by their case managers to document the provision of service. These records shall contain the dates and times of service provision, the type of service provided, the name of the service provider, the name of the recipient and other necessary information as specified in the supplement to the provider agreement with the Bureau of Health Services Financing and shall be retained for audit as prescribed by the State Plan Standards of Payment.

3. Providers of case management services shall maintain other documentation and submit written reports to the Bureau of Health Services Financing as specified in the supplement to the provider agreement with the Bureau of Health Services Financing.

4. The number of units of service to be reimbursed by the state for each individual in a calendar year shall not exceed the maximum established under the Title XIX State Plan agreement.

5. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the State Plan Standards for Payment shall be adhered to by providers of case management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Case Management for At-Risk
Pregnant Women**

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

Implementation costs for case management services for at-risk pregnant women is estimated to total: \$250,000 (\$64,650 state match-\$185,350 federal match) in FY 91; \$257,500 (\$65,714 state match-\$191,766 federal match) in FY92; and \$265,225 (\$68,587 state match-\$196,638 federal match) in FY93.

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

State revenue will increase by the amount of the federal match shown above for FY91, FY92 and FY93.

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

Some case management agencies will benefit by receiving Medicaid reimbursement in the amount of the total implementation cost. This rule should improve maternal health and decrease the incidence of infant mortality and morbidity in the state. This will decrease costs to the families involved and to the state for intensive medical services and long term institutionalization.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact of this proposed rule on competition and employment is unknown.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. Changes included in this notice were originally published as an emergency rule in the *Louisiana Register* Vol. 16, No. 4, dated April 20, 1990 and revised a rule published in the *Louisiana Register* Vol. 15, No. 6, dated June 20, 1989.

The Health Care Financing Administration (HCFA) has established a new focus on the Nation's problem of infant mortality and morbidity. The number of low birthweight babies born in the United States continues to be too high, and this is an important factor leading to infant mortality and morbidity, costly intensive care for newborns and extremely expensive long term care for children disabled by this poor beginning. Medicaid, a major source of financing health care for poor women and children, has been shown to improve perinatal outcomes by improving access to health care for indigent pregnant women and children.

In 1986, Louisiana's percentage of low birthweight babies (8.7 percent) was exceeded or equaled in the United States only by that of Washington, D.C. (12.2 percent) and Mississippi (8.7 percent). Louisiana's rate was 28 percent higher than the rate occurring in the U. S. as a whole (6.8 percent). Louisiana's infant mortality rate for 1986 (11.9 per 1000 live births) was 14 percent higher than that for the U. S. as a whole (10.4 per 1000) and Louisiana's rate for 1987 (11.8 per 1000) was 17 percent higher than the U. S. (10.1 per 1000).

The goal of HCFA's Medicaid maternal and infant health initiative is to help states reduce infant mortality and morbidity by maximizing Medicaid coverage and benefits for pregnant women and infants, in part by:

- a. bringing more low income eligible pregnant women

into risk-specific prenatal care earlier; and

b. bringing more infants and toddlers into early and continuing risk-specific health supervision.

P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act gave Medicaid the ability to provide case management services to certain population groups which could be specified by the state. Case management, defined as an activity under which responsibility for locating, coordinating and monitoring necessary and appropriate services for an individual rests with a specific person or organization, is an invaluable tool in reducing barriers to health care for indigent pregnant women and infants, and, therefore, preventing or ameliorating infant mortality, morbidity or disability.

This rule revision is necessary in order to ensure that targeted groups of pregnant women who are at medical high risk are able to receive adequate and appropriate Medicaid-reimbursed case management services as soon as possible. Effective case management contributes to cost containment, quality assurance and continuity of care. Revisions to accomplish this include a requirement that an obstetrician be included on her interdisciplinary service team. Adoption of this provision will contribute materially to maternal and child health and is cost effective. Failure to adopt this provision could result in seriously jeopardizing the lives and future health of high-risk pregnant women and their offspring. Therefore, the rule shall be effective April 1, 1990.

PROPOSED RULE

A. Case Management for high-risk pregnant women is defined as:

1. arrangements for and compilation of Interdisciplinary Team or other evaluative materials;
2. coordination and participation in the development of a comprehensive service plan for each recipient;
3. training and support of the recipient in the use of personal and community resources identified in the service plan;
4. advocacy on behalf of recipients to assure that they may receive appropriate benefits or services;
5. coordination of care between the recipient and all other individuals/agencies involved in care;
6. referral of recipients for appropriate benefits and services;
7. scheduling appointments for these benefits and services;
8. following up on a recipient's attendance at appointments, identification and resolution of barriers to care, and rescheduling of appointments, if necessary;
9. monitoring a recipient's progress in relation to his or her interdisciplinary service plan;
10. periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;

B. Standards for Participation.

1. The provider of case management services must:
 - a. enter into a provider agreement with the Bureau of Health Services Financing, including a supplement to the provider agreement which specifies the Bureau of Health Services Financing requirements for the provision of case management services;
 - b. be licensed to provide case management services in the state;
 - c. have been certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently.

C. Standards for Payment.

In order to be reimbursed by the state, the provider of case management services must:

1. insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience services;
 - a. An individual with a Master's degree in social work and a minimum of one year of experience in a human services field;
 - b. An individual with a Bachelor's degree in nursing with a minimum of two years of experience in perinatal or public health nursing.
2. insure that all recipients of services meet the criteria listed below:
 - a. the recipient must be at the highest risk of an unfavorable physical, psychosocial or developmental outcome;
 - b. the recipient must require services from multiple health and social services providers;
 - c. the recipient must be unable to arrange the necessary services;
3. insure that a recipient agrees voluntarily to receive case management services under this provision for which he may be eligible;
4. insure that case management services under this provision will not be used to restrict the access of the recipients to other services available under the State Plan;
5. insure that payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose;
6. insure that the maximum units of service covered by this provision per individual per calendar year shall not exceed the limit set in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration;
7. insure that these services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration;
8. insure that services are provided according to an individualized service plan developed by an interdisciplinary team of professionals, which must include, at a minimum, an obstetrician/gynecologist, a master's level social worker, a perinatal nurse and a nutritionist;
9. insure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;
10. insure that the case manager visits the recipient on site at her place of residence or assures that such a visit is made in the first month of service. This visit is intended as part of the assessment of the client's needs and barriers to obtaining care;
11. insure that the case manager maintains regular monthly contact with the recipient after the recipient begins to receive case management services, in accordance with the standards in the supplement to the provider agreement with the Bureau of Health Services Financing;
12. insure that the case manager, as well as any other employee of the case management provider providing services, maintains separate records for case management for each recipient and that these records contain documentation

of contacts and address the efficacy of the service plan in accordance with Bureau of Health Services Financing guidelines;

13. insure that appropriate professional consultation is available to each case manager when necessary;

14. insure that appropriate and timely referrals for services are made and documented for each recipient served under this provision;

15. insure that the maximum caseload for a case manager for at-risk pregnant women, established in the supplement to the provider agreement with the Bureau of Health Services Financing, is not exceeded;

16. insure that each recipient has freedom of choice with regard to providers of any services, including case management services;

17. although the recipient may receive services on an inpatient or an outpatient basis, the provider must insure that specific services provided to individuals in institutional settings are not charged as case management services when these services are included in the per diem rate for the institution;

18. abide by the articles of the provider agreement and the supplement to the provider agreement entered into with the Bureau of Health Services Financing;

19. collect data which is used by the Bureau of Health Services Financing to evaluate the effectiveness of the services provided, in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing guidelines.

D. General Provisions

1. Providers of case management services will be reimbursed on a unit of service basis. Separate unit of service fees will be established for the initial month of service and subsequent months of services, based on the cost of providing case management services. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

2. Providers of case management services shall maintain case records for each recipient which are completed by their case managers to document the provision of service. These records shall contain the dates and times of service provision, the type of service provided, the name of the service provider, the name of the recipient and other necessary information as specified in the supplement to the provider agreement with the Bureau of Health Services Financing and shall be retained for audit as prescribed by the State Plan Standards of Payment.

3. Providers of case management services shall maintain other documentation and submit written reports to the Bureau of Health Services Financing as specified in the supplement to the provider agreement with the Bureau of Health Services Financing.

4. The number of units of service to be reimbursed by the state for each individual in a calendar year shall not exceed the maximum established under the Title XIX State Plan agreement.

5. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the State Plan Standards for Payment shall be adhered to by providers of case management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton

Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Case Management for High Risk Pregnant Women Amendment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs or savings are anticipated from this rule revision.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated as a result of this rule revision.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs or economic benefits are anticipated as a result of this rule revision.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule is expected to have no impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistant Program. The proposed rule was originally published as an emergency rule in the *Louisiana Register* Volume 16, No. 4 dated April 20, 1990.

The Health Care Financing Administration (HCFA) has established a new focus on the Nation's problem of infant mortality and morbidity. The number of low birthweight babies born in the United States continues to be too high, and this is an important factor leading to infant mortality and morbidity, costly intensive care for newborns and extremely expensive long term care for children disabled by this poor beginning. Medicaid, a major source of financing health care for poor women and children, has been shown to improve perinatal outcomes by improving access to health care for

indigent pregnant women and children.

In 1986, Louisiana's percentage of low birthweight babies (8.7 percent) was exceeded or equaled in the United States only by that of Washington, D.C. (12.2 percent) and Mississippi (8.7 percent). Louisiana's rate was 28 percent higher than the rate occurring in the U. S. as a whole (6.8 percent). Louisiana's infant mortality rate for 1986 (11.9 per 1000 live births) was 14 percent higher than that for the U. S. as a whole (10.4 per 1000) and Louisiana's rate for 1987 (11.8 per 1000) was 17 percent higher than the U. S. (10.1 per 1000).

The goal of HCFA's Medicaid maternal and infant health initiative is to help states reduce infant mortality and morbidity by maximizing Medicaid coverage and benefits for pregnant women and infants, in part by:

- a. bringing more low income eligible pregnant women into risk-specific prenatal care earlier; and
- b. bringing more infants and toddlers into early and continuing risk-specific health supervision.

P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act gave Medicaid the ability to provide case management services to certain population groups which could be specified by the state. Case management, defined as an activity under which responsibility for locating, coordinating and monitoring necessary and appropriate services for an individual rests with a specific person or organization, is a invaluable tool in reducing barriers to health care for indigent pregnant women and infants, and, therefore, preventing or ameliorating infant mortality, morbidity or disability.

The increasing capability of Neonatal Intensive Care Unit technology to save smaller and more immature infants results in increasing numbers of fragile infants surviving to discharge. These infants are at excess risk of mortality, morbidity and re-hospitalization for the first few years of life. Developmental disabilities are also significantly increased in this population. Many of these developmentally delayed and high-risk infants require services from multiple agencies and service providers. Coordination of this care through case management results in the infant or toddler receiving services from these agencies more consistently and with little or no unnecessary duplication of services. Public Law 99-457 provides that the state must develop and implement state-wide coordinated, interagency systems of comprehensive early intervention services for handicapped infants, toddlers and their families which include case management services. The Medicare Catastrophic Coverage Act of 1988 clearly specifies that Medicaid has responsibility for financing these services for eligible children.

This rule is necessary in order to ensure that targeted groups of high-risk infants and toddlers are able to receive Medicaid-reimbursed case management services as soon as possible. Effective case management contributes to cost containment, quality assurance and continuity of care. This will contribute materially to child health care in Louisiana and is cost effective. Failure to adopt this provision could result in seriously jeopardizing the lives and future health of infants born prematurely, with low birth weights, or suffering from other conditions which can be ameliorated and in increased publicly financed health care costs for providing intensive health services to chronically ill children who may require long-term hospitalization or institutionalization. Therefore, the rule shall be effective April 1, 1990.

PROPOSED RULE

The Medicaid Program shall implement case management services for a new targeted group of Medicaid recipients defined as high-risk infants and toddlers.

A. Case Management for high-risk infants and toddlers is defined as:

1. arrangements for and compilation of Interdisciplinary Team or other evaluative materials;
 2. coordination and participation in the development of a comprehensive service plan for each recipient;
 3. training and support of the recipient's parents and family in the use of personal and community resources identified in the service plan;
 4. advocacy on behalf of recipients to assure that they receive appropriate benefits or services;
 5. coordination of care between the recipient and all other individuals/agencies involved in care;
 6. referral of recipients for appropriate benefits and services;
 7. scheduling appointments for these benefits and services;
 8. following up on a recipient's attendance at appointments, identification and resolution of barriers to care, and rescheduling of appointments, if necessary;
 9. monitoring a recipient's progress in relation to his or her interdisciplinary service plan;
 10. periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs.
- This service will be reimbursed when provided to high-risk infants, subject to the limitations specified below.

B. Standards for Participation

1. The provider of case management services must:
 - a. enter into a provider agreement with the Bureau of Health Services Financing, including a Supplement to the Provider Agreement which specifies the Bureau of Health Services Financing requirements for the provision of case management services;
 - b. be licensed to provide case management services in the state;
 - c. have been certified by the Office of Public Health as having adequate administrative capabilities, staffing, and technical expertise to provide the services effectively and efficiently.

C. Standards for Payment

In order to be reimbursed by the state, the provider of case management services must:

1. Insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:
 - a. An individual with at least a master's degree in social welfare and at least two years experience in a human service or public health area;
 - b. A licensed RN with at least two years of clinical pediatric, maternal and child health, public health or related experience.
2. Insure that the recipients of services meet the criteria listed below:
 - a. The recipient must meet risk criteria approved by the Bureau of Health Services Financing as qualifying the recipient for case management services for high-risk infants and toddlers;

b. The recipient must require services from multiple health/social/informal services providers;

c. The recipient's parents or family must be unable to arrange the necessary services independently.

3. Insure that a recipient agrees voluntarily to receive case management services under this provision for which he may be eligible.

4. Insure that case management services under this provision will not be used to restrict the access of the recipients to other services available under the State Plan.

5. Insure that payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

6. Insure that the maximum units of service covered by this provision per individual per calendar year shall not exceed the limit set in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

7. Insure that these services shall be limited to certain geographical areas and maximum ages in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

8. Insure that services are provided according to an individualized service plan developed by an interdisciplinary team of professionals.

9. Insure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient.

10. Insure that the case manager visits the recipient on site at his place of residence or assures that such a visit is made in the first month of service. This visit is intended as part of the assessment of the client's needs and barriers to obtaining care.

11. Insure that the case manager maintains regular contact with the recipient and his parents and family in the months after the recipient begins to receive case management services in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing.

12. Insure that the case manager, as well as any other employee of the case management provider who is providing services, maintains separate records for case management for each recipient and that these records contain documentation of contacts and address the efficacy of the service plan in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing.

13. Insure that appropriate professional consultation is available to each case manager when necessary.

14. Insure that appropriate and timely referrals for services are made, documented and followed up for each recipient served under this provision.

15. Insure that the maximum caseload for a case manager for at high-risk infants and toddlers established in the supplement to the provider agreement with the Bureau of Health Services Financing, is not exceeded.

16. Insure that each recipient has freedom of choice with regard to providers of any services, including case management services.

17. Although the recipient may receive services on an inpatient or an outpatient basis, the provider must insure that specific services provided to individuals in institutional settings are not charged as case management services when

those services are included in the per diem rate for the institution.

18. Abide by the articles of the provider agreement and the supplement to the provider agreement entered into with the Bureau of Health Services Financing.

19. Collect data which is used by the Bureau of Health Services Financing to evaluate the effectiveness of the services provided, in accordance with the supplement to the provider agreement with the Bureau of Health Services Financing.

D. General Provisions

1. Providers of case management services will be reimbursed on a unit of service basis as described in the supplement to the provider agreement with the Bureau of Health Services Financing. Separate unit of service fees will be established for the units of service based on the cost of providing case management services. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

2. Providers of case management services shall maintain time-sheets which are completed by their case managers to document the provision of service. Time sheets shall contain the dates and times of service provision, the type of case management service provided, the name of the service provider, the name of the recipient and other necessary information specified in the supplement to the provider agreement with the Bureau of Health Services Financing and shall be retained for audit as prescribed by the Title XIX State Plan Standards of Payment. Specific information on services or activities which may be billed as case management services and on calculation of time for purposes of reporting units of service contained in the supplement to the provider agreement with the Bureau of Health Services Financing shall be followed.

3. Providers of case management services shall maintain documentation and submit written reports to the Bureau of Health Services Financing as specified in the supplement to the provider agreement with the Bureau of Health Services Financing.

4. The number of units of service to be reimbursed by the state for each individual in a calendar year shall not exceed the maximum established under the Title XIX State Plan agreement.

5. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the State Plan Standards for Payment shall be adhered to by providers of case management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Case Management Services for
High-Risk Infants**

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

The implementation costs for this proposed rule are estimated to be: \$550,862 (\$142,453 State Match-\$408,409 Federal Match) in FY 91; \$998,985 (\$254,941 State Match-\$744,044 Federal Match) in FY92; and \$1,028,955 (\$266,088 State Match-\$762,867 Federal Match) in FY93.

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

It is estimated that state revenues will increase by \$408,409 in Title XIX funds in FY91; \$744,044 in FY92; and \$762,867 in FY93.

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

This rule should decrease the incidence of infant mortality and morbidity in the state. This will decrease costs to the families involved and to the state for intensive health services and long term institutionalization for the affected population.

Certain case management project/agencies will have increased revenue in the amount of the total Medicaid expenditure.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

This proposed rule is anticipated to have no impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Under current federal law, Louisiana offers Medicaid coverage to pregnant women and to infants up to age one with family incomes below 100 percent of the federal poverty level. States currently also have the option of extending Medicaid coverage to all pregnant women and infants with incomes at percentages above the poverty guidelines.

Under the mandatory provisions of the Omnibus Reconciliation Act of 1989, states are required to cover pregnant women and infants to age one with family incomes up to 133 percent of the federal poverty level. OBRA '89 thus raises the level from 100 percent to 133 percent of the federal poverty guidelines amount.

Implementation of this provision is mandated by the Omnibus Reconciliation Act of 1989. This rule is necessary to ensure compliance with mandated federal regulations and

to avoid sanctions from HCFA.

This rule was adopted under the emergency rulemaking provisions of R.S. 49:953 B effective April 1, 1990 and was being published in April, 1990 issue of the *Louisiana Register* (Volume 16, No. 4 published April 20, 1990).

PROPOSED RULE

The upper income eligibility limitation for pregnant women and infants to age one is a family income up to 133 percent of the federal poverty level as required by the Omnibus Budget Reconciliation Act of 1989.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Mandatory Coverage of Pregnant Women and
Infants of 133% of FPL**

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

Implementation costs to the state for the proposed change are projected to equal \$337,755 for FY 89/90, \$1,358,462 for FY 90/91, and \$1,427,740 for FY 91/92.

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

Under this rule, federal funding will increase \$895,426 for FY 89/90, \$3,894,677 for FY 90/91, and \$4,166,853 for FY 91/92.

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

An average yearly benefit of \$920 each for the pregnant women and infants anticipated to become eligible and apply for benefits is expected. The value of services which will be utilized is anticipated to be \$1,233,131 for FY 89/90, \$5,253,139 for FY 90/91, and \$5,594,593 for FY 91/92.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX Medicaid Program.

Currently, in SSI-related eligibility determinations, equity in property other than the home must be determined as well as the amount of income the property produces. The equity value is determined by subtracting legal debts owed on the property from the current market value of the property. Up to \$6,000 of the equity in property other than the home may be excluded as essential to self-support if the property produces a six percent annual rate of return on the equity. The equity over \$6,000 is counted as a resource. If the property does not produce a six percent annual rate of return on the equity, the full equity value of the property is counted as a resource in the determination of eligibility.

The Omnibus Budget Reconciliation Act of 1989 (OBRA), enacted on December 19, 1989, amended Section 8014 of the Social Security Act to provide for the exclusion of the value of income-producing property from the equity value of the person's property. Income generated from the property would be counted in determining SSI-related Medicaid eligibility.

The bureau is adopting the following proposed rule to comply with the mandated federal requirements of OBRA of 1989.

PROPOSED RULE

The value of property which is used in the applicant/recipient's trade or business or in the employment of the applicant/recipient's spouse or parent is excluded from the equity value of the person's property when determining SSI-related eligibility. Property used as a means of self-support includes tools, machinery, and livestock. Income generated from the property is counted in determining eligibility.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Exclusion of Income Producing Property in SSI-Related Cases

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

The estimated implementation cost will be \$100 for annual revisions of which \$50 is the projected cost to the state for SFY 89-90. Based on the bureau's review of

potential cases subject to this mandated change in policy, no fiscal impact is projected. Income generated from property excluded is expected to have the same effect on eligibility determination as counting such property as a resource.

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

Implementation of the proposed rule increases federal matching funds for Title XIX administrative expenditures by \$50 for issuance of Chapter XIX policy to clarify when income producing property as a resource is excluded in SSI-related cases.

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

Medicaid applicants/recipients who are SSI-related and who own income producing property would be the only persons or groups directly affected by this proposed policy which clarifies that income-producing property is excluded as a resource when determining eligibility for benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medicaid Assistance Program. This proposed rule was originally published as an emergency rule in the *Louisiana Register*, Vol. 16, No. 4 dated April 20, 1990.

The Health Care Financing Administration (HCFA) has established a new focus on the Nation's problem of infant mortality and morbidity. The number of low birthweight babies born in the United States continues to be too high, and this is an important factor leading to infant mortality and morbidity, costly intensive care for newborns and extremely expensive long term care for children disabled by this poor beginning. Medicaid, a major source of financing health care for poor women and children, has been shown to improve perinatal outcomes by improving access to health care for indigent pregnant women and children.

In 1986, Louisiana's percentage of low birthweight babies (8.7 percent) was exceeded or equaled in the United States only by that of Washington, D.C. (12.2 percent) and Mississippi (8.7 percent). Louisiana's rate was 28 percent higher than the rate occurring in the U. S. as a whole (6.8 percent). Louisiana's infant mortality rate for 1986 (11.9 per 1000 live births) was 14 percent higher than that for the U. S. as a whole (10.4 per 1000) and Louisiana's rate for 1987 (11.8 per 1000) was 17 percent higher than the U. S. (10.1 per 1000).

The goal of HCFA's Medicaid maternal and infant health initiative is to help states reduce infant mortality and morbidity by maximizing Medicaid coverage and benefits for pregnant women and infants, in part by:

- a. bringing more low income eligible pregnant women into risk-specific prenatal care earlier; and
- b. bringing more infants and toddlers into early and continuing risk-specific health supervision.

P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act, gave Medicaid the ability to provide these enhanced services. These services include risk assessments for pregnant women to determine her level of risk, to determine which services are most needed to protect her health, to improve the birth outcome and to enhance her chances of raising a healthy child. Such a service provided to indigent pregnant women, particularly in combination with case management services, may prevent or ameliorate infant mortality, morbidity or disability and the enormous costs associated with these problems.

This rule is necessary in order to ensure that Medicaid-eligible pregnant women are able to receive this cost effective, enhanced service.

PROPOSED RULE

The Medicaid program shall implement a new prenatal service, risk assessment, to be extended to all Medicaid-eligible pregnant women in the state.

Risk Assessment is defined as the systematic determination of factors which may compromise the health outcome for a pregnant woman or her infant. Such assessments should include, but are not limited to medical, social and nutritional factors. The assessment may be done by a prenatal medical care provider or by a health care professional under the supervision of a prenatal medical care provider.

A risk assessment shall result in a baseline of information regarding the pregnant woman's needs or problems which will be used to guide the development of an interdisciplinary plan of care describing the type and level of intensity of services the recipient will require during her pregnancy. If the recipient is eligible for or receiving case management services, the risk assessment provider shall cooperate with the case management provider and other appropriate health care professionals in the development of the interdisciplinary plan of care.

A. Standards for Participation

The risk assessment provider shall:

1. enter into a provider agreement with the Bureau of Health Services Financing, including a supplement to the provider agreement which specifies the Bureau of Health Services Financing requirements for the provision of risk assessment services;
2. be licensed in the state as one of the following:
 - a. a physician;
 - b. a certified nurse midwife;
 - c. a prenatal care clinic;
 - d. a registered nurse, who may provide risk assessment services under the supervision of a physician.
3. have been certified by the Office of Public Health to provide risk assessment services.

B. Standards for Payment

In order to be reimbursed by the state, the provider of risk assessment services must:

1. assure that all risk assessment services are provided only to women whose pregnancy has been verified;

2. insure that the risk assessment instrument used is one approved by the Bureau of Health Services Financing;

3. insure that a recipient agrees voluntarily to receive risk assessment services for which she is eligible;

4. insure that risk assessment services under this provision will not be used to restrict the access of the recipients to other services available under the State Plan;

5. insure that payment for risk assessment services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose;

6. insure that, if the recipient is eligible for or receiving case management services because of the risk level involved in her pregnancy, the provider will cooperate with the recipient's case management provider and other appropriate professionals in developing interdisciplinary service plan;

7. insure that each recipient has freedom of choice with regard to providers of any services necessary for her treatment;

8. abide by the articles of the provider agreement and the supplement to the provider agreement entered into with the Bureau of Health Services Financing.

C. Service Limits

The maximum units of service covered by this provision per individual per calendar year shall not exceed the limit of two set in accordance with the Title XIX State Plan Agreement with the Health Care Financing Administration.

D. General Provisions

1. Providers of risk assessment services will be reimbursed on a unit of service basis. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

2. Providers of risk assessment services shall maintain adequate documentation of the provision of service in a separate record for each recipient. These records should include the date of service provision and the name of the service provider and be retained for audit as prescribed by the State Plan Standards of Payment.

3. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the Title XIX State Plan Standards for Payment shall be adhered to by risk assessment providers.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 6, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, view or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Risk Assessment Services for Pregnant
Women**

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

The estimated implementation costs of this proposed rule are as follows: \$1,203,165 (\$311,138 state match-\$892,027 federal match) in FY91; \$1,239,260 (\$316,259 state match-\$923,001 federal match) in FY 92; and \$1,276,438 (\$330,087 state match-\$946,351 federal match) in FY 93.

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

The anticipated increases in Title XIX Federal revenue due to this rule is shown above.

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

This rule should improve maternal health and decrease the incidence of infant mortality and morbidity in the state. This will decrease costs to the families involved and to the state for intensive medical services and long term institutionalization. It will also increase revenue to providers of risk assessment services by the amount of the total expenditure.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Injection and Mining Division
Docket No. IMD 90-4

In accordance with the provisions of R.S. 49:951 et seq. and R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 10 a.m., Wednesday, June 6, 1990, in the Conservation Auditorium located on the First Floor of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana.

At such hearing the commissioner of conservation shall consider the promulgation of an amendment to Statewide Order No. 29-B, which amendment will establish a revised method for the analytical testing and evaluation of nonhazardous oilfield waste (NOW) for barium and the barium criteria for closure of oilfield pits, the operation and closure of commercial facilities that treat NOW solids, and the reuse of treated NOW solids. Other amendments revise the NOW manifest system, add certain operation and monitoring requirements for commercial facilities, provide for the passive closure of oilfield pits, and require the closure of production pits in designated areas of the state.

A copy of the proposed amendment to Statewide Order No. 29-B may be obtained by writing Carroll Wascom, Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA, by contacting Mr. Wascom at 504/342-5515, or in person from Mr. Wascom at the Department of Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, 2nd Floor, Room 253. Additionally, copies can be obtained in person from the District Offices of the Office of Conservation at the following addresses: Shreveport District Office, 960 Jordan Street, Shreveport, LA 71101; Monroe District Office, 122 St. John Street - Rm. 214, Monroe, Louisiana 71201; Lafayette District Office, 106 Calco Boulevard, Lafayette, Louisiana 70503.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 5 p.m., Wednesday, June 13, 1990, at the following address: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804-9275, Re: Docket No. IMD 90-4, Proposed Amendment to Statewide Order No. 29-B.

J. Patrick Batchelor
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Statewide Order No. 29-B

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

Implementation of this rule change is estimated to cost the Department of Natural Resources \$323,000 and require ten additional positions to carry out. These positions and approximately this amount of funding have been included in the executive budget and the original General Appropriations Bill for fiscal year 1990-91.

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

Revenue collections of the state and local governmental units in the coastal parishes may increase as expenditures related to pit closure occur. Revenues to these entities may be reduced if expenditures related to pit closures have the effect of reducing other expenditures that might otherwise have occurred. The net effect on revenues from these actions cannot be determined.

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

The owners and/or operators of production pits will incur substantial costs associated with pit closures. While exact costs cannot be determined, there may be as many as 300 production pits affected by this rule. Costs to close a single pit can range from a few thousand dollars to over a million dollars. Each commercial oilfield waste disposal facility will also have to spend approximately \$500 per year obtaining aerial photographs of the facility site.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

The closure of these pits may result in increased employment opportunities associated with the planning and "construction" of closed pits. Employment opportunities

may be decreased though if the costs of pit closures reduces activities by owners or operators that might otherwise have occurred. The net effect on employment from these actions cannot be determined.

J. Patrick Batchelor
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Community Services

The Louisiana Department of Social Services (DSS) intends to apply for Low-Income Home Energy Assistance Block Grant funds in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, as amended by P.L. 98-588 of 1984, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493.

As initiated on October 1, 1985, the Office of Community Services (OCS), (formerly Office of Human Development) will continue to have responsibility for administration of the Low-Income Home Energy Assistance Program.

Services available under this program include:

Home Energy Assistance - vendor payments on behalf of eligible households for home energy as a source of heating or cooling of dwelling units.

Weatherization - the provision of materials and labor for altering housing units of eligibles in accordance with U.S. Department of Energy Guidelines to conserve energy and reduce energy cost.

Energy Crisis Intervention - vendor payments on behalf of eligible households for home energy as a source of heating or cooling during weather related or supply shortage emergencies as may be declared by the governor.

Eligible categories include:

1. Households in which one or more adults are receiving one of the following, provided there is no additional income:

- a. AFDC (Aid to Families with Dependent Children);
- b. SSI (Supplemental Security Income);
- c. Food Stamps; or
- d. Veterans' or VA Survivors Pensions

2. Households with gross incomes which do not exceed 150 percent of the poverty level, as published by the U.S. Department of Health and Human Services in the *Federal Register*, Volume 55, Number 33, dated Thursday, February 16, 1990. The published poverty income guideline for all states except Alaska and Hawaii and the District of Columbia is an annual gross income of \$12,700 for a household of four. A household of four with a monthly gross income of not more than \$1,588 is eligible for services.

The proposed LIHEAP State Plan will be available for public review at each OCS parish office Monday through Friday from 8:30 a.m. to 4 p.m. beginning May 1, 1990.

Interested persons may submit written comments on the proposed plan from May 1, 1990 through June 15, 1990 to: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

A Public Hearing on the proposed plan is scheduled

for June 1, 1990 at 10 a.m. at Auditorium A, 2nd Floor, 755 Riverside North, Baton Rouge, LA 70802.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed Block Grant application, orally or in writing until June 15, 1990.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Low-Income Home Energy Assistance Program (LIHEAP)

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

There are no estimated implementation costs or savings to the state or local governmental units. Only federal LIHEAP Block Grant funds are utilized in the implementation of this program.

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

Each state receives an annual allotment of LIHEAP Block Grant funds. The Department of Social Services, Office of Community Services (DSS/OCS) administers LIHEAP through contractual agreements with local community action agencies, governmental units and recognized Indian-tribal organizations. Each parish of the state is allotted funds according to the percentage of low-income households compared to the state low-income population. It is estimated that Louisiana will have \$11,025,300 in federal LIHEAP funds to implement this program. It is anticipated that 10% of the total funds available will be transferred to Social Service Block Grant Programs. The remainder of funds may be obligated in the following manner:

1% - held available for energy crisis program*

15% - for weatherization service to low-income households*

84% - for home energy assistance services to low-income households*

*A maximum of 10 percent of these funds will be utilized for administrative purposes.

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

There are no costs to eligible applicants who receive home energy assistance or weatherization services. Households eligible for home energy assistance may receive payment benefits made in their behalf once each six months to a maximum of \$100. Weatherization services are provided to eligible households only once to a maximum of \$1,600. Weatherization activities include the purchase and installation of Department of Energy approved materials. Approximately 94,000 households will receive energy payments made in their behalf and approximately 828 households will be weatherized from heat and cold.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Only a minimum effect is anticipated on competition

and employment as all but the largest Community Action Agencies (CAA) and local governmental units can implement programs with existing staff. Some CAA's may employ part time or temporary help during the program period. Some Weatherization Assistance Providers will contract weatherization activities with a private contractor. All materials and equipment utilized in weatherization activities must be acquired through a DOE approved bid process.

Robert J. Hand
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule to establish the Job Opportunities and Basic Skills Training Program (JOBS).

This rule is mandated by federal regulations as published in the *Federal Register* of Friday, October 13, 1989, Vol. 54, No. 197, pages 42146-42267, and Act 566 of the 1989 regular session of the Louisiana Legislature which require the implementation of the JOBS program for recipients of Aid to Families with Dependent Children (AFDC). The JOBS program will be administered in accordance with the above-referenced regulations and law, and the Louisiana State Plan for JOBS.

PROPOSED RULE

Effective October, 1990, the Department of Social Services, Office of Eligibility Determinations, will implement the JOBS program which is designed to assist recipients of AFDC to become self-sufficient by providing needed employment-related activities and support services.

I. Program Components

Employment-related activities will include the components of education, job skills training, job readiness training, job development, job placement, job search and on-the-job training. Support services will include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

II. Participation Requirements

A. Initial Implementation Parishes

The JOBS program will be implemented effective October 1, 1990 in the following parishes: Caddo, Calcasieu, East Baton Rouge, Iberia, Lincoln, Orleans, Ouachita, Pointe Coupee, St. Charles and Vernon. These ten parishes contain 48 percent of the state's current AFDC caseload. They also represent both small and large and urban and rural parishes, as well as the parishes with the highest and lowest unemployment rates. At least one parish from each of the Office of Eligibility Determinations' eight administrative regions is included. Following a successful beginning in these parishes the state will continue to phase in the program in the remaining parishes by October 1, 1992.

B. Individual Participation Requirements

All AFDC recipients are mandatory participants unless

determined exempt in accordance with 45 CFR 250.30 or 250.33.

Regulations at 45 CFR 250.30 mandate that all non-exempt applicants and recipients with children under age three participate in the JOBS program as an eligibility condition for receipt of AFDC benefits. States have the option to reduce that age requirement to one year. Recognizing that early positive intervention in the lives of AFDC clients is essential in preventing public assistance dependence, Louisiana will exercise the option to reduce the age to one year. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child.

Regulations at 45 CFR 250.33 require participation of at least one parent in any family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner. Louisiana will exercise the option to require participation of both parents unless one or both of them meet exemption criteria.

Failure to participate in the JOBS program without good cause will result in progressive levels of sanctioning in accordance with 45 CFR 250.34.

III. Program Administration

A. Coordination with Other Service Providers

The Department of Social Services through the Office of Eligibility Determinations is the agency mandated by 45 CFR 250.10 as being responsible for implementation and administration of the JOBS program. To maximize the potential that the JOBS program offers to AFDC recipients the Department of Social Services will coordinate with the Departments of Health and Hospitals, Employment and Training, Education and Economic Development, as well as other providers of program components and services.

B. Responsibilities of Office of Eligibility Determinations

The JOBS program will be administered by OED State Office JOBS program staff, regional JOBS Program Specialists, and parish office staff.

The Department of Social Services will implement a case management system through the newly created positions of case managers in each OED parish office to assist JOBS participants in their efforts to become economically independent. Case managers will: assess the participant's family circumstances, education and training status and level of job readiness; negotiate with the participant an employability plan that is realistic and achievable; provide positive intervention and act as participant advocate to maximize effectiveness of the program; select and arrange for appropriate JOBS program component participation; and monitor program activities.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. Mr. Prejean is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on June 7, 1990 in the Third Floor Committee Room at the Capitol Annex, 900 Riverside North, Baton Rouge, LA beginning at 9:30 a.m. A public hearing will also be held on June 8, 1990 in the Second Floor Auditorium at the Orleans Parish Office of Eligibility Determinations, 2601 Tulane Avenue, New

Orleans, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearings.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Job Opportunities and Basic Skills Training Program (JOBS)

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

This rule is estimated to result in an increase in expenditures for employment-related activities and the provision of child care, transportation and other supportive services as follows:

FY	TOTAL	FEDERAL	STATE
90/91	\$37,214,262	\$25,363,207	\$11,851,055
91/92	\$53,294,166	\$37,428,674	\$15,865,492
92/93	\$59,600,542	\$41,785,927	\$17,814,615

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

Federal matching funds from the U. S. Department of Health and Human Services are estimated to be:

\$25,363,207 in FY 90/91
\$37,428,674 in FY 91/92
\$41,785,927 in FY 92/93

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

The Job Opportunities and Basic Skills Training Program (JOBS) will assist recipients of Aid to Families with Dependent Children (AFDC) to become self-sufficient and therefore independent of public assistance. This will be accomplished through the provision of education, training, job placement and employment and other related supportive services including child care and transportation. It is estimated that an average of 11,310 participants will be assisted each month during FY 90/91 and 14,533 during FY 91/92. These amounts are projected to increase to an average of 17,757 with statewide implementation in FY 92/93.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition. A long-term effect on employment may be increased opportunities for employment in the fields of child care and transportation services. The program also has the long range potentials of reducing the state's unemployment rate and creating a more highly skilled workforce.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to adopt rules and regulations establishing size limits, quotas and special license requirements for the harvest of black drum. The proposed black drum measures are as follows:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§331. Black Drum Size Limits, Daily Take and Possession Limits, Quotas and Special Permit Requirements

The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations for the taking of black drum (*Pogonias cromis*):

The daily take and possession limit for black drum caught recreationally within or without Louisiana waters shall be five fish per day and in possession.

The minimum legal size for the recreational or commercial taking of black drum shall be 16 inches total length.

The maximum legal size for the recreational or commercial taking of black drum shall be 27 inches total length; provided however that recreational fishermen shall be allowed to take and possess one black drum per day over 27 inches. It is provided further that commercial fishermen, when in possession of a "Special Black Drum Permit", shall be allowed to take and possess black drum over 27 inches in unlimited quantities until the annual quota has been met.

The annual commercial quota for 16 to 27 inch black drum shall be 3,250,000 pounds.

The annual commercial quota for black drum over 27 inches shall be 300,000 fish.

The fishing year for black drum shall begin on September 1, 1990 and every September 1 thereafter.

A "Special Black Drum Permit" shall be annually required for persons commercially taking black drum over 27 inches and each "Special Black Drum Permit" holder shall on or before the tenth of each month make a return to the department on forms provided or approved for the purpose, the number of black drum over 27 inches taken commercially during the preceding month.

Once the black drum commercial quota(s) has been met; the purchase barter, trade or sale of black drum taken in Louisiana after the closure is prohibited. The commercial taking or landing of black drum in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited. Nothing in this rule shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

The secretary of the Department of Wildlife and Fisheries shall, by public notice, close the commercial fishery(s) for black drum when the quota(s) has been met or is projected to be met. The closure shall not take effect for at least 72 hours after notice to the public.

Authority for adoption of this rule is contained in Sections 6(10), 326.1 and 326.3 of Title 56 of the Louisiana Revised Statutes.

Interested persons may submit comments relative to the proposed rule to: John E. Roussel, Marine Fish Division,

Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10)326.1, 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:

Warren I. Pol
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Black Drum Size Limits, Daily Take and Possession Limits, Quotas and Special Permit Requirements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will not result in increased expenditures of funds, however it will require some reprogramming of existing manpower to issue the "Special Permits" and monitor the commercial quotas.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The commercial and recreational fishery for black drum is economically important to the State of Louisiana, however there is no method for quantifying its contribution to state or local governmental revenues. The proposed rule may have a short-term negative impact by discouraging participation in the fishery, but should have a long-term positive impact by ensuring the continued health of the black drum fishery.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs to directly affected persons or non-governmental groups, however the proposed rule should result in positive long-term economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule may increase competition and decrease employment in the short-term, however employment should increase over the long-term.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next retail florist examinations will be given at 10 a.m. daily at the Delgado Community College in New Orleans, LA. The deadline for getting in application and fee is July 2, 1990. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be July 24-27, 1990.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 21 claims in the amount of \$55,949 were received in the month of April, 1990, 17 claims in the amount of \$30,246 were paid, and no claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28276	46858
28610	47038
27727	46883
27889	46863
28037	46842
28216	46819
29136	46832
28321	46828
28365	46835
26957	46956
28867	46558

Any person may obtain a list of names of claimants, and amounts paid, by submitting a request to Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

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