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Executive Orders

(**Editor's Note:** A portion of the following executive order, as appeared in the *Louisiana Register*, May, 1991, page 452, is being reprinted in order to correct a typographical error in Paragraph 4.)

EXECUTIVE ORDER BR 91 - 3

* * *

WHEREAS, thorough and convincing studies of the need for mandated changes in agricultural operations and practices are needed prior to the imposition of such changes;

* * *

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-6

WHEREAS, the number of homeless persons and families in the nation and this state has increased in recent years; and

WHEREAS, the causes of homelessness are many and complex and homeless individuals have diverse needs; and

WHEREAS, effective use of the state's resources and programs to alleviate the plight of homeless persons requires coordination of efforts by interested persons, agencies and organizations, both public and private, including participation at the federal, state and local levels;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: There shall be created the Louisiana Interagency Action Council for the Homeless.

The council shall consist of:

1. One representative from each of the following agencies, appointed by the secretary, assistant secretary, executive director or chairman of each respective agency:

A. Department of Health and Hospitals, Bureau of Health Services Financing;

B. Department of Health and Hospitals, Office of Public Health;

C. Department of Health and Hospitals, Office of Human Services (one representative each from the Divisions of Mental Health, Mental Retardation and Substance Abuse);

D. Department of Social Services, Office of Community Services (one representative each from the Divisions of Child and Welfare and Grants Management);

E. Department of Social Services, Rehabilitation Services;

F. Department of Social Services, Office of Family Support;

G. Department of Employment and Training;

H. Department of Education;

I. Louisiana Housing Finance Agency;

J. Office of Elderly Affairs;

K. Office of Veterans Affairs;

L. Governor's Office of Women's Services.

2. One Member of the Drug Policy Board (or appropriate board/commission in the area of drug prevention and treatment), appointed by the governor;

3. Three members representing providers of services to the homeless, appointed by the governor;

4. Two members representing local government agencies, appointed by the governor;

5. Two members representing local advocacy groups for populations affected by homelessness;

6. Two members of the State Legislature (one member of the House of Representatives, designated by the Speaker of the House, and one member of the Senate, designated by the President of the Senate), appointed by the governor;

7. One member representing the Governor's Executive Office.

A member shall serve at the pleasure of the appointing official or until termination of the member's employment with the entity the member represents.

The council shall meet at least quarterly but as necessary to conduct its activities.

The agencies, departments and entities represented on the council may provide technical assistance and support as are available and deemed necessary by the council. The council shall elect a chairperson and vice chairperson from among its members.

SECTION 2: The Interagency Action Council for the Homeless shall:

1. conduct an annual assessment and evaluation of service needs and resources for the homeless of the state;

2. research and assist in the development of funding resources for homeless services;

3. insure that services for all homeless persons of the state are appropriately planned and coordinated thereby reducing duplication among programs and activities by state agencies and other providers of services. The council shall participate in the development of all planning related to the McKinney Act;

4. monitor and evaluate assistance to homeless persons provided by all levels of government and the private sector and make or recommend policy changes to improve such assistance;

5. assure flow of information among separate service providers, government agencies and appropriation authorities;

6. disseminate timely information of federal, state or private resources available to assist the homeless population;

7. consult and coordinate all activities with the Federal Interagency Council for the Homeless, HUD and all other federal agencies that provide assistance to the homeless;

8. submit an annual report of its activities to the governing bodies of the agencies represented on the council;

9. At least 30 days prior to the opening of the legislative session, the council shall submit a report to the governor and the legislature recommending improvements to the serv-

ice delivery system for the homeless. The report shall also detail any actions taken by the council to improve the provision of services for the homeless. The report may also include recommendations to improve the operation of the council.

SECTION 3. This executive order shall remain in effect until amended, rescinded or terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of June, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-7

WHEREAS, the Navy has a severe shortage of pier space at the Inactive Ship Maintenance Facility, Bremerton, Washington, and must dispose of excess ships at that facility, including the Bon Homme Richard; and

WHEREAS, Louisiana promotes and supports tourism to the maximum extent feasible, and Southwest Louisiana has the opportunity, by acquiring the U.S.S. Bon Homme Richard as a tourist attraction, to provide a home base for this vessel; and

WHEREAS, the City of Westlake has until July 16, 1991, to submit a complete application to the Navy that would include evidence of firm financing to defray all required costs including towing, refurbishment, preparation of an acceptable berthing site and costs of insurance and annual maintenance; and

WHEREAS, in order to meet the above requirement before the deadline, a Task Force must be organized to work on providing the information needed by the Department of the Navy;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana by virtue of the power vested in me by the Constitution and the laws of this state, do hereby create the U.S.S. Bon Homme Richard Task Force to be composed of a representative from each of the following:

Chamber Southwest - Economic Development Foundation

Wes-Cal Chamber of Commerce
Calcasieu Preservation Society
Calcasieu Arts and Humanities Council
Port of Lake Charles
VFW's
American Legions
Vietnam Veterans of America
Louisiana Historical Society
SWLA Convention and Visitors Bureau

The council shall elect a chairperson and vice chairperson from among its members.

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

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of June, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-8

WHEREAS, the National Science Foundation, "impressed with the breadth and scope" of Louisiana's Systemic Initiatives Program (LaSIP), designed to improve the quality of science and mathematics education in the state, has awarded \$10 million to Louisiana for the purpose of achieving that goal, and

WHEREAS, in announcing the decision, the Foundation cited "the strong cooperation between the Board of Elementary and Secondary Education and the Board of Regents", and

WHEREAS, the state of Louisiana, through the cooperation of the Board of Regents and the Board of Elementary and Secondary Education has pledged \$10 million in matching fund, and

WHEREAS, this cooperation and commitment can best be broadened and strengthened through establishment of the LaSIP Council, the formal policy-making organization pledged in the proposal to the National Science Foundation,

NOW, THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, pursuant to the authority of the Constitution of the State of Louisiana, and in order to ensure that Louisiana fulfill its pledge to the National Science Foundation and achieve the goal of improving science and mathematics education in the state, do hereby order and direct establishment of the Louisiana Systemic Initiatives Program Council, as follows:

SECTION 1. Authority and Responsibilities of the LaSIP Council

The LaSIP Council, a body corporate, will be the governing body of the Systemic Initiatives Program. The mandate of the council will be to recommend and support change in school mathematics and science and, in doing so, to receive and disburse funds provided for the Systemic Initiatives Program. Collectively and individually, council members will serve as prominent advocates for implementation of systemic initiatives goals. Where changes in legislation and other policies are deemed essential, the Council will recommend such changes to the appropriate governing authority: the Board of Elementary and Secondary Education, the Board of Regents, the management boards for colleges and universities, the state superintendent of Education, and the commissioner of Higher Education. The council will: (1) recommend directions to the appropriate authorities for the reform of mathematics, science, and engineering education; (2) employ and dismiss its staff; and (3) determine its procedures and mode of organization.

SECTION 2. Membership of the LaSIP Council

The LaSIP Council shall consist of the following individuals or their designated representatives:

the governor;
the chairman of the Senate Education Committee;
the chairman of the House Education Committee;
the chairman of the Board of Regents (BOR);
the president of the Board of Elementary and Secondary Education (BESE);
the superintendent of Education;
the commissioner of Higher Education;
the executive director of the Board of Elementary and Secondary Education (BESE);
Louisiana State University and Agricultural and Mechanical College System, president;
Southern University and Agricultural and Mechanical College System, president;
Board of Trustees for State Colleges and Universities, president;
Louisiana Association of Independent Colleges and Universities, president;
Education Deans and Department Heads, chairman;
Non-Public School Commission, president;
Louisiana Association of Business and Industry (LABI), president;
Louisiana Chapter of the American Federation of Labor-Congress of Industrial Organizations, president;
Louisiana Public Broadcasting, executive director;
Louisiana Mathematics Coalition (LaMAC), chairman;
Louisiana Engineering Society, president;
Louisiana Parent Teachers Association, president;
Louisiana School Boards Association, president;
Louisiana Association of Teachers of Mathematics, president;
Louisiana Science Teachers Association, president;
Louisiana Association of Superintendents, president;
Louisiana Association of Principals, president;
a Presidential Award winning teacher of mathematics;
a Presidential Award winning teacher of science.

SECTION 3. Leadership of the LaSIP Council

The chairman of the Board of Regents and the president of the Board of Elementary and Secondary Education will alternate annually as president and vice president of the LaSIP Council. Their terms of office will coincide with the state's fiscal year (July 1 - June 30). The chairman of the Board of Regents will serve as president of the Council for 1991-92. The president of the Board of Elementary and Secondary Education will serve as vice president of the council for 1991-92. The president of the Board of Elementary and Secondary Education will serve as president of the council for 1992-93. The council will decide how other officers will be elected.

The president and vice president of the LaSIP Council; the superintendent of Education and the commissioner of Higher Education; and the director, co-director, assistant director for Mathematics Education, and assistant director for Science Education of the LaSIP will serve as liaisons among the council, its staff, the Board of Regent, the Board of Elementary and Secondary Education, the State Department of Education, the university management boards, and the institutions of higher education.

SECTION 4. LaSIP Steering Committee

In accordance with the request from the National Science Foundation that a "...steering committee with sanctioned authority and responsibility for oversight of the programmatic components of the project be established....,"

the membership of this steering committee shall consist of the following positions (or designees):

the governor;
the chairman of the Senate Education Committee;
the chairman of the House Education Committee;
the chairman of the Board of Regents (BOR);
the president of the Board of Elementary and Secondary Education (BESE);
the superintendent of Education;
the commissioner of Higher Education;
the executive director of the Board of Elementary and Secondary Education (BESE);
Louisiana Association of Business and Industry (LABI), president;
Louisiana Parent Teachers Association, legislative liaison;
Louisiana Association of Teachers of Mathematics, president;
Louisiana Science Teachers Association, president;
LaSIP director;
LaSIP co-director;
LaSIP Mathematics/Mathematics Education advisor;
LaSIP Science/Science Education advisor.
If a designated membership position no longer exists, the LaSIP Council will decide if another position shall be substituted.

SECTION 5. Meetings of the LaSIP Council

The council will meet at least four times per year, and on other occasions as deemed appropriate by the council.

SECTION 6. The LaSIP Staff

In addition to the director, co-director, assistant director for Mathematics Education, and assistant director for Science Education, the LaSIP staff will include:

Mathematics/Mathematics Education advisor(s);
Science/Science Education advisor(s);
Mathematics coordinator;
Science coordinator;
contracts/Fiscal coordinator;
contracts assistant;
information coordinator;
administrative secretaries (2);
receptionist/typist.

SECTION 7. Advisory Body to the LaSIP Council

The Mathematics, Science, and Engineering Advisory Committee of approximately 25 people will meet at least four times each year. Characterized by a systemic composition, the committee will work primarily through eight panels of 10-12 persons. The panels will parallel major activities of the LaSIP: pre-service; in-service; certification; curricula and curricular materials; educational technology; professional partners; testing and valuation; and information dissemination. Panels will meet, on the average, six times during the year. The director will convene ad hoc panels as necessary.

SECTION 8. Responsibilities of the LaSIP Staff

The LaSIP's staff will be headed by a project director, co-director, and an assistant director for Mathematics Education and an assistant director for Science Education who will work under the supervision of the project director. The LaSIP staff will exercise leadership in promoting the reform of mathematics education and science education. The staff will insure that terms of the state's cooperative agreement with the National Science Foundation are faithfully implemented. In accordance with the state's cooperative agreement with the

National Science Foundation, the staff will utilize a merit review process to guide the funding of major reform programs.

SECTION 9. Local Systemic Sites

As part of the in-service element of this project, local systemic sites will be established at universities or colleges with teacher preparation programs. Requests for Proposals (RFP's) to become local systemic sites will be issued. Proposals, which will be reviewed by out-of-state consultants, must demonstrate the integration of involvement among the university, school districts, and other major stakeholders. With the assistance of expert advice, proposal review standards will be formulated by the LaSIP in cooperation with the Board of Regents. Through its review process, the Board of Regents will ensure that these standards are met by public campuses which prepare mathematics and science teachers. A long-range goal is to make certain that each campus which prepares mathematics and science teachers become a local systemic site.

SECTION 10. Regional Service Centers

Systemic sites for reform in Mathematics and Science Education will be aligned with the State Department of Education's eight Regional Service Centers. As regional action arms of the LaSIP, the centers will be two-way conduits for information, serve as resources for local systemic sites, collect relevant data, and help to implement the LaSIP programs. The centers will engage the efforts of mathematicians, scientists and engineers, school and college personnel, parents, and civic groups. They will promote public awareness, facilitate cooperation among colleges and school districts, coordinate pre-service and in-service activities, and provide local school systems with a cadre of interested and informed professionals. Although the LaSIP will provide modest funds, private organizations and professionals involved will voluntarily contribute substantial time and resources to center activities.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of June, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

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

§5742. Cellular Telephones Prohibited

Repeal in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), repealed LR 17: (1991).

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

§1793. Testing for Alcohol Abuse

A. Any person licensed by the Commission shall, when directed by the state steward, submit to a breathalyzer test and, if the results thereof show a reading of .05 percent or more of alcohol in the blood, such person shall not be permitted to continue his duties.

B. For the first offense, any person having a reading of .05 percent or more shall be fined \$50 and not be permitted to perform his duties for the day. For the second offense, any person having a reading of .05 percent or more shall be fined \$100 and not be permitted to perform his duties for the day. For a third offense, any person having a reading of .05 percent or more shall be suspended for 30 days and be subjected to an evaluation as called for in §1791.

C. Failure or refusal to submit to a breathalyzer test when directed by the state steward shall result in a minimum seven-day suspension. Failure or refusal to submit to a breathalyzer test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission.

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

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 13:290 (May 1987), amended by Department of Economic Development, Racing Commission, LR 17:172 (February 1991), amended LR 17: (1991).

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Real Estate Appraisal Subcommittee

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Louisiana Real Estate Appraisal Subcommittee has adopted emergency revisions to the rules and regulations affecting the experience credits of applicants for state appraisal certification.

The purpose of this declaration of emergency, effective July 1, 1991 for 30 days, is to bring the existing rules and regulations into compliance with impending federal guidelines.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 2. Appraisers

Chapter 103. Certification

§10311. Experience Credit

A. The subcommittee shall consider for experience credit toward state appraiser certification:

1. appraisals substantially consistent with the standards of professional practice; and
2. appraisals performed within the five years immediately preceding the filing of the application for certification.

B. Applications for experience credit shall only be accepted from individuals who have:

1. met the educational requirement for the type of certification applied for; and
2. passed a national examination or its equivalent, endorsed and approved by the Appraiser Qualifications Board of the Appraisal Foundation as established by the Federal Financial Institutions Examination Council or its successors.

C. In cases where the applicant has obtained the required experience, but, has failed to meet the standards as outlined in R.S. 37:3410, and more specifically, as set forth in the "Uniform Standards of Professional Appraisal Practice", or its successor, as approved by the appraisal subcommittee of the Federal Financial Institutions Examination Council, or its successor, said applicant can obtain additional educational training in the deficient area, prior to receiving subcommittee approval for certification. Such educational training shall consist of not less than 15 or more than 30 classroom hours of coursework approved by the subcommittee.

Stephanie C. Fagan
Office Coordinator

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes Evening Extension

The Board of Elementary and Secondary Education, at its meeting of June 27, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved as an emergency rule, an amendment to the Schedule for State Technical Institutes to allow the directors the flexibility to pay a minimum of \$15 per hour up to a maximum of \$20 per hour for evening extension instructional personnel. Effective date of amendment is July 1, 1991.

Emergency adoption is necessary in order to provide for application of the minimum salary rate of \$15 per hour. This rate will be paid to instructors of the Postsecondary Technical Institute System who are teaching evening extension classes scheduled to begin during the month of July, 1991. This amendment to Bulletin 1868, *BESE Personnel Manual* supersedes the amendment which was adopted as a rule, June, 1991.

Carole Wallin
Executive Director

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 Title XIX Medicaid Program.

The department has been reviewing the availability of free-standing psychiatric beds over the past 12 months. Based on the limited availability of beds for Title XIX services as well as the expanded need for psychiatric services resulting from OBRA 1989 regulations, Medicaid can no longer control availability of beds and remain in conformity with federal and state provisions. Under OBRA 1989 Medicaid is required to provide all necessary medical services to eligible patients under age 21. Limiting the number of providers artificially limits the availability of mandatory services, which is prohibited. Therefore, elimination of limits placed on psychiatric beds wishing to enroll is necessary to ensure full compliance.

EMERGENCY RULE

Effective June 20, 1991 the Department of Health and Hospitals, Bureau of Health Services Financing, will no longer regulate the number of free-standing psychiatric beds approved for Title XIX reimbursement. Therefore the policies and procedures for Facility Need Review are being revised to remove all reference to free-standing psychiatric beds under the scope of coverage of the Facility Need Review Program.

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 Medical Assistance Program. The emergency rulemaking provisions were previously exercised effective April 1, 1991 and the emergency rule was published in the *Louisiana Register* Vol. 17, Number 4, page 344 on April 20, 1991.

Reimbursement is available under Title XIX for inpatient psychiatric hospital services for Medicaid-eligible recipients age 65 or over. Currently, the reimbursement policy for this service provides that the recipient's temporary absence from a psychiatric facility does not interrupt the vendor payment to the facility provided the temporary absence is the result of hospitalization in a general hospital, trial discharge or therapeutic home leave visits.

The Bureau proposes to amend the reimbursement policy in relation to Medicaid recipients age 65 or over in a psychiatric hospital due to a clarification from the Health Care Financing Administration. State Medicaid Manual Transmittal No. 51 (November 1990) clarified that an individual age 65 or over on conditional release or convalescent leave from a psychiatric hospital is not considered to be a patient in that institution. These periods of absence relate to the course of treatment of the individual's mental disorder. If a patient is sent home for a trial visit, this is considered as convalescent leave. If a patient is released from the institution on the condition that the patient receive outpatient treatment or on other comparable conditions, the patient is on conditional release. If a patient age 65 or older is temporarily released from the psychiatric hospital for the purpose of obtaining medical treatment, however, this is not considered a conditional release and the patient is still considered a patient in the psychiatric hospital and is eligible for payment in accordance with the policy for "hospital leave days."

The revised policy affects only individuals age 65 or older who receive inpatient psychiatric hospital services and is not applicable to individuals under 21 years of age receiving such services.

EMERGENCY RULE

When a Medicaid recipient age 65 or older is temporarily absent from an inpatient psychiatric hospital, vendor payments will be made only in accordance with federal regulations and guidelines. Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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 Medical Assistance Program effective July 1, 1991.

Non-emergency transportation services are provided to Medicaid recipients as a covered service under Title XIX. In order to provide the least expensive means available that is suitable to meet the recipients' needs, the Medical Assistance Program contracted out the provision of medical transportation services in specified areas. This process was determined to maintain provision of these services at reasonable and adequate reimbursement rates to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable state and federal laws, regulations, and standards for quality and safety. Freedom of choice is allowed except when non-emergency transportation services are provided by a local transit authority or contract provider. In cases where the agency determined more than one least expensive source is available and suitable to meet the recipients' needs, freedom of choice is allowed. When freedom of choice is not exercised by the recipient in such cases, the agency assigns providers by rotation.

Contracts to provide transportation have been operational in the Baton Rouge Region (East Baton Rouge, Ascension, Iberville, West Baton Rouge, Pointe Coupee, West Feliciana, East Feliciana, and Livingston parishes), Terrebonne Region (Terrebonne, Lafourche, Assumption, the southern half of St. Martin, and the eastern half of St. Mary parishes), and New Orleans Region (Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes). The Medical Assistance program may at its discretion choose not to contract out the provision of medical transportation services in a specified area due to contract proposals which exceed the anticipated cost of providing this service in the absence of the contract. It has been determined that contract proposals for the Baton Rouge and Terrebonne Regions exceed the anticipated cost of providing non-emergency medical transportation by an efficiently and economically operated provider to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Under this rule, non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes. Non-emergency medical transportation in other areas of the state shall be provided under freedom of choice provisions except when such services can be provided by a local transit authority.

This rule is necessary to allow provision of this service in conformity with 42 CFR 440.170 and 440.230 in the absence of a contractor of services for the affected regions.

This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective July 1, 1991 in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

Emergency rulemaking is necessary to comply with federal regulations at 45 CFR 251.4 and 45 CFR 251.5 concerning Program Participant Employment Protection.

EMERGENCY RULE

Louisiana will implement a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to Project Independence participants. Also, a grievance procedure will be implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of Project Independence participants in a work-related program or activity. This grievance procedure will hear complaints relating to on-the-job working conditions, worker's compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

May Nelson
Secretary

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to repeal language in the Plan Document of Benefits. This rule will go into effect on July 1, 1991, and will remain in effect for 120 days. The Board of Trustees of the State Employees Group Benefits Program is repealing this rule through a notice of intent in the July, 1991, issue of the *Louisiana Register* in order to cease the pre-certification of outpatient surgeries because it causes undue financial hardships on plan members.

Repeal the following Article 3, Section II, E. (5) in its entirety:

(5) Outpatient surgical charges incurred for which PAC was not performed or for which PAC was performed but which services were not certified as medically necessary.

Donald R. Payne
Acting Deputy Director

DECLARATION OF EMERGENCY

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

In accordance with the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Louisiana Wildlife and Fisheries Commission through A. Kell McInnis, III, Acting Secretary, adopts and amends certain portions of the rule pertaining to alligators, effective August 1, 1991.

The emergency adoption of the amendments are necessary to insure that the state's wild alligator population is not adversely impacted and to insure that the regulations governing that population reflect the most up-to-date scientific and population monitoring information available. Failure to amend these regulations will result in delaying releases of farm-raised alligators into the wild, provide the department with less information than necessary to monitor alligator farming activity, and may ultimately lead to reduced numbers of wild alligators in Louisiana.

A complete copy of the alligator regulations with amendments can be viewed at the Louisiana Department of Wildlife and Fisheries, Fur and Refuge Division, 2000 Quail Drive, Baton Rouge, LA.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

* * *

K. Report Requirements

* * *

4. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

* * *

f. Each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with a bill of sale for each transaction. Violation of this Part is a class 2 violation as described in Title 56.

g. Each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligators for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this Part is a class 3 violation as described in Title 56.

* * *

N. Alligator Egg Collection

* * *

11. The alligator egg collection permittee and the landowner are responsible for returning the percentage of live alligators to the wild described on the alligator egg col-

lection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36" in size and the returned sex ratio should contain at least 50 percent females. The department shall be responsible for supervising the required return of these alligators. Releases back to the wild will only occur between March 15 and September 30 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Part is a class 7A violation as described in Title 56.

12. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported out of state. Violation of this Part is a class 7A violation as described in Title 56.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

ALLIGATOR SEASON

In accordance with the emergency provisions of R.S. 49:953(B), and the Administrative Procedure Act, R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission at its regular monthly meeting held July 9, 1991 in Baton Rouge, LA, does hereby set the 1991 wild alligator season dates as follows:

Wild Alligator Season August 31, 1991 through September 29, 1991.

This emergency adoption is necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up-to-date information.

James H. Jenkins, Jr.
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) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 2, 1991, the secretary hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1991 spring inshore shrimp season in Zone II, that portion of Louisiana's inshore waters from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island will close at 12:01 a.m. Wednesday, July 3, 1991.

The secretary finds that juvenile white shrimp have begun recruiting to these inshore areas and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary.

A. Kell McInnis, III
Acting 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) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted by the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 2, 1991, the secretary hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1991 spring inshore shrimp season in Zone III, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line, will close at 12:01 a.m. Saturday, July 13, 1991.

The secretary finds that juvenile white shrimp have begun recruiting to these inshore areas and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary.

A. Kell McInnis, III
Acting Secretary

Rules

RULE

Department of Economic Development Racing Commission

Title 35 HORSE RACING

Part 1. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1761. Equine Urine Sample Identification

A. The temperature of each equine urine sample shall be promptly taken and recorded by the designated detention barn employee.

b. The specimen shall be placed in a container then sealed with a permanent top. The container shall bear a printed identification bar code sticker. A duplicate of the bar code sticker shall be placed on the specimen identification forms as well as the container of the split portion of the sample, in the presence of a witness.

C. The detention barn employee shall identify the horse from which such specimen was taken, as well as the time, race and day, verified by the witness, and this information shall be noted on the proper identification forms. A duplicate of the identification form shall be forwarded to the commission office.

D. The person in charge of the detention barn shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identity of the horse, from which a specimen was taken prior to the completion of all testing thereon.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 2:450 (December 1987), repromulgated, LR 3:46 (January 1977), LR 4:288 (August 1978), amended by Department of Economic Development, Racing Commission, LR 17: (July 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35 HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1703. Perjury; Discipline

Perjury in racing is the intentional making of a false written or oral statement in, or for use in, any proceeding or hearing before the commission or the stewards, wherein the commission or the stewards are authorized to take testimony.

In order to constitute perjury in racing, the false statement must be made under sanction of an oath or an equivalent affirmation, and must relate to matter material to the issue of question in controversy. It is a necessary element of the offense that the person making such statement knew it to be false, but an unqualified statement of that which a person does not know or does not definitely believe to be true is equivalent to a statement of that which he knows to be false. Whoever commits or attempts to commit bribery, corrupt influencing, the fraudulent entering of a horse, a fraudulent practice in racing, or perjury, all as defined above may have his license revoked, be fined or suspended or both, or be ruled off of any track under the jurisdiction of the commission or any one or more of the foregoing as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 152 and 152.1.

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 2:448 (December 1976), repromulgated, LR 3:44 (January 1977), LR 4:287 (August 1978), amended by Department of Economic Development, Racing Commission, LR 17: (July 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35 HORSE RACING

Part 1. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1791. Testing for Dangerous Substance Abuse

A.-D. ...

1. ...

a. If a person having tested positive for a dangerous substance or prescription drug so desires, he/she may request within five days to the stewards to have the split or referee sample tested by a commission-designated alternate laboratory as provided herein. At the time of the request the licensed person must deposit with the stewards an amount equivalent to the fee charged by the referee laboratory chosen to cover expenses to be incurred in testing the split sample. Failure of a licensed person to make a request within five days constitutes a waiver of any and all rights to have the split sample tested.

b. Split samples shall be stored in a locked freezer pending the laboratory results of the original samples. If an original sample's result is negative, the split sample may be disposed of. However, if the result is positive, the split sample shall be retained in the locked freezer until needed or until final disposition of the case.

c. A licensed person's timely request for the testing of the split sample may then select any one of the commission-designated alternate laboratories to perform the testing.

2.-8. ...

E.-F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:141 and 148.

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by Department of Economic Development, Racing Commission, LR 15:620 (August 1989), amended LR 16:394 (May 1990), LR 17: (July 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Real Estate Appraisal Subcommittee**

Notice is hereby given that the Real Estate Appraisal Subcommittee has adopted the following rules and regulations which previously appeared as an emergency rule in the March 20, 1991 issue of the *Louisiana Register*, LAC 46:LX-VII, Subpart II, Chapter 103, §10311.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 2. Appraisers**

**Chapter 103. Certification
§10311. Experience Credit**

A. The subcommittee shall consider for experience credit toward state appraiser certification:

1. appraisals substantially consistent with the standards of professional practice; and
2. appraisals performed within the five years immediately preceding the filing of the application for certification.

B. Applications for experience credit shall only be accepted from individuals who have:

1. met the educational requirement for the type of certification applied for; and
2. passed a national examination or its equivalent, endorsed and approved by the Appraiser Qualifications Board of the Appraisal Foundation as established by the Federal Financial Institutions Examination Council or its successors.

C. In cases where the applicant has obtained the required experience, but, has failed to meet the standards as outlined in R.S. 37:3410, and more specifically, as set forth in the "Uniform Standards of Professional Appraisal Practice," or its successor, as approved by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its successor, said applicant can obtain additional educational training in the deficient area, prior to receiving subcommittee approval for certification. Such educational training shall consist of not less than 15 or more than 30 classroom hours of coursework approved by the Subcommittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

**Department of Economic Development
Real Estate Appraisal Subcommittee**

Notice is hereby given that the Real Estate Appraisal Subcommittee has amended the following rules and regulations of the Subcommittee: LAC 46:LXVII, Subpart II, Chapter 103, §10313.E.11-12.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

**Subpart 2. Appraisers
Chapter 103. Certification
§10313. Residential Certification Minimum Experience**

E. Residential Appraisal Points

11. (Repeal)
12. Rural Residence - one unit primary dwelling, 10 acres or less 1 point

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 16:493 (June 1990), amended LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission has adopted the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 24, Branch Offices.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVIII. Real Estate**

**Chapter 24. Branch Offices
§2401. Branch Office**

An office located at other than the registered address of a sponsoring or qualifying broker which has been established by the broker for conducting any real estate activity requiring licensing as a broker or salesperson shall be considered to be a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1444.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17: (July 1991).

§2403. Branch Office Supervision

Every branch office shall be under the direct supervision of an affiliated broker who shall be designated in writing as the branch office manager. A copy of the designation shall

be submitted to the commission within five days following the date of the original designation or any changes thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1444.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission has repealed LAC 46:LXVII, Subpart 1, Section 6301, Out-of-State Broker Cooperation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 63. Out-of-State Broker Cooperation

§6301. Broker Cooperation

Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 4:482 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 11:758 (August 1985), repealed by the Department of Economic Development, Real Estate Commission, LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission has adopted the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Chapter 66, Real Estate Continuing Education Vendors.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 66. Real Estate Continuing Education Vendors

§6603. Application

Any entity desiring to act as an approved real estate continuing education vendor must file an application with the Commission's Education Division. Each initial application must be fully completed, notarized and accompanied by the following:

A. - B. ...

C. Certificates issued by the Louisiana Real Estate

Commission will be issued in the name of the legal entity of the applicant. Certificates issued to any corporation or partnership for any purpose will be issued in the identical name of the corporation or partnership as registered with the Louisiana Secretary of State. No certificate will be issued to any corporation or partnership not registered with the Louisiana Secretary of State.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17: (July 1991).

§6621. Continuing Education Instructor Requirements

With the exception of guest lecturers, only those persons meeting at least one of the following qualifications will be permitted to instruct approved continuing education courses on a regular basis:

A. a state certified instructor in good standing with the commission;

B. a college or university professor in Real Estate, Finance, Business, Economics, or related field; or

C. a degree or designated specialist with at least five years' experience in the area of proposed instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission has adopted the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 15, Transfers and Terminations.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 15. Transfers and Terminations

§1517. Transfers on Acquisition or Purchase of Licensed Agencies

A. When a licensed agency is purchased or otherwise acquired by another licensed agency, the sponsoring or qualifying broker of the acquiring agency will notify the commission in writing not later than the second working day following the date of acquisition.

B. The notification to the commission will specify the date of acquisition and request the transfer of all licensees sponsored by the agency being acquired to the acquiring agency and shall certify continuous errors and omissions insurance coverage of all licensees being transferred to the acquiring agency. If the transfer of licensees necessitates the payment of fees to the commission for coverage under the

Commission Group Policy, a listing of all licensees to be covered under the policy and a check in payment of the required fees will accompany the notification.

C. On receipt of the written notification the licenses of all associate brokers and salespersons will be transferred by the commission to the acquiring agency under the sponsorship of the sponsoring or qualifying broker of the acquiring agency, with the effective date of transfer being the date of acquisition as specified in the written notice of acquisition.

D. The sponsoring or qualifying broker of the acquiring agency shall within two working days, following the date of acquisition, give written notice to all licensees transferred to the acquiring agency in connection with the acquisition.

E. Associate brokers or salespersons who do not elect to remain with the acquiring agency shall within five days after notification advise the sponsoring or qualifying broker of the acquiring agency and request the return of their licenses to the commission. Transfers to a new sponsoring broker will be accomplished in accordance with §1501 and §1503 of this Chapter.

F. Associate brokers or salespersons who will be terminated by the sponsoring or qualifying broker of the acquiring agency will be given written notification in accordance with §1507 of this Chapter and the transfer of these licensees will be accomplished in accordance with §1509 of this Chapter.

G. Not later than 15 days following the date of acquisition the sponsoring or qualifying broker of the acquiring agency will advise the commission in writing of the status of all licensees formerly sponsored by the acquired agency. The notification will include a listing by category identifying each associate broker or salesperson who (1) requested the return of their license to the commission, (2) is being terminated by the acquiring agency, and (3) has elected to remain with the acquiring agency. The below listed items shall accompany the notification.

1. The written notification received from and the current licenses of each associate broker or salesperson who will not remain with the acquiring agency due to the election of the individual licensee.

2. Copies of the written notifications to and the current licenses of each associate broker and salesperson being terminated by the acquiring agency.

3. A check from the acquiring agency in payment of the appropriate transfer fee for each licensee who was sponsored by the agency being acquired and who has elected to remain with the acquiring agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1441.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 9:316 (May 1983), LR 12:509 (August 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17: (July 1991).

Jane H. Moody
Executive Director

RULE

Board of Elementary and Secondary Education

Elementary Foreign Language Program (Grades 7 and 8)

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published April 20, 1991 and under the authority contained in the Louisiana State Constitution (1974, Article VIII, Section 3, Act 800 of the 1979 Regular Session), adopted the rule listed below:

Amendment to Bulletin 741, Standard 2.090.08

An articulated elementary foreign language program shall be required in grades 7 and 8 for 150 minutes per week for all academically able students, and shall be optional for all others.

An academically able student is defined as one who is functioning at grade level as determined by the local school system. For special education students identified in accordance with Bulletin 1508, Pupil Appraisal Handbook, the I.E.P. Committee shall determine the student's eligibility to receive foreign language instruction provided the student is performing at grade level.

Implementation of the articulated foreign language program in grades 7 and 8 shall begin with grade 7 in 1987-88 and grade 8 in 1988-89.

When offered, foreign language shall be taught in the subject area(s) designated by the local school board.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Bulletin 741- Presidential Election Day

Notice is hereby given that the Board of Elementary and Secondary Education rescinded its present policy which declared presidential election day a holiday and granted the school systems the option of dismissing school for presidential election day.

This is an amendment to Bulletin 741, Standard 1.009.16 to delete the procedural block which states:

General election day shall be designated by each school system as a holiday every four years for the presidential election.

Carole Wallin
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Acceptance of Income Tax Forms

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends its Loan Program Policy and

Procedure Manual, Policy V (Institutional Participation) B(2) regarding requirements of schools as follows:

(2) Have demonstrated financial responsibility under the standards established in 34 CFR 668.13, except that LASFAC may accept signed income tax forms (corporate and/or individual) in lieu of the audited financial statement required of schools requesting participation in the LASFAC student loan programs.

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Appeal of Adverse Discretionary Decisions of OSFA

The Louisiana Student Financial Assistance Commission (LASFAC) hereby establishes rules providing a procedure for the appeal of adverse discretionary decisions of the Office of Student Financial Assistance (OSFA). Policy XIII "Appeal of Adverse Discretionary Decisions" will be added to the Loan Program Policy and Procedure Manual.

Appeal Procedure

Adverse discretionary decisions made by the Office of Student Financial Assistance may be appealed to the Louisiana Student Financial Assistance Commission. Petitions for appeal must be in writing and filed within 30 days of notice of the decision or, if no notice is given within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision. The appeal must be addressed to the executive director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202 or hand delivered to 8401 United Plaza Boulevard, Suite 250, Baton Rouge, LA. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have his/her appeal heard orally. Requests for an oral hearing must be made within the 30-day time period to file the appeal.

If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support his/her appeal at least 15 days prior to the review of the commission or the appeal committee appointed by the commission. Appellant will be notified at least 30 days prior to the date of the review by the commission or the appeal committee appointed by the commission. The commission or the appeal committee will review all the evidence submitted and render a decision.

If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The commission shall appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act LSA-R.S. 49:955 et seq.

If after the review of the appeal committee or after a hearing held before the hearing officer a decision adverse to the appellant is made, then appellant may seek to have the decision reviewed by the full commission. The application for review must be made within 15 days of appellant receiving

notice of the decision. The appellant may submit exceptions, written arguments and briefs to support the application for review. No oral hearing shall be held at this level of review. All action is stayed pending review by the full commission. If the full commission denies the application for review, then the action becomes final as of the date of the denial for review. If the full commission denies the application for review then it shall set a hearing date to review the decision of the hearing officer.

The appellant may seek a rehearing of an adverse decision made by the full commission. The request for rehearing must conform to the provisions and time limits set by LSA-R.S. 49:959. An application for rehearing does not stay any action taken by commission.

Oral Hearing

All hearings shall be held pursuant to the provisions of the Administrative Procedure Act LSA-49:955 et seq. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing. The hearing may be continued for good cause provided a written request for extension is received at the commission at least seven days prior to the date of the hearing. All parties will be notified of a rescheduling or postponement of the hearing. Failure to be present at the hearing and ready to proceed may result in an adverse decision against the non-appearing party. Strict rules of evidence will not apply in these hearings. The appellant shall have the following rights at the hearing:

1. the right to present testimony, introduce evidence, and call witnesses on his/her behalf;
2. the right to cross exam witnesses called by the agency;
3. the right to subpoena witnesses;
4. the right to take depositions;
5. prior to the hearing the appellant has the right and will be given the opportunity to review agency records that are relevant to his/her appeal and make copies of those records at a cost of \$.20 per page;
6. the right to be represented by counsel.

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

School's Eligibility While Seeking or Operating Under Chapter XI of Bankruptcy Code

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends its Loan Program Policy and Procedure Manual, Policy V to add B(7) as follows:

An institution seeking or operating under provisions of Chapter XI of the Bankruptcy Code shall be denied eligibility to participate in the Louisiana guaranteed student loan program.

Jack L. Guinn
Executive Director

RULE

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

Guarantee Fee Refund Termination

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends its Loan Program Policy and Procedure Manual, Policy VII H by adding Section 5, Policy VIII F by adding Section 4 and Procedure 13 by adding Section D to enact the following policy change:

Guarantee fees on loans that are canceled more than 180 days after the certified date of first disbursement shall be retained by the agency.

Jack L. Guinn
Executive Director

Regulations, LAC 33:III.6121, 6123, 6125, 6127, 6129 and 6131 (AQ53).

These regulations will add the VOC Capture Efficiency Test Method. This method must be adopted to conform to EPA guidance. This method will facilitate the determination of the capture efficiency of a VOC capture system used in conjunction with a control device in a temporary or permanent total enclosure.

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

RULE

**Department of Employment and Training
Office of Worker's Compensation**

In accordance with the provisions of R.S. 49:950 et seq., of the Administrative Procedure Act, and under the authority of R.S. 23:129(10)(12) and (13) of Act 938 of the 1988 Regular Louisiana Legislative Session, the Office of Worker's Compensation through the Department of Employment and Training, hereby repromulgates and readopts a rule to implement a utilization review process to resolve disputes over medical and non-medical treatment services.

The rules and regulations shall provide and govern the process of resolving disputes over the necessity, advisability, and cost of proposed, or already performed, hospital care or services, medical or surgical treatment, or any non-medical treatment recognized by the laws of this state as legal and due under the Worker's Compensation Act, with the authority to audit specific medical records of a patient to determine whether an inappropriate reimbursement has been made.

A copy of this rule may be obtained by contacting Judy Albarado at (504) 342-7559 or at the Department of Employment and Training, 1001 N. 23rd Street, Baton Rouge, LA or the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA.

Stephen W. Cavanaugh
Director

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
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

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
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.6113 (AQ18).

This rule sets the standards for the operation of Continuous Emission Rate Monitors (CERMs). LAC 33:III.6113 will reference the standard.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 61. Division's Source Test Manual

* * *

§6113. Performance Specification 6-Specifications and Test Procedures for Continuous Emission Rate Monitoring Systems in Stationary Sources

A. Applicability and Principle

1. Applicability. The applicability for this specification is the same as Subsection A of Performance Specification 2 (PS 2 or LAC 33:III.6105), except this specification is to be used for evaluating the acceptability of continuous emission rate monitoring systems (CERMS's). The installation and measurement location specifications, performance specification test procedure, data reduction procedures, and reporting requirements of PS 2, Subsections C, E, H, and I, apply to this specification.

2. Principle. Reference method (RM), calibration drift (CD), and relative accuracy (RA) tests are conducted to determine that the CERMS conforms to the specification.

B. Definitions

The definitions are the same as in Subsection B of PS 2 (LAC 33:III.6105), except that this specification refers to the continuous emission rate monitoring system rather than the continuous emission monitoring system. The following definitions are added:

Continuous Emission Rate Monitoring System (CERMS) —the total equipment required for the determina-

tion and recording of the pollutant mass emission rate (in terms of mass per unit of time).

Flow Rate Sensor —that portion of the CERMS that senses the volumetric flow rate and generates an output proportional to flow rate. The flow rate sensor shall have provisions to check the CD for each flow rate parameter that it measures individually (e.g., velocity pressure).

C. Performance and Equipment Specifications

1. Data Recorder Scale. Same as in LAC 33:III.6105.D.1 (PS 2).

2. CD. Since the CERMS includes analyzers for several measurements, the CD shall be determined separately for each analyzer in terms of its specific measurement. The calibration for each analyzer used for the measurement of flow rate except a temperature analyzer shall not drift or deviate from either of its reference values by more than three percent of 1.25 times the average potential absolute value for that measurement. For a temperature analyzer, the specification is 1.5 percent of 1.25 times the average potential absolute temperature. The CD specification for each analyzer for which other PS's have been established (e.g., PS 2 for SO₂ and NO_x), shall be the same as in the applicable PS.

3. CERMS RA. The RA of the CERMS shall be no greater than 20 percent of the mean value of the RM's test data in terms of the units of the emission standard, or 10 percent of the applicable standard, whichever is greater.

D. CD Test Procedure

The CD measurements are to verify the ability of the CERMS to conform to the established CERMS calibrations used for determining the emission rate. Therefore, if periodic automatic or manual adjustments are made to the CERMS zero and calibration settings, conduct the CD tests immediately before these adjustments, or conduct them in such a way that CD can be determined.

Conduct the CD tests for pollutant concentration at the two values specified in LAC 33:III.6105.D.1 (PS 2). For each of the other parameters selectively measured by the CERMS (e.g., velocity pressure), use two analogous values: one that represents zero to 20 percent of the high-level value (a value that is between 1.25 and two times the average potential value) for that parameter, and one that represents 50 to 100 percent of the high-level value. Introduce, or activate internally, the reference signals to the CERMS (these need not be certified). Record the CERMS response to each, and subtract this value from the respective reference value.

E. RA Test Procedure

Sampling Strategy for RM's Test, Correlation of RM and CERMS Data, Number of RM's Tests, and Calculations. These are the same as PS 2, LAC 33:111.6105.G.1, 2, 3, and 5, respectively. Summarize the results on a data sheet. The RA test may be conducted during the CD test period.

2. Reference Methods (RM's). Unless otherwise specified in the applicable Section of the regulations, the RM for the pollutant gas is the Division's Source Test Manual (LAC 33:III.Vol. 12) method that is cited for compliance test purposes, or its approved alternatives. Methods 2, 2A, 2B, 2C, or 2D, as applicable, are the RM's for the determination of volumetric flow rate.

F. Bibliography

1. Brooks, E. F., E. C. Beder, C. A. Flegal, D. J. Luciani, and R. Williams. Continuous Measurement of Total Gas Flow Rate from Stationary Sources. U.S. Environmental Protection Agency. Research Triangle Park, North Carolina.

Publication No. EPA-650/2-75-020. February 1975. 248 pp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17: (July 1991).

J. Terry Ryder
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
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.2115, 2121, 2123, 2131, 2135, 2139 and 2141 (AQ51).

These regulations will amend the existing sections on surface coating to provide an alternate means to demonstrate compliance with VOC emission limitations. These changes to LAC 33:III.Chapter 21 are required so that the new State Implementation Plan will be approved by EPA.

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
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.4801 (AQ27).

This rule defines the standard of operation to control volatile organic emissions from air oxidation operations at SOCOMI facilities. These regulations will conform to the federal regulations recently promulgated. See *Federal Register* published June 29, 1990 (55 FR 26922, Number 128).

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection 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.4841 (AQ28).

The rule defines the standards of operation to control volatile organic emissions from distillation operations. These regulations will conform to the recently promulgated federal regulations. See *Federal Register* published June 29, 1990, (55 FR 26942, Number 128).

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810 or at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection 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.6086 (AQ34).

These regulations specify a procedure of analysis to determine the concentration of organics using a flame ionization analyzer. The method has been proven acceptable by the federal government, but the analysis must be conducted in a specific way with quality assurance and control to ensure accurate and repeatable results.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 60. Division's Source Test Manual

* * *

§6086. Method 25A — Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer

A. Applicability and Principle

1. Applicability. This method applies to the measurement of total gaseous organic concentration of vapors consisting primarily of alkanes, alkenes, and/or arenes (aromatic hydrocarbons). The concentration is expressed in terms of propane (or other appropriate organic calibration gas) or in terms of carbon.

2. Principle. A gas sample is extracted from the source through a heated sample line, if necessary, and glass fiber filter to a flame ionization analyzer (FIA). Results are reported as volume concentration equivalents of the calibration gas or as carbon equivalents.

B. Definitions

Calibration Drift—the difference in the measurement system response to a mid-level calibration gas before and after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

Calibration Error—the difference between the gas concentration indicated by the measurement system and the known concentration of the calibration gas.

Calibration Gas—a known concentration of gas in an appropriate diluent gas.

Measurement System—the total equipment required for the determination of the gas concentration. The system consists of the following major subsystems:

a. **Sample Interface**—that portion of the system that is used for one or more of the following: sample acquisition, sample transportation, sample conditioning, or protection of the analyzer from the effects of the stack effluent.

b. **Organic Analyzer**—that portion of the system that senses organic concentration and generates an output proportional to the gas concentration.

Response Time—the time interval from a step change in pollutant concentration at the inlet to the emission measurement system to the time at which 95 percent of the corresponding final value is reached as displayed on the recorder.

Span Value—the upper limit of a gas concentration measurement range that is specified for affected source categories in the applicable part of the regulations. The span value is established in the applicable regulation and is usually 1.5 to 2.5 times the applicable emission limit. If no span value is provided, use a span value equivalent to 1.5 to 2.5 times the expected concentration. For convenience, the span value should correspond to 100 percent of the recorder scale.

Zero Drift—the difference in the measurement system response to a zero level calibration gas before and after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

C. Apparatus

A schematic of an acceptable measurement system is shown in Figure 25A-1. The essential components of the measurement system are described in Subsection C.1 through C.6 of this Section.

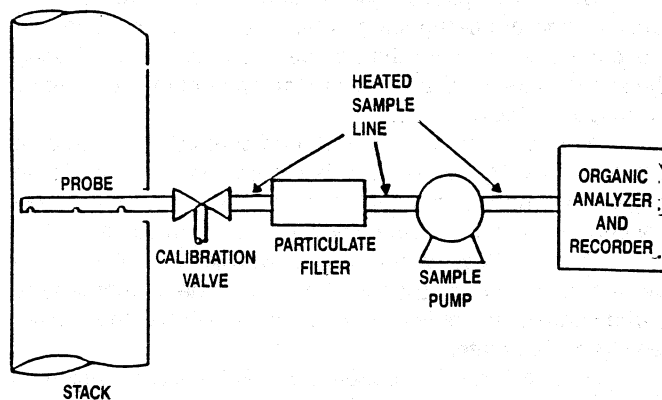


Figure 25A-1. Organic Concentration Measurement System

1. Organic Concentration Analyzer. A flame ionization analyzer (FIA) capable of meeting or exceeding the specifications in this method.

2. Sample Probe. Stainless steel, or equivalent, three-

hole rake type. Sample holes shall be 4 mm in diameter or smaller and located at 16.7, 50, and 83.3 percent of the equivalent stack diameter. Alternatively, a single-opening probe may be used so that a gas sample is collected from the centrally located 10 percent area of the stack cross section.

3. Sample Line. Stainless steel or Teflon¹ tubing to transport the sample gas to the analyzer. The sample line should be heated, if necessary, to prevent condensation in the line.

4. Calibration Valve Assembly. A three-way valve assembly to direct the zero and calibration gases to the analyzers is recommended. Other methods, such as quick-connect lines, of routing calibration gas to the analyzers are applicable.

5. Particulate Filter. An in-stack or an out-of-stack glass fiber filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter should be heated to prevent any condensation.

6. Recorder. A strip-chart recorder, analog computer, or digital recorder for recording measurement data. The minimum data recording requirement is one measurement value per minute.

Note: This method is often applied in highly explosive areas. Caution and care should be exercised in choice of equipment and installation.

D. Calibration and Other Gases

¹Mention of trade names or specific products does not constitute endorsement by the department.

Gases used for calibrations, fuel, and combustion air (if required) are contained in compressed gas cylinders. Preparation of calibration gases shall be done according to the procedure in Protocol No. 1, listed in Subsection I.2 of this Section. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder during which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available (i.e., organics between one and 10 percent by volume), alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval of the administrative authority.

Calibration gases usually consist of propane in air or nitrogen and are determined in terms of the span value. Organic compounds other than propane can be used following the above guidelines and making the appropriate corrections for response factor.

1. Fuel. A 40 percent H₂/60 percent He or 40 percent H₂/60 percent N₂ gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2. Zero Gas. High-purity air with less than 0.1 parts per million by volume (ppmv) of organic material (propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

3. Low-level Calibration Gas. An organic calibration gas with a concentration equivalent to 25 to 35 percent of the applicable span value.

4. Mid-level Calibration Gas. An organic calibration gas with a concentration equivalent to 45 to 55 percent of the applicable span value.

5. High-level Calibration Gas. An organic calibration

gas with a concentration equivalent to 80 to 90 percent of the applicable span value.

E. Measurement System Performance Specifications

1. Zero Drift. Less than ± 3 percent of the span value.

2. Calibration Drift. Less than ± 3 percent of the span value.

3. Calibration Error. Less than ± 5 percent of the calibration gas value.

F. Pretest Preparations

1. Selection of Sampling Site. The location of the sampling site is generally specified by the applicable regulation or purpose of the test, e.g., exhaust stack, inlet line, etc. The sample port shall be located at least 1.5 meters or 2 equivalent diameters upstream of the gas discharge to the atmosphere.

2. Location of Sample Probe. Install the sample probe so that the probe is centrally located in the stack, pipe, or duct and is sealed tightly at the stack port connection.

3. Measurement System Preparation. Prior to the emission test, assemble the measurement system following the manufacturer's written instructions in preparing the sample interface and the organic analyzer. Make the system operable.

FIA equipment can be calibrated for almost any range of total organics concentrations. For high concentrations of organics (> 1.0 percent by volume as propane) modifications to most commonly available analyzers are necessary. One accepted method of equipment modification is to decrease the size of the sample to the analyzer through the use of a smaller-diameter sample capillary. Direct and continuous measurement of organic concentration is a necessary consideration when determining any modification design.

4. Calibration Error Test. Immediately prior to the test series (within two hours of the start of the test), introduce zero gas and high-level calibration gas at the calibration valve assembly. Adjust the analyzer output to the appropriate levels, if necessary. Calculate the predicted response for the low-level and mid-level gases on the basis of a linear response line between the zero and high-level responses. Then introduce low-level and mid-level calibration gases successively to the measurement system. Record the analyzer responses for low-level and mid-level calibration gases and determine the differences between the measurement system responses and the predicted responses. These differences must be less than five percent of the respective calibration gas value. If not, the measurement system is not acceptable and must be replaced or repaired before testing. No adjustments to the measurement system shall be conducted after the calibration and before the drift check. If adjustments are necessary before the completion of the test series, perform the drift checks before the required adjustments and repeat the calibration after the adjustments. If multiple electronic ranges are to be used, each additional range must be checked with a mid-level calibration gas to verify the multiplication factor.

5. Response Time Test. Introduce zero gas into the measurement system at the calibration valve assembly. When the system output has stabilized, switch quickly to the high-level calibration gas. Record the time from the concentration change to the measurement system response equivalent to 95 percent of the step change. Repeat the test three times and average the results.

G. Emission Measurement Test Procedure

1. Organic Measurement. Begin sampling at the start of the test period, recording time and any required process information as appropriate. In particular, note on the recording chart periods of process interruption or cyclic operation.

2. Drift Determination. Immediately after the completion of the test period and hourly during the test period, reintroduce the zero and mid-level calibration gases, one at a time, to the measurement system at the calibration valve assembly. (Make no adjustments to the measurement system until after both the zero and calibration drift checks are made.) Record the analyzer response. If the drift values exceed the specified limits, invalidate the test results preceding the check and repeat the test following corrections to the measurement system. Alternatively, recalibrate the test measurement system as in Subsection F.4 of this Section, and report the results using both sets of calibration data (i.e., data determined before the test period and data determined after the test period).

H. Organic Concentration Calculations

Determine the average organic concentration in terms of ppmv as propane or other calibration gas. The average shall be determined by the integration of the output recording during the period specified in the applicable regulation.

If results are required in terms of ppmv as carbon, adjust measured concentrations using Equation 25A-1.

$$C_c = K C_{\text{meas}} \quad \text{Eq. 25A-1}$$

Where:

C_c = organic concentration as carbon, ppmv;

C_{meas} = organic concentration as measured, ppmv;

and

K = carbon equivalent correction factor,

K = 2 for ethane,

K = 3 for propane,

K = 4 for butane, and

K = appropriate response factor for other organic calibration gases.

I. Bibliography

1. Measurement of Volatile Organic Compounds--Guideline Series. U.S. Environmental Protection Agency. Research Triangle Park, NC. Publication No. EPA-450/2-78-041. June 1978. p. 46-54.

2. Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Continuous Source Emission Monitors (Protocol No. 1). U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory. Research Triangle Park, NC. June 1978.

3. Gasoline Vapor Emission Laboratory Evaluation--Part 2. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards. Research Triangle Park, NC. EMB Report No. 75-GAS-6. August 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17: (July 1991).

J. Terry Ryder
Assistant Secretary

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection 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.3125 (AQ19).

These regulations will add Subsection J. This subsection will allow alternative relative accuracy testing procedures when the monitored emission rates are less than 50 percent of full scale reading on the monitoring system. These regulations will provide the same flexibility as the federal regulations. See *Federal Register* published May 11, 1987, (52 FR 17555, Number 90).

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

* * *

§3125. Monitoring Requirements

* * *

J. An alternative to the relative accuracy test specified in Performance Specification 2 of the Division's Source Test Manual (LAC 33:III.6105) may be requested as follows:

1. An alternative to the reference method tests for determining relative accuracy (RA) is available for sources with emission rates demonstrated to be less than 50 percent of the applicable standard. A source owner or operator may petition the administrative authority to waive the relative accuracy test in Section G of Performance Specification 2 and substitute the procedures in Section J of Performance Specification 2 if the results of a performance test conducted according to the requirements in LAC 33:III.3115 or other tests performed following the criteria in LAC 33:III.3115 demonstrate that the emission rate of the pollutant of interest in the units of the applicable standard is less than 50 percent of the applicable standard. For sources subject to standards expressed as control efficiency levels, a source owner or operator may petition the administrative authority to waive the relative accuracy test and substitute the procedures in Section J of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the continuous emission monitoring system (CEMS) is used to determine compliance continuously with the applicable standard. The petition to waive the relative accuracy test shall include a detailed description of the procedures to be applied. Included shall be location and procedure for conducting the alternative, the concentration or response levels of the alternative RA materials, and the other equipment checks included in the alternative procedure. The administrative authority will review the petition for completeness and applicability. The determination to grant a waiver will depend on the intended use of the CEMS data (e.g., data collection purposes other than NSPS) and may require specifications more stringent than in Performance Specification 2 (e.g., the applicable emission limit is more stringent than NSPS).

2. The waiver of a CEMS relative accuracy test will be reviewed and may be rescinded at such time following successful completion of the alternative RA procedure that the CEMS data indicate the source emissions approaching the level of the applicable standard. The criterion for reviewing the waiver is the collection of CEMS data showing that emissions have exceeded 70 percent of the applicable standard for seven consecutive averaging periods as specified by the applicable regulation(s). For sources subject to standards expressed as control efficiency levels, the criterion for reviewing the waiver is the collection of CEMS data showing that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for seven consecutive averaging periods as specified by the applicable regulation(s). It is the responsibility of the source operator to maintain records and determine the level of emissions relative to the criterion on the waiver of relative accuracy testing. If this criterion is exceeded, the owner or operator must notify the administrative authority within 10 days of such occurrence and include a description of the nature and cause of the increasing emissions. The administrative authority will review the notification and may rescind the waiver and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in Section G of Performance Specification 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection LR 17: (July 1991).

J. Terry Ryder
Assistant Secretary

RULE

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Subpart 1.Chapters 3-51 (HW26).

This rule will revise existing state regulations to be consistent with current federal regulations. The EPA requires that authorized states adopt regulations which are at least as stringent as the existing federal regulations. These revisions will affect the following: (1) California List Waste Restrictions, (2) Land Disposal Restrictions, (3) Corrective Action, (4) Tank Systems, (5) Farmer Exemptions, (6) Identification and Listing of Hazardous Waste Requirements or Rulemaking Petitions, (7) Reportable Quantity Adjustment, (8) Reportable Quantity Adjustment for Methyl Bromide Production Wastes. See *Federal Registers* published July 8, 1987 (52 FR 25760, #130); September 23, 1987 (52 FR 35894, #184); October 27, 1987 (52 FR 41295, #207), December 1, 1987 (52 FR 45788, #230); July 19, 1988 (53 FR 27162 and 27164, #138);

August 17, 1988 (53 FR 31138, #159); September 2, 1988 (53 FR 34079, #171); January 27, 1989 (54 FR 4021, #117); February 27, 1989 (54 FR 8264, #37); May 2, 1989 (54 FR 18836, #83); June 23, 1989 (54 FR 26594, #120); June 27, 1989 (54 FR 27114, #122); September 6, 1989 (54 FR 36967, #171); October 6, 1989 (54 FR 41402, #193); December 11, 1989 (54 FR 50968, #236).

Copies of this rule are available at the Office of the State Register, 1051 Riverside North, 5th Floor, Baton Rouge, LA 70804 or at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810.

Paul Templett
Secretary

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Underground Storage Tank Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tank Regulations, LAC 33:XI.Chapters 1-13 (UT02).

These regulations will revise the definition of "new UST System" in the Underground Storage Tank Rules and Regulations to be equivalent to the federal requirements. Additional changes clarify language in order to meet the original intent of the Department of Environmental Quality. The methods for calculating fees based on tank capacity has been deleted and replaced with a flat fee per tank, and late charge penalties have been added. Extensive revisions have also been made to Chapter 13, "Certification and Licensing Requirements for Contractors who install, repair, and close underground storage tank systems".

Copies of this rule are available at the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 or at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810.

Paul Templett
Secretary

RULE

Office of the Governor Division of Administration Community Development Section

Louisiana Community Development Block Grant (LCDBG)
Program

LCDBG Suspension and Debarment Policy and Procedures

I. Policy

It is essential to the accomplishment of the Louisiana Community Development Block Grant (LCDBG) Program's mission that contracts are awarded by the Louisiana Division

of Administration and that participation is limited only to responsive and responsible contractors, and other participants. Accordingly, for the protection of the public interest, including the deterrence of irresponsible conduct in the LCDBG program, persons, firms, and other entities may be excluded from participation in the LCDBG Program and from contracts and subcontracts in accordance with this rule.

II. Scope of Action

These policies and procedures govern the debarment of contractors and participants for the causes listed herein. They apply to the Louisiana Community Development Block Grant (LCDBG) Program administered by the Louisiana Division of Administration.

III. Definitions

The following terms are used within this rule:

(a) *Adequate evidence.* Information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) *Affiliates.* Individuals or business concerns are affiliates if, directly or indirectly: (1) either one controls or can control the other; or (2) a third individual or concern controls or can control both.

(c) *Contractor.* Any individual or other legal entity that submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a contract or subcontract under an LCDBG funded project.

(d) *Conviction.* A judgement of conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea.

(e) *Debarment.* An action taken by a debarring official in accordance with this rule to exclude a contractor or participant from federally funded contracts or subcontracts or to exclude a person from directly or indirectly participating in the LCDBG Program. "Debarment" also includes an action taken by any agency of the federal government or of any state government to exclude a contractor or participant from bidding on any federally funded contracts or subcontracts for a reasonable specified period. A contractor or participant so excluded is "debarred."

(f) *Debarring Official.* The LCDBG Program Manager or designee.

(g) *Division.* Office of the Governor, Division of Administration.

(h) *Grant.* An award of financial assistance in the form of money by the federal government through the Louisiana Division of Administration to an eligible recipient.

(i) *Hearing Officer.* An individual appointed by the LCDBG Program Manager or designee.

(j) *LCDBG.* Louisiana Community Development Block Grant.

(k) *LCDBG List of Debarred Contractors.* A list compiled and maintained by the Division of Administration, Office of Community Development containing the names of all participants and contractors debarred in accordance with this rule.

(l) *Notice.* A written communication served in person or sent by certified mail, return receipt requested, to the last known address of a party or any partner, officer, director or owner. Notice shall be considered to have been received by the addressee five days after being properly sent to the last address known by the division.

(m) *Participant.* Any person who directly or indirectly participates, or who may reasonably be expected to partici-

pate in the LCDBG Program. "Participant" includes, but is not limited to, bonding companies, contractors, fee appraisers, inspectors, consultants, architects, engineers and attorneys.

(n) *Person.* Any individual, corporation, partnership, association or legal entity however organized.

(o) *Suspension.* Temporary denial of participation in the Louisiana Community Development Block Grant Program.

IV. Suspension

Contractors or participants who have been indicted for any criminal misconduct involving work performed on any Community Development Block Grant Program, within or outside of the State of Louisiana, may not participate in the Louisiana Community Development Block Grant (LCDBG) Program. This ban on participation will remain in effect until or unless the legal charges against such person(s) have been resolved in their favor, either through dismissal or a finding of innocence. The individual(s) whose indictment(s) result in a conviction will be barred from participation in the Louisiana Community Development Block Grant Program for an indefinite period of time.

V. Debarment

A. General

A debarring official may initiate debarment. A debarring official, acting in the public interest, may debar a participant or contractor for any cause set forth herein. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to initiate debarment shall be within the discretion of the debarring official and in the best interest of the LCDBG Program.

The notice of proposed debarment shall be issued within three years of -

(i) a criminal conviction;

(ii) completion of any investigation; or

(iii) discovery of the cause on which the debarment action is based, whichever event is later.

B. Causes for Debarment

Debarment may be imposed based upon adequate evidence of any of the following causes:

(a) conviction of, or civil judgement for, any offense indicating a lack of business integrity or honesty which affects the present responsibility of a contractor or participant;

(b) serious or repetitive violation of any federal or state law, or LCDBG Program regulation or instructions;

(c) serious or repetitive failure to perform contractual obligations or to proceed in accordance with contract specifications;

(d) failure to satisfactorily address construction deficiencies in ongoing projects;

(e) acts of misconduct indicating a lack of business integrity directly affecting capacity of responsible participation in the LCDBG Program including but not limited to false representation, embezzlement, theft, forgery, fraud, negligent service, bribery, falsification of records, and receiving stolen property;

(f) serious or repetitive violation of any nondiscrimination or equal opportunity requirements in connection with the LCDBG Program; or,

(g) debarment from any agency of the federal government or of any state government for any cause substantially the same as provided herein;

(h) any other cause the debarring official determines

to be so serious and compelling as to affect the responsibility of a contractor or participant.

C. Debarment Procedures

(a) Notice of Proposal to Debar

Debarment will be initiated by advising the participant or contractor and any specifically named affiliates, by certified mail -

1. that debarment is being proposed;
2. of the causes stated in Section V.B. for proposing debarment;
3. of the reasons for the proposed debarment;
4. of the potential effects of debarment; and
5. that the participant or contractor has the right to file a written objection within 30 calendar days of receipt of the notice and if no written objection is made within 30 calendar days, the determination of debarment will be made final.

(b) Notice of Debarring Official's Final Determination

If no written objection is received within 30 calendar days, the debarring official will give the participant or contractor and any affiliates prompt notice of the final determination to debar by certified mail -

1. referring to the notice of proposed debarment;
2. specifying the causes for debarment;
3. specifying the reasons for debarment;
4. stating the effect of debarment;
5. stating that the debarment is effective immediately;

and

6. stating the period of debarment, including effective dates.

(c) Effect of Debarment

Contractors and participants are excluded from direct or indirect participation in the LCDBG Program unless the program manager or designee determines that there is a compelling reason for such action.

(d) Period of Debarment

Debarment will be for a period commensurate with the seriousness of the cause(s), generally not to exceed three years. Where the offense is willful or egregious, a longer term of debarment may be imposed, up to an indefinite period.

(e) Scope of Debarment

Debarment of a contractor or participant under this rule may include any affiliate(s) that is specifically named and given written notice of the proposed debarment and an opportunity to respond as set forth herein.

(f) Hearing; Recommendation

1. Any person who has received an initial determination proposing a suspension or debarment is entitled to a hearing to discuss all charges, provided that the hearing is requested within 30 calendar days of receipt of the notice.

2. The hearing will be scheduled within 10 working days of receipt of the request. It will be scheduled by and involving the hearing officer, appointed by the debarring official. A location will be determined by the hearing officer. The contractor or participant has a right to be represented by counsel.

3. Not later than 15 working days after conclusion of the hearing, the hearing officer will issue written recommendations on the evidence presented to the debarring official as to the determination of debarment. The recommendation will withdraw, modify or affirm the initial determination.

4. The debarring official will issue a final determination which will be transmitted to all parties by certified mail.

5. Any affected persons may file with the division their objections to the entry of such determination within 15 calendar days thereafter.

6. If any person, after being notified, fails to appear at a hearing that person will be deemed to have waived his/her rights for a hearing.

(g) Standard of Proof

1. The cause of suspension may be established by adequate evidence showing the cause for suspension.

2. The cause for debarment must be established by adequate evidence to support the appropriate cause(s) as identified in Section V. B.

(h) Judicial Review

Any person aggrieved by the final determination made by the debarring official has the right to judicial review. All such appeals must be filed in the 19th Judicial District Court within 30 calendar days after receipt of the final determination.

Dennis Stine
Commissioner

RULE

**Office of the Governor
Division of Administration
State Purchasing**

The Division of Administration, State Purchasing, hereby amends the following vendor subscription fee effective July 1, 1991, which was published as a rule in accordance with the provisions of R.S. 49:950 et seq., in the *Louisiana Register*, Volume 13, Page 342, dated June 20, 1987.

**Title 34
GOVERNMENT CONTRACTS,
PROCUREMENT AND PROPERTY CONTROL
Part I. Purchasing**

Chapter 33. Vendors

§3301. Vendor Fees

A. An annual subscription fee of \$50 will be charged in-state vendors and \$100 will be charged out-of-state vendors to become eligible to be on a computerized state bid list. Failure to be on the computerized state bid list will only remove your company from automatically receiving bids. State Purchasing will continue to advertise bids in accordance with required laws. The fee covers the fiscal year period July through June. For a preceding fiscal year, any payments received after April 1 through June 30 will be prorated as follows: In-state vendors - \$15 and out-of-state vendors - \$30.

B. This fee entitles the vendor to be on the bid list for one fiscal year, automatically receive all State Purchasing bid solicitations in selected commodity categories, receive a "How to do Business with the State of Louisiana" book and includes registration fees for vendor seminars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, State Purchasing LR

12:833 (December 1986), amended LR 13:342 (June 1987), LR 17: (July 1991).

Dennis Stine
Commissioner of Administration

RULE

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commission on Law Enforcement and Administration of Criminal Justice has adopted revisions to that section of the State of Louisiana Jail Standards which pertains to inmate housing, LAC 22:III.2901. The State of Louisiana Jail Standards currently contains 10 separate components setting forth living and sleeping area requirements for jails and lockups. The proposed changes eliminate seven of the components and simplify all square foot requirements into one component which parallels existing state law (Sanitary Code, State of Louisiana 18:012, Jails, Prisons and Other Institutions of Detention or Incarceration).

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 2. Minimum Jail Standards**

**Chapter 29. Inmate Support
§2901. Inmate Housing**

A. Separation shall be provided between areas housing male and female inmates and between adults and juveniles.

B. Renovation of existing space or new construction shall provide a minimum of 48 square feet of floor space for each inmate confined for more than 72 hours.

C. New construction shall provide a view of daylight from each housing area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980), amended LR 17: (July 1991).

Michael A. Ranatza
Executive Director

RULE

**Office of the Governor
Engineers Selection Board**

Pursuant to the provisions of R.S. 38:2310 et seq. as amended, the Engineers Selection Board, hereinafter referred to as board, has amended such rules and procedures

as it deemed necessary to carry out the provisions of the said statutes. These rules are established by the board, and are subject to change by said board, in accordance with the Administrative Procedure Act.

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

**Chapter 3. Engineers Selection Board
Subchapter B. Selection Procedure
§341. Selection Procedure**

A. - C. . . .

D. In the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be necessary.

E. Select firm from two or three firms with most votes on a "one" vote basis. (If less than eight applicants, select from top two; if eight or more than eight applicants, select from top three.)

F. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 6:12 (January 1980), amended LR 9:551 (August 1983), LR 17: (July 1991).

Roger Magendie
Director

RULE

**Office of the Governor
Office of Elderly Affairs**

Editor's Note: LAC 4:1229.E., which was included in a rule promulgated in the *Louisiana Register*, June 20, 1991, page 601, is being reprinted in order to correct a typographical error.

**Title 4
ADMINISTRATION**

Part VII. Governor's Office of Elderly Affairs

**Subchapter E. Uniform Service Requirements
§1229. Office of the State Long Term Care Ombudsman**

* * *

E. Personnel Qualifications and Responsibilities

1. . . .

2. Ombudsman Coordinator

a. . . .

b. Responsibilities

i. - vi. . . .

vii. to assure that all personnel within the designated local entity adhere to the policies of the office and the designated entity;

viii. - xvii. . . .

3. Ombudsman

a. Qualifications

i. An ombudsman must possess the following qualifications:

- (a). graduation from high school or equivalency;
- (b). two years of experience in working with people;

- (c). recommendation by his designated ombudsman entity; and
- (d). successful completion of ombudsman certification training program.
 - ii. ...
 - b. ...
- 4. Long Term Care Visitor
 - a. Qualifications
 - i. - iii. ...
 - iv. completion of the orientation training sponsored by his local designated ombudsman entity.
 - b. Responsibilities
 - i. to work through the designated ombudsman entity;
 - ii. to visit residents in each assigned facility in accordance with the plan of visitation in Subsection D.2.c.ii of this Section.
 - iii. to assist the ombudsman coordinator in publicizing the existence of the ombudsman program and assuring that residents, responsible parties and concerned members of the public know how to contact the state ombudsman and the ombudsman assigned to the facilities;
 - iv. to observe the care in long term care facilities;
 - v. to meet regularly with the ombudsman or ombudsman coordinator;
 - vi. to report monthly to the ombudsman assigned to his LTC facility on the status of the residents in his facility and refer problems to the ombudsman or ombudsman coordinator; and
 - vii. to attend at least six hours of training a year on topics related to nursing homes, aging, and the ombudsman program.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17: (June 1991), repromulgated LR 17: (July 1991).

Vicky Hunt
Director

RULE

Department of Health and Hospitals Board of Physical Therapy Examiners

Pursuant to the authority of the Physical Therapy Practice Act of Louisiana (the "Act"), R.S. 37:2401 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., The Louisiana State Board of Physical Therapy Examiners (the "board") has adopted new rules and amendments to and re-promulgation of existing rules governing the licensing and practice of physical therapy.

On April 20, 1991, notice of intent was published on page 417, (Vol. 17, No. 4) of the *Louisiana Register*. The rules were formally adopted by the board with no substantive revisions at its June, 1991 meeting.

Persons requesting copies and/or further information concerning the rules may contact Paul A. Lamothe, Jr., P.T.,

Chairman, Louisiana State Board of Physical Therapy Examiners, 120 Representative Row, Lafayette, LA 70508.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LIV. Louisiana State Board of Physical Therapy Examiners Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists Subchapter A. General Provisions

§103. Definitions

As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, R.S. 37:2401-2419 shall have the meanings specified.

* * *

Unit of Continuing Education Credit means 10 contact hours of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744, (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subchapter B. Graduates of American Physical Therapy Schools and Colleges

§107. Qualifications for License

A. To be eligible for a license, an applicant shall:

* * *

5. have taken the licensing examination administered by the board and achieved a passing score, as set forth in §145.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

Subchapter C. Graduates of Foreign Physical Therapy School

§115. Qualification for License

A. To be eligible for a license, a foreign graduate applicant shall:

* * *

3. have completed at least 12 months (with a minimum of 1600 patient care hours) of postgraduate clinical practice in Louisiana under the direction and supervision of the physical therapists authorized by the board;

4. achieve a passing score on a standardized English proficiency examination as approved by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

§117. Procedural Requirements

In addition to the substantive qualifications specified in §115, to be eligible for a license, a foreign graduate applicant shall satisfy the procedures and requirements for application provided by §123 to §129 of this Chapter and, the

procedures and requirements for examination administered by the board provided in §131 to §149 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subchapter D. Licensure by Reciprocity

§121. Qualifications for Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §107 to §109 of this Chapter, but who has taken the board-approved licensing exam in another state, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license issued by another state.

B. A foreign graduate who meets the requirements of §115.A.2 and §121.A and who has practiced as a licensed physical therapist in another state for at least one year, may be eligible for licensure by reciprocity at the discretion of the board. This would waive the period of supervised clinical practice set forth in §115.A.3 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

Subchapter E. Application

§125. Application Procedure

H. The applicant must forward to the board, on the required form, the name of the physical therapist who will supervise the clinical practice. The supervisor must be approved by the board prior to issuance of a temporary permit.

I. After submission of a completed application, an applicant shall, by appointment, make a personal appearance before a member of the board, or its designee, as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

Subchapter F. Examination

§131. Designation of Examination

The examination approved and administered by the board pursuant to R.S. 37:2409 shall be standardized and nationally accepted by the Federation of State Boards of Physical Therapy and/or the American Physical Therapy Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Ther-

apy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

§137. Administration of Examination

A. The board's licensing examination is administered by a chief proctor, appointed by the board, and several assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the examination, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees of the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination process, including without limitation, excusing an applicant from the examination or changing an applicant's seating location at any time during the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR:17 (July 1991).

§141. Finding of Subversion

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §143 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to the Louisiana Administrative Procedure Act and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

§145. Passing Score

An applicant will be deemed to have successfully passed the examination if he attains a minimum converted score of 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

§147. Restriction, Limitation on Examinations

An applicant having failed to attain a passing score upon taking the examination twice shall not be issued a temporary permit. Therefore, the applicant can no longer work in the capacity of a physical therapist and must thereafter successfully pass the examination in order to obtain a license to practice in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

§149. Lost, Stolen, or Destroyed Examination

B. In the event the examination taken by an applicant is lost, stolen or destroyed prior to the reporting of the applicant's scores thereon, such applicant shall be permitted by the board to sit for and take the examination at the next scheduled administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17: (July 1991).

Subchapter G. Temporary Permit

§155. Permit Pending Re-examination

B. A physical therapist holding a temporary permit issued under this Section may practice physical therapy only with continuous supervision as defined in §305.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17: (July 1991).

§159. Foreign Graduate Temporary Permit

A. A foreign graduate who possesses all of the qualifications for licensing prescribed by §115 of this Chapter, save for §115.A.3 shall be issued a temporary permit to engage in supervised clinical practice under the requirements of §153.B for the purpose of fulfilling in whole or part the requirement of §115.A.3.

B. The holder of a permit issued under this Section shall not engage in the practice of physical therapy in any respect other than within the course and scope of the employment or association for which he is approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17: (July 1991).

Subchapter H. License and Permit Issuance, Termination, Renewal, Reinstatement

§161. Issuance of License

B. A license issued by examination (under §107 of this Chapter) shall be issued by the board within 45 days following the reporting of the applicant's licensing examination score to the board. A license issued under any other Section of this Chapter shall be issued by the board within 45 days following the next meeting of the board after the application is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), repromulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17: (July 1991).

§163. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license or permit was issued.

C. (Repealed in its entirety)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), repromulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17: (July 1991).

§165. Renewal of License

A. Every license or permit issued by the board on or before October 1 of each year under this Chapter shall be renewed annually on or before December 31 of each year by submitting to the board an application for renewal together with proof of continuing education on forms supplied by the board, together with the renewal fee prescribed in Chapter 5 of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of November of each year. Such forms shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), repromulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17: (July 1991).

Subchapter I. Continuing Education

§169. Requirements

A. Minimum Continuing Education Requirements. Licensees shall document successful completion of 1.5 units, or 15 hours of acceptable continuing education credit during each annual period.

B. Criteria of Acceptability. Acceptable continuing edu-

cation activities are defined as: (a) formally organized and planned instructional experiences of at least four hours duration (b) with qualified instructor or instructors and (c) with objectives compatible with the professional continuing education needs of the physical therapist.

1. Continuing Education Activities Specifically Acceptable for License Renewal. Prior board approval is recommended for all activities other than those specified under Subparagraphs a and b below. Continuing education activities which do not fit into categories a and b below and have not been pre-approved by the board prior to participation may or may not be accepted to the board as fulfilling continuing education requirements.

a. APTA (American Physical Therapy Association) and LPTA (Louisiana Physical Therapy Association) accredited courses and APTA home study courses.

b. Post-graduate (Master's or Doctoral level) college coursework which is judged germane to the practice of physical therapy by the board, and is conducted or sponsored by accredited institutions of higher education or by national, regional, or state professional associations or divisions or such associations.

i. One semester hour shall be equal to one unit or 10 hours of continuing education credit.

ii. One quarter hour shall be equal to .7 units or seven hours of continuing education credit.

2. Prior Approval of Continuing Education Activities

a. Course sponsors who desire prior approval of a course, program, or other continuing education activity shall apply for approval on a form provided by the board to the board at least 45 days in advance of the commencement of the activity. The board shall approve or deny the application in writing within 30 days of the application. The application shall state the dates, subjects offered, course outline, total hours of instruction, names and qualifications of speakers and other pertinent information. The course sponsor prior approval status allows the sponsor to advertise that this particular activity has been judged acceptable for continuing education credit for license renewal in the state of Louisiana by the board. The course sponsor is responsible for adherence to the administrative and program criteria as outlined in the *The CEU, Criteria and Guidelines*. A copy of these criteria can be obtained by writing to the board or to the International Association for Continuing Education and Training. A fee will be charged by the board for course pre-approval.

b. Physical therapists who desire approval of continuing education prior to participation in the activity shall submit an application to the board on a form supplied by the board at least 90 days in advance of commencement of the activity. The board shall approve or deny the application in writing within 60 days of receipt of the application. The application shall state the dates, subjects offered, course outline, total hours of instruction, names and qualifications of speakers, and other pertinent information.

3. Continuing Education Specifically Unacceptable for License Renewal. However valuable for other purposes the board will not credit the following activities as fulfilling any portion of its continuing education requirements for license renewal:

a. presenting at professional meetings, conferences or conventions;

b. teaching or supervision;

c. holding organization offices or fulfilling editorial re-

sponsibilities (publication);

d. participation in or attending case conferences, inservices, Grand Rounds, informal presentations, etc.;

e. information self-study (e.g. self-selected reading, participation in a journal club, listening to audio tapes.);

f. continuing education activities less than 4 consecutive hours in duration, or valued at less than .4 units of continuing education credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.2401.2A(3) and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

§171. Report Requirements

A. Report Form. Reports shall be typewritten on forms available from the board. The board will routinely distribute its Continuing Education Report form along with the annual renewal notice. Additional forms may be obtained through written request.

B. Signature. By signing the annual report of continuing education, the licensee signifies that the report is true and accurate.

C. Documentation. Licensees shall retain original corroborating documentation of their continuing participation, such as certificates of course participation with signature of course instructor to verify attendance and completion of the continuing education activity, and official transcripts of college coursework, and shall submit copies of these course certificates or verifications of attendance and completion along with the Continuing Education Report.

D. Annual Reporting Period. Licensees must report their continuing education hours to the board no later than December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.2401.2A(3) and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

§173. Exemptions

A. Newly Licensed Physical Therapists. Physical therapists licensed in Louisiana after May 1 are said to have satisfied continuing education requirements for the remainder of the year for which their license is granted.

B. Other Exemptions. The following groups of licensees may be exempt from compliance with the continuing education requirement.

1. Louisiana licensees on extended active military service during the applicable reporting period and who do not engage in delivering physical therapy services.

2. Louisiana licensees who are unable to fulfill the requirement because of illness or other personal hardship. The board must receive timely confirmation of such status in order to consider issuing an exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.2401.2A(3) and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

§175. Noncompliance and Reinstatement

A. Noncompliance. Noncompliance shall include, in part, incomplete reports, unsigned verification of course completion, failure to report a sufficient number of acceptable continuing education units, or hours as

defined in §169.A above, or any other matters considered to be noncompliance by the board.

B. Notice. The board shall serve written notice of non-compliance on a licensee that his license has lapsed by failing to renew pursuant to R.S. 37:2407. The notice will require the licensee to furnish the board with the following within 30 days after receipt of the notice of noncompliance:

1. a written explanation for the failure to renew; or if applicable,
2. an affidavit with documentary proof that the licensee has complied with the continuing education requirements, or an affidavit setting forth the reasons for failure to comply with the continuing education requirements because of illness, other personal hardship or extended active military service during the applicable reporting period and who does not engage in delivering physical therapy services.

C. Findings. If the licensee:

1. satisfactorily explains the failure to renew, his license may be reinstated upon payment of the renewal fee for the current year and the reinstatement fee; or
2. does not successfully establish compliance or acceptable exemption from compliance with continuing educational requirements, he may be required to take the licensing examination and pay the fees for examination and relicensure. Passage of the examination fulfills the continuing education requirements for the year the noncompliance occurred, but shall not be applicable for subsequent reporting periods.

D. Suspension. Any license not timely renewed, but reinstated, may be suspended by unanimous vote of the board, after notice and the opportunity for a hearing pursuant to the Louisiana Administrative Procedure Act and the disciplinary rules and regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.2401.2A(3) and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subchapter J. Committees

§177. Purpose

The board may appoint committees to assist in the review of applicants' qualifications for licensure under this Chapter, in administration of the physical therapy licensing examination, interpretation of board rules and regulations, in the delivery of temporary permits, in liaison with other licensed physical therapists in the state of Louisiana, in review of continuing education requirements and activities, and other purposes deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37.2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subpart 3. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§305. Special Definition: Physical Therapy

A. As used in the definition of *physical therapy* set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have the meanings specified:

Consultative Services means providing information, advice, or recommendations with respect to physical therapy,

but does not include the administration of physical therapy treatment, and therefore, can be performed without referral or prescription.

Continuous Supervision as used with respect to physical therapy supportive personnel, and temporary permittees who have once failed the licensing exam, means responsible, continuous, on-premise observation and supervision of procedures, functions and practice by a licensed physical therapist.

Licensed in the State means possessing a current license to practice duly issued by an agency of the state of Louisiana.

On Premise means that the supervising physical therapist is personally present in the treating facility and immediately available to the treatment area.

Passive Manipulation means manipulation or movement of musculature or joints other than by the spontaneous function of the body or active effort on the part of the patient.

Periodic Supervision as related to temporary permit holders who are:

a. Graduates of APTA accredited programs, shall mean 1) daily face-to-face or phone communication between the supervising physical therapist and permit holders, and 2) on premise observation of patient care in each of the permittees' practice settings, a minimum of two hours per day with a minimum total of 10 hours per week.

b. Foreign graduates, shall mean daily face-to-face communication and on premise observation of patient care in each of the permittees' practice settings for at least one-half of the hours worked each week until the permittee passes the licensing exam. After passage of the examination, the permittee shall require on premise observation of patient care in each practice setting a minimum of one hour per day with a minimum total of five hours per week. If the permittee fails the examination on his first attempt, he shall require continuous supervision.

Physical Therapy Evaluation means the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficiency of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

Physical Therapy Supportive Personnel refers to workers not licensed by the board who function in a physical therapy clinic, department or business and assist with patient care. The level of responsibility assigned to these individuals is dependent upon the discretion of the physical therapist, who is ultimately responsible for the acts or omissions of the supportive personnel. Supportive personnel may perform only those functions for which they have documented training and skills. The prohibitions for physical therapy supportive personnel shall include, but not be limited to, interpretation of referrals, performance of evaluation procedures, initiation or adjustment of treatment programs, assumption of the responsibility for planning patient care, or any other matters as determined by the board.

B. Minimal standards of acceptable and prevailing physical therapy practice shall include but not be limited to the APTA (American Physical Therapy Association) Code of Ethics, Guide for Professional Conduct, Standards of Practice, and compliance with the requirements of the National

Practitioner Data Bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended LR 17: (July 1991).

Subchapter B. Prohibitions

§311. Prohibitions: Licensed Physical Therapists

A licensed physical therapist shall not:

C. perform any procedure or function for which he is by virtue of education or training, not competent to perform. It is the responsibility of the board to determine which procedures and functions a physical therapist is competent to perform based upon the physical therapy in the Physical Therapy Practice Act and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subchapter C. Supervised Practice

§317. General Supervision Requirements for Temporary Permittees

A. A physical therapist holding a temporary permit shall engage in the practice of physical therapy only as an employee of a licensed physical therapist or a partnership of licensed physical therapists, or an employee of an individual or entity employing at least one licensed physical therapist who assumes responsibility for the supervision of such permittee.

B. A licensed physical therapist who undertakes to supervise a physical therapist holding a temporary permit under §153 or §155 of these rules shall:

1. undertake to concurrently supervise not more than two permittees;
2. not have been subject, within a period of five years prior to undertaking such responsibility, to administrative action or consent order by the board which may result in the suspension or revocation of, or the imposition of probationary conditions on, his physical therapy license;
3. assign to a permittee only such physical therapy measures, treatments, procedures, and functions as such licensed physical therapist has documented that the permittee, by education and training, is capable of performing safely and effectively;
4. be readily available at all times to provide advice to the permittee and to the patient during physical therapy treatment given by a permittee; and
5. provide and perform periodic review of the status of every patient administered to by a permittee and make modifications and adjustments in the patient's physical therapy treatment plan, including those portions of the treatment plan assigned to the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the

Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388, (May 1989), LR 17: (July 1991).

§319. Additional Supervision Requirements for Foreign Graduates

A. A foreign graduate holding a temporary permit issued under §159 of these rules shall participate in clinical physical therapy education and training only as an employee of a licensed physical therapist or a partnership of licensed physical therapists, or as an employee of an individual or entity employing at least one licensed physical therapist who assumes responsibility for the education, training, and supervision of such permittee.

B. A licensed physical therapist who undertakes to educate, train and supervise a foreign graduate holding a temporary permit under §159 of these rules shall be subject to the requirements and prohibitions specified by §317 of this Subchapter, and, in addition, shall:

1. have possessed a permanent license to practice physical therapy issued by any state for a period of not less than 18 months prior to undertaking the education, training, and supervision of a permittee under this Section.
2. provide the board with written certification, following the conclusion of a foreign graduate's clinical training as required by §115.A.3, that the permittee has accumulated not less than 1600 hours of actual clinical experience in the practice of physical therapy under the periodic and/or continuous supervision of the licensed physical therapist.
3. Repealed in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17: (July 1991).

Subpart 5. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

Examination Fee	\$180
Reciprocity Fee	150
Reexamination Fee	90
Reinstatement Fee	75
Renewal of License Fee	75
Verification of Licensure Fee	
Out of State	10
Duplicate Wall License Fee	30
Duplicate Billfold License Fee	10

B. Renewal fees provided in this Section shall be paid to the secretary-treasurer of the board by January 1 of each year.

C. If renewal fees are not paid by January 1 of each year, a license will lapse and a reinstatement fee will be charged, in addition to the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3), Act 208 of 1987 and Act 708 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 17: (July 1991).

Paul A. Lamothe, Jr. P.T.
Chairman

RULE

**Department of Health and Hospitals
Office of Human Services**

The Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse is hereby adopting rules and regulations pursuant to Act 90 of the 1990 Regular Legislative Session, designated as R.S. 47:2601 regarding disposition of monies in the Drug Treatment Fund.

**Title 48
PUBLIC HEALTH**

Part VII. Alcohol and Drug Abuse Services

Chapter 1. Program Authorization

§121. Drug Treatment Fund

A. Upon notification by the Department of the State Treasury that monies have become available in the Drug Treatment Fund for appropriation, the Division of Alcohol and Drug Abuse shall follow the rules for solicitation of proposals and for the distribution of non-allocated funds as outlined in Chapter 1, §119 which is published as a separate rule in this *Louisiana Register*. The solicitation of proposals will be for the provision of treatment, care and rehabilitation services for persons abusing controlled dangerous substances. The monies in the Drug Treatment Fund shall be appropriated annually by the legislature to be used solely to fund drug treatment and rehabilitation programs as follows:

1. Ninety-five percent to the Department of Health and Hospitals, Office of Human Services, to be distributed annually to state funded programs.
2. Five percent to the Department of Revenue and Taxation for the cost of administration.

B. Accountability for monies appropriated to the Division of Alcohol and Drug Abuse from the Drug Treatment Fund shall be in accordance with accepted standard accounting procedures for governmental agencies and contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2609(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 17: (July 1991).

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of Human Services**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse is hereby adopting rules for the solicitation of proposals for the provision of alcohol and drug abuse services and for the distribution of non-allocated funds for these services.

Title 48

PUBLIC HEALTH

Part VII. Alcohol and Drug Abuse Services

Chapter 1. Program Authorization

§119. Solicitation of Proposal and Distribution of Non-allocated Funds for the Provision of Alcohol and Drug Abuse Services

A. Solicitation of Proposals

1. Proposals for Services Costing Less Than \$150,000

a. When the proposal is in response to a federal categorical grant announcement which is published in the *Federal Register*, the announcement shall be distributed to the 10 alcohol and drug abuse regional managers and to the members of the Louisiana Commission on Alcohol and Drug Abuse for further distribution to persons and organizations known to have interest in providing substance abuse services.

b. Proposal requests initiated by the Division of Alcohol and Drug Abuse shall be consistent with the division's state plan and shall be advertised through public announcements known as Requests for Community Services (RCS) in accordance with the Division of Alcohol and Drug Abuse *Contracts Procedure Manual* available at each of the division's 10 regional offices.

2. Proposal Requests for Services Costing \$150,000 or More

a. When the proposal is in response to a federal categorical grant announcement which is published in the *Federal Register*, the announcement shall be distributed to the 10 alcohol and drug abuse regional managers and to the members of the Louisiana Commission on Alcohol and Drug Abuse for further distribution to persons and organizations known to have interest in providing substance abuse services.

b. Proposal requests initiated by the Division of Alcohol and Drug Abuse shall be consistent with the division's state plan and shall be in accordance with the state rules for Requests for Proposals (RFP). Proposal requests shall also be distributed to each of the 10 Division of Alcohol and Drug Abuse regional managers and to members of the Louisiana Commission on Alcohol and Drug Abuse for further distribution to persons known to have interest in providing substance abuse services.

B. Responding to Solicitations

1. Each public announcement for RCS or RFP shall state the nature of the service sought, the address of the offices from which application packets can be obtained, and time lines for the application procedure.

2. In the case of federal categorical grants all relevant application information shall conform to the federal announcement guidelines as published in the *Federal Register*.

C. Allocation of Funds

1. Distribution of Non-allocated Block Grant Funds and Other Non-allocated Funds

a. Proposals of less than \$150,000 in value will undergo an initial review at the regional office level by a Proposal Evaluation Committee of not more than 10 members, including:

- i. a provider of service;
- ii. a consumer of service;
- iii. an employee of the Division of Alcohol and Drug Abuse;

- iv. a member of the Louisiana Commission on Alcohol and Drug Abuse;
- v. a local parish or municipal official;
- vi. an individual from the community at large, professionally knowledgeable of the network of community health and social services available in the region;
- vii. the Division of Alcohol and Drug Abuse regional manager who will serve as the ex-officio chair of the committee.

The Proposal Evaluation Committee shall report its approval/disapproval and priority recommendations on each proposal to the Division of Alcohol and Drug Abuse headquarters office. The evaluation decision must be consistent with the Division of Alcohol and Drug Abuse state plan and the Division of Alcohol and Drug Abuse *Contracts Procedure Manual*.

A five person evaluation team at the headquarters office shall review all proposals and accompanying recommendations from the regional offices and all proposals which are not geographically specific and shall make a final determination on approval of proposals in accordance with the Division of Alcohol and Drug Abuse state plan and with criteria contained in the Division of Alcohol and Drug Abuse *Contracts Procedure Manual*.

b. Proposals of \$150,000 or More in Value shall be allocated in accordance with the state's RFP procedure.

c. Rights to Protest and Appeal

Any contractor/applicant who is aggrieved in connection with the proposal review or award may exercise the rights of protest and appeal as set forth in the Department of Health and Hospital's Contract Manual.

2. Categorical Grant Funds

Funds becoming available through federal categorical grants shall be allocated in accordance with the guidelines contained in the issue of the *Federal Register* announcing the grant and in the notice of grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, LR 17: (July 1991).

David L. Ramsey
Secretary

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 Department of Health and Hospitals, Office of Public Health has adopted the following rule:

(a) Transporters of potentially infectious biomedical waste for which a permit is required by the Sanitary Code, State of Louisiana, Section 27:023 shall be assessed an annual fee of \$100 for one transport body or vehicle, plus \$25 for each additional transport body or vehicle.

(b) Facilities for storage and treatment of potentially infectious biomedical waste for which a permit is required by

the code, Section 27:027 shall be assessed an annual fee of \$100 per storage or storage/treatment site.

(c) A properly permitted transport body or vehicle used for storage at the site of a generator of potentially infectious biomedical waste will not be required to have a storage permit under (b) above.

(d) Permits will be issued on a fiscal year basis (July 1 - June 30). The initial permitting period will be July 20, 1991 - June 30, 1992. Permits will be renewable on July 1 of succeeding years.

David L. Ramsey
Secretary

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 Department of Health and Hospitals, Office of Public Health has amended Chapter XXVII of the State Sanitary Code effective July 20, 1991, as follows:

27:020 DEFINITIONS:

Change to read:

(m) TRANSPORT shall mean the movement of potentially infectious biomedical waste from the premises of a generator or others involved over more than 0.1 mile of public streets or roadways to places for storage, treatment or disposal.

Add:

(n) TRANSPORTER shall mean any person or firm who transports large quantities of potentially infectious biomedical waste or who transports any quantity of such waste generated by another. This definition shall not apply to municipal waste haulers who transport such waste disposed of in household waste under the provisions of Section 27:022-4.

Delete present 27:022-4(a), (b), (c), and replace with the following:

27:022-4 Small quantities of Potentially Infectious Biomedical Waste generated as a result of self-administered or non-professional health care or veterinary care services in a household or other non health-care facility may be disposed of in ordinary municipal waste without treatment, provided that such waste is packaged to assure no loss of contents, should the integrity of the original package be violated. This shall generally be interpreted to mean placing the original plastic bag or rigid container into a second bag or rigid disposal container. Sharps must be encased as specified in Section 27:025 or placed in a sharps disposal container of standard manufacture. This sharps container should then be placed within another bag or rigid container containing a greater volume of non-infectious waste.

Delete present 27:023-6 and replace with the following:

27:023-6 Vehicles used by transporters shall meet the following minimum requirements:

(a) The vehicle must have a fully enclosed cargo carrying body or compartment which is an integral part of the

vehicle or firmly attached thereto and which affords protection from theft, vandalism, inadvertent human and animal exposure, rain, rodents and insects. The cargo body or compartment shall be separated by a solid barrier from the driver and passengers.

(b) provision shall be made for the containment within the body or compartment of any liquid which might leak from the packaged waste.

(c) The cargo body or compartment shall be maintained in good sanitary condition and must be secured if left unattended.

(d) The cargo body or vehicle containing the cargo compartment shall be identified on both sides with the name of the transporter and on both sides and the rear with the words "Medical Waste", "Infectious Waste", "Regulated Medical Waste", or "Potentially Infectious Biomedical Waste" in letters at least three inches high on contrasting background. In addition, a current permit decal issued by the Department of Health and Hospitals shall be affixed to the lower front section of the left side of the cargo body or to the driver's side door of the vehicle.

Delete:

27:025-9

27:026-3

27:029-2

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with provisions of the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health, Safe Drinking Water Program, adopted the Total Coliform Rule effective July 20, 1991. This rule allows the state of Louisiana to be in compliance with the United States Environmental Protection Agency Regulations promulgated pursuant to the Federal Safe Drinking Water Act P.L. 93-523 and 99-339.

Copies of this rule are available for review at the Office of Public Health regional offices located in Thibodaux, New Orleans, Baton Rouge, Lafayette, Lake Charles, Alexandria, Shreveport, Monroe and the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095.

David L. Ramsey
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, adopts the following rule relative to the forfeiture of good time for escape.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 3. Adult and Juvenile Services Subchapter A. General

§333. Forfeiture of Good Time for Escape

A. Purpose

The purpose of this regulation is to provide for rules related to the forfeiture of earned good time for escapes from state institutions, or from the lawful custody of any law enforcement officer or corrections services personnel, as provided for under R.S. 15:571.4(C) and (D).

B. To Whom This Regulation Applies

This regulation is applicable to all offenders committed to, or who may be committed to, the custody of the Department of Public Safety and Corrections, and who commit simple or aggravated escape on or after August 30, 1986.

C. General

This regulation establishes the rules and procedures to be used for forfeiture of earned good time for escape as set out in R.S. 15:571.4(C) and (D).

D. Definitions

For the purpose of this regulation, the following definitions are applicable:

1. *Simple Escape*

The intentional, unauthorized departure, under circumstances wherein human life is not endangered, of an offender from the grounds of an institution, from a designated area or place within an institution, the custody of corrections services personnel while off the grounds of an institution, the custody of any law enforcement officer, or the failure of a work-release offender or an offender on furlough, to return to their place of confinement at the appointed time.

2. *Aggravated Escape*

The intentional, unauthorized departure, under circumstances wherein human life is endangered, of an offender from the grounds of an institution, from a designated area or place within an institution, the custody of corrections services personnel while off the grounds of an institution, the custody of any law enforcement officer, or the failure of a work-release offender or an offender on furlough, to return to their place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

E. Procedures

The following procedures shall be used:

1. Notice: The offender shall be given written notice of the charge of escape which should contain a description of the evidence against him. He should also be advised of the right to request a hearing before the disciplinary board within 15 days of receipt of the notice, the right to be represented by counsel, to be present at the hearing, and to present exculpatory evidence or evidence in mitigation.

2. Request for a Hearing: The offender must, within 15 days of receiving the notice, submit to the warden a written request for a hearing. If this request is not made timely, it will be deemed that the offender waives his right to a hearing on the issue of guilt and the action to be taken. In such a case, the disciplinary board may impose any action permitted by law.

a. The request must contain the following:

i. A statement from the offender setting out the facts

upon which he is relying;

ii. a list of witnesses with the reason for the witnesses and the expected testimony;

iii. a list of documents with the reason for each document and the expected information;

iv. the offender must state whether he is challenging the escape charge or only attempting to mitigate the action, or both; and

v. the offender must also state whether he will represent himself, retain counsel, or wishes to have an inmate counsel substitute.

b. The contents of the request shall be binding on the offender and shall not be expanded unless good cause is shown why it should be expanded.

3. The Hearing: The hearing will be before a disciplinary board which shall follow the procedures for High Court as set out in the *Disciplinary Rules and Procedures for Adult Offenders* and in addition:

a. The disciplinary board should make a determination as to which witnesses and documents are to be allowed into evidence and state in writing the reason for excluding a witness or document. The reasons may, if the disciplinary board deems appropriate, be kept confidential;

b. The disciplinary board should hear evidence on the issue raised in the request and the documents and witnesses on the request unless otherwise excluded;

c. The disciplinary board should prepare written reasons for their judgment of guilt or innocence and explain the basis for the action taken;

d. The hearing should be held no sooner than 10 days of receipt of the request. No hearing needs to be scheduled until the offender is physically returned to the custody of the institution from which the alleged escape occurred, or to the custody of the institution to which the offender is assigned after the alleged escape;

e. Within seven days of the disciplinary board's adverse decision, the offender may appeal to the secretary; and

f. If the offender is found guilty or pleads guilty to the criminal charge of escape before a court of law, the entry of the judicial conviction shall be conclusive evidence of the offender's guilt in the proceeding.

4. Action: The following actions may be imposed after the offender is found guilty of escape:

a. Louisiana State Penitentiary

i. Those found guilty of simple escape shall forfeit not less than one month, nor more than two years' worth of earned good time;

ii. Those found guilty of aggravated escape shall forfeit all good time earned on that portion of the sentence served prior to the escape.

b. Other state institutions

Those found guilty of simple or aggravated escape shall forfeit all good time earned on that portion of the sentence served prior to the escape.

c. All other jurisdictions

Those found guilty of simple or aggravated escape from the lawful custody of any law enforcement officer or corrections services personnel, shall forfeit all good time earned on that portion of the sentence served prior to the escape.

F. The effective date of this regulation is July 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17: (July 1991).

Bruce N. Lynn
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, adopts the following rule relative to reporting and documenting escapes from juvenile institutions.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services Subchapter A. General

§320. Reporting and Documenting Escapes (Juvenile Services)

A. Purpose

To establish the secretary's policy regarding the notification of law enforcement agencies of escapes from juvenile institutions within the Department of Public Safety and Corrections and the maintenance of records and details of escapes.

B. To Whom This Regulation Applies

This regulation is applicable to all superintendents within the Department of Public Safety and Corrections, Corrections Services.

C. Definitions

For the purpose of this regulation, the following definitions shall apply:

1. *Escape*

The unauthorized absence of an offender from the grounds of a secure juvenile correctional institution, or from the custody of an employee while in transit, or from the lawful custody of a law enforcement officer, or failure to return from a furlough, or being absent from a secure juvenile institution without leave.

2. *Law enforcement agency*

The sheriff's office, any city police department in the parish in which the escape occurs, and the Office of State Police.

3. *Secure juvenile institution*

An institution, inclusive of subunits, that is used exclusively for juveniles who have been adjudicated delinquent and is characterized by exclusive staff control on a 24 hour basis over the rights of its residents to enter or leave the premises.

4. *Unit head*

The superintendent or highest ranking Office of Juvenile Services employee physically present and in charge of a juvenile institution at the time of an escape.

5. *Division director*

Either the director of the Division of Institutions or the director of the Division of Evaluation and Placement.

D. Procedure

1. The unit head shall, within 10 minutes after being notified that a juvenile offender has escaped from or left the premises or grounds of the institution without authority, notify, or take necessary steps to ensure the notification, of every law enforcement agency, as defined herein, and the appropriate division director. The division director shall notify the assistant secretary of the Office of Juvenile Services, who shall notify the deputy secretary of Corrections Services, who shall notify the secretary of the Department of Public Safety and Corrections.

2. The unit head shall maintain a record and description of every escape from the institution. The record shall list the following:

- a. date and time of escape;
- b. number of offenders who escaped;
- c. offense(s) for which the escapee(s) was placed at the institution;
- d. name of each law enforcement agency notified;
- e. time each law enforcement agency was notified;
- f. name of the person receiving notification; and
- g. name of the employee or agent who notified the law enforcement agency.

3. The report shall be available for public inspection and shall list all prior escapes, if any, from the institution within the last five years, or the date of the last escape. A copy of the report shall be delivered to each law enforcement agency and the assistant secretary of the Office of Juvenile Services by the end of each fiscal year.

E. The effective date of this regulation is July 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:909(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17: (July 1991).

Bruce N. Lynn
Secretary

RULE

**Department of Public Safety and Corrections
Office of State Police**

**Title 55
PUBLIC SAFETY
Part I. State Police**

**Chapter 5. Breath and Blood Alcohol Analysis Methods
and Techniques**

Subchapter A. Analysis of Breath

**§501. Approval of Instruments to Conduct Blood Alcohol
Analysis by Breath Sampling**

A. After the Louisiana Department of Public Safety and Corrections has approved a prototype breath testing device as an acceptable model for chemical analysis in blood alcohol testing by breath sampling it shall be necessary for each individual instrument of the approved model to be in-

spected and approved for use by the Office of State Police, Applied Technology Unit, and an instrument certification form shall be maintained for each individual instrument in the Applied Technology Unit. At least once every four months thereafter, each individual instrument shall be inspected, checked, and certified by the applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit and a recertification form shall be maintained in the Applied Technology Unit. A copy of this certificate may be filed with the clerk of the applicable court in the respective parish in which each device is used for blood/breath testing, and this copy shall be prima facie evidence as to the proper working order of the instrument. The inspecting applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist's permit number shall also be affixed to this certificate. Any manufacturer of any apparatus, device, or equipment made for the purpose of analyzing the alcoholic contents of the blood by breath sampling may request the Applied Technology Unit to approve such apparatus, device or equipment. The Applied Technology Unit will consider such a request upon submission of such information, instructions for use, exemplars and other pertinent data as the Applied Technology Unit may request. Before any blood/breath alcohol testing device will be approved it must have undergone inspection and testing by the Applied Technology Unit. This period of testing and evaluation is for the purpose of assuring that an instrument is free of any design error, malfunction or operating problems and accurately and consistently determine the percent weight by volume of alcohol in the blood at the time the test is administered by utilizing the 2100:1 correlation between alcohol in the breath and alcohol in the blood in accordance with the Uniform Vehicle Code.

B. Approval of Instrumentation. The following is the instrument approved by the Louisiana Department of Public Safety and Corrections, the Office of State Police, Applied Technology Unit for analysis of breath specimens for the determination of the blood alcoholic contents therein:

- 1. Intoxilyzer 5000 manufactured and distributed by M.P.D, Inc. Owensboro, Kentucky.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:441 (July 1988), amended LR 17: (July 1991).

§503. Operator Qualification

Qualifications for the certification of individuals to conduct breath analysis are as follows:

- A. Employee of a Louisiana or federal law enforcement agency.
- B. Resident of the state of Louisiana at the time of application, and at least 18 years of age.
- C. Graduation from a state accredited high school or satisfactory passing of the General Education Development (G.E.D.) test or an equivalent educational background.
- D. A score of 75 percent or better on a 40-hour operator's training course conducted by the Applied Technology Unit or any other course approved by the Applied Technology

Unit. Course material to be covered will be taken from the Chemical Test for Intoxication Training Manual and/or the Training Manual for the Intoxilyzer 5000. However, if an individual has already successfully completed a training course in chemical testing the individual may attend a specified course in the operation of the Intoxilyzer 5000.

E. To successfully complete the 40-hour training course and be certified to conduct breath analysis, the individual must:

1. obtain a 75 percent score on the written examination covering course material;
2. obtain a 75 percent score on the actual operation of the instrument and practical examination (running of an unknown alcohol solution). Both the written and the practical examination will be made up by the instructors of the Applied Technology Unit.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17: (July 1991).

§505. Instructor Qualification

Qualification for certification of individuals as instructors shall be as follows:

- A. Certified as an operator on the approved instrument by the Applied Technology Unit.
- B. Attendance of an additional 40-hour course approved by the Applied Technology Unit.
- C. Involved in a chemical testing program approved by the Applied Technology Unit.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17: (July 1991).

§507. Qualification of Individuals for Instrument Maintenance and Inspection

Qualification of individuals to perform maintenance and inspection on the approved instrument shall be as follows:

A. Employee of the Office of State Police, Applied Technology Unit in the capacity of Applied Technology Director, Breath Analysis Supervisor, Breath Analysis Instructor Specialist, Applied Technology Specialist, or Breath Analysis Specialist, in order to be employed in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist the employee must have met all of the requirements as stated by the Department of Civil Service pertaining to the classification of applied technology director, breath analysis supervisor, breath analysis instructor specialist or applied technology specialist.

B. Graduation from a state accredited high school or the satisfactory passing of the General Education Development (G.E.D.) test or an equivalent educational background.

C. Successful completion of a 40-hour Operator's Training Course.

D. Successful completion of a course on maintenance conducted by the manufacturer of the approved instrument used in blood/breath alcohol testing whereby the individual has received a satisfactory certificate stating such.

E. Complete six months "on-the-job training" whereby the individual shall undergo instructions on the following, but not limited to:

1. calibration of the instrument;
2. checking calibration of the instrument;
3. trouble shooting of the instrument;
4. performance of preventive and regular maintenance;
5. preparation and use of any wet bath simulator and solutions used in the calibration and calibration check;
6. inspection of the instrument received from the manufacturer to insure proper assembly calibration and the overall proper functioning of the instrument.

F. After the individual has completed on-the-job training and qualified on the above specification, then and only then may he be certified to perform maintenance and inspection on the approved blood/breath alcohol testing instrument. The individual will then be certified by the Louisiana Department of Public Safety and Corrections and issued a permit stating such. This permit shall then be prima facie evidence of the individual's qualification to perform such maintenance.

G. The maintenance and/or repair work shall be performed by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit, who are certified by the Louisiana Department of Public Safety and Corrections to perform such. The instrument recertification form that is filed with the clerks of the respective courts every four months shall also have the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist permit number affixed to this certificate. This permit number shall be proof as to the certification of the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist by the Louisiana Department of Public Safety and Corrections.

H. The procedure used by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist in the inspections of the instrument at least every four months for the checking of the calibration shall be as follows:

1. A Model Mark II-A wet bath breath alcohol simulator manufactured by Smith and Wesson, Model 24C, and Model 10-4 manufactured by Guth Manufacturing Company, will be used or any other wet bath simulator approved by the United States Department of Transportation.

2. Use of this simulator and preparation of the contents shall be performed according to the instructions as per the manufacturer of the simulator's operating manual.

3. Solutions used in the simulators may also be produced by using a certified stock solution.

4. Once the simulator is made the known alcohol value may be determined by the use of a Gas Chromatograph or any other approved instrument and this will be the "known alcohol value". Calibration check of the instrument shall be within plus or minus .010g percent of the estab-

lished "known alcohol value".

5. After the inspections are made by the applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist, and all items are performed according to the maintenance section as listed under the instrument, the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist will then certify that the instrument was in proper working order.

6. Records, or a copy covering maintenance, etc., on the instrument will be kept by the "Applied Technology Unit".

I. Personnel of the Applied Technology Unit shall have the authority to instruct individuals as breath/alcohol testing field supervisors. These individuals will be able to perform minor service, repair and transport the instrument to various locations, run known alcohol solutions, testify in court, monitor the chemical testing program on a local level and confer with the Applied Technology Unit on any related matters pertaining to chemical testing. These individuals will have attended an additional training course whereby they have undergone instructions to perform their outlined duties. These individuals' permit shall state their authority to conduct such duties.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17: (July 1991).

§509. Permits

Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

A. Operator's Certification

1. Operators shall be certified for a period of two years following successful completion of the 40-hour Operator's Training Course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

2. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

B. Breath Alcohol Testing Field Supervisors

1. Breath Alcohol Testing Field Supervisors shall be certified for a period of two years.

C. Instructors

1. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the Applied Technology Director.

D. Maintenance

1. Once an applied technology director, breath analy-

sis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985) amended LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17: (July 1991).

§511. Recording Analysis and Recertification Date

A. After each breath analysis, the results shall be recorded in the blood/breath alcohol testing log book, a copy of which is to be sent to the Applied Technology Unit at the end of each month and a copy to be retained at the testing agency.

B. Each time the approved instrument is inspected and certified, the date of certification shall be placed on the instrument and the operator will record said dates on the operational check list.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:364 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17: (July 1991).

§513. Procedure for Analysis Using the Intoxilyzer 5000

A. General observation of the subject for a period of not less than 15 minutes prior to testing whereby the subject shall not have ingested alcohol, alcoholic beverages, regurgitated, vomited, or taken anything by mouth.

B. The operator conducting blood/breath analysis shall conduct such analysis in accordance with the "Intoxilyzer 5000 operational check list" which contains, but is not limited to the following:

1. completing the information section concerning such things as name and driver's license number of the subject, date, instrument number, and certification date;
2. press the start button, insert test record card and check the display panel for instructions;
3. new and clean mouthpiece attached to the breath inlet hose;
4. subject instructed to blow through the mouthpiece sufficiently until the instrument accepts the proper breath sample;
5. remove the test record card and attach it to the checklist.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:364 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17: (July 1991).

§515. Maintenance Inspection for the Intoxilyzer 5000

Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist.

Items to be inspected shall include, but not be limited to the following:

- A. clean instrument;
- B. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus .010g percent of the known alcohol value;
- C. insure that the instrument is locked;
- D. check printer to see if it is printing out properly;
- E. check breath tube inlet hose;
- F. in event repair work is needed, it shall be recorded in detail.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17: (July 1991).

Subchapter B. Analysis of Blood

§551. Definition

For purposes of these regulations, alcohol shall mean ethyl alcohol.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17: (July 1991).

§553. Certification; Renewal of Certification; Suspension, Revocation or Cancellation

A. All persons seeking certification to conduct blood alcohol analysis shall:

- 1. Make application to the Louisiana State Police Crime Laboratory.
- 2. Successfully complete an accredited college or university course of study which meets all academic requirements for at least a Bachelor's degree in one of the chemical, physical or biological sciences or a Bachelor's degree in medical technology or forensic science.
- 3. Successfully complete a course of at least 24 hours instruction concerning blood alcohol testing conducted by the Louisiana State Police Crime Laboratory. This course shall include, but not be limited to, the following: procedures; pharmacology and physiology of alcohol; theory of gas chromatography; maintenance, repair and inspection of instrumentation; and preparation and analysis of blood samples.
- 4. Conduct certification testing set up by the Louisiana State Police Crime Laboratory, including demonstrating the necessary maintenance and repair knowledge required to certify a gas chromatograph as operating properly.

- 5. a) Obtain a 75 percent score on the written examination covering course material, and
- b) Successful analysis of four certification samples on the operation of the gas chromatograph.

B. Certificates may be renewed upon completion of each of the following:

- 1. Application to the Louisiana State Police Crime Laboratory.
- 2. Obtain a 75 percent score on a recertification test given by the Louisiana State Police Crime Laboratory or any other agency approved by the Louisiana State Police Crime Laboratory.
- 3. Successful analysis of four certification samples as stated in §559.

C. Certification and renewal thereof shall be valid for a period of two years from the date of issuance.

D. Failure to adhere to any of the rules and regulations set forth herein upon establishment of said failure may result in suspension, revocation or cancellation of the certification.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17: (July 1991).

§555. Certified Techniques of Analysis

A. The certified analysis shall inspect instrumentation and equipment immediately before analysis is begun to insure that the instrument is operating properly and that test results will be accurate and within the tolerances indicated below.

B. The methods approved for alcohol analysis of blood are:

- 1. Gas Chromatography - headspace sampling with internal standard;
- 2. Gas Chromatography - direct injection with internal standard.

C. Procedures shall include the following controls in conjunction with each batch of samples analyzed:

- 1. a system blank analysis;
- 2. analysis of a whole blood control of known alcohol content within the range .04 percent to .40g percent the result of which analysis must coincide with the known blood alcohol value of the control specimen \pm 0.01g percent if validity is to be assigned to the results for the batch analyzed.

D. Replicate analysis shall be performed in order to eliminate the possibility of undetected errors.

E. Results shall be expressed in terms of percent w/v (g percent) that is, grams of alcohol per 100 milliliters of blood rounded downward to the second decimal place, for example, 0.237g percent shall be reported as 0.23g percent.

F. Analytical procedures for determining the concentration of alcohol in the blood shall meet the following requirements:

- 1. The accuracy of the procedures shall be such as consistently to attain results within \pm .01g percent of the known value over the range .04 to 0.40g percent in analysis of commercially whole blood controls.
- 2. The precision of the analysis shall be such as consistently to attain a reproductibility not greater than \pm 0.005g percent from the mean value in replicate analysis.
- 3. The blank values yielded by the procedure in analysis of alcohol-free reagents consistently shall be not greater than 0.00g percent.

4. Procedures for the analysis of whole blood from living and post mortem subjects shall differentiate ethyl alcohol from all other substances.

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

1. All kits approved by this department shall contain the necessary preservative to insure stability of the sample as provided by the manufacturer and contain no ethyl alco-

hol. Each approved kit must be manufactured specifically for blood alcohol determinations in living or post-mortem subjects.

2. Following analysis, the evidence will be stored for a period of one year at room temperature by either the testing facility or the submitting agency and then may be destroyed.

3. The blood sample taken for analysis may be maintained at room temperature and delivered to the designated collection site of each enforcement agency within 24 hours of the end of the collecting officer's shift. It shall be transported then to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed seven days.

H. Each laboratory performing blood alcohol analysis must submit to the Louisiana State Police Crime Laboratory for approval written procedures with regard to the following minimum standards:

1. Analysis must be performed on a gas chromatograph.

2. Any procedures for blood alcohol determinations as outlined in these rules and regulations shall be considered minimum standards.

3. Maintenance repair and inspection must be in accordance with guidelines listed in §557.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17: (July 1991).

§557. Maintenance, Repair and Inspection

A. Maintenance, repair and inspection of a gas chromatograph may be performed by certified blood alcohol analysts. This may include but not be limited to cleaning, replacing septums, changing columns, checking gases and flow rates, checking "O" rings and air filters, adjusting temperature settings and any other routine checks that are deemed necessary for accurate performance. A certified blood alcohol analyst may perform diagnostic testing, as instructed by a service engineer from the manufacturer. Following each maintenance or repair, inspection of the instrument shall include running a known alcohol standard to insure that the instrument is in proper working order. The gas chromatograph shall be inspected and certified by the department at least every 180 days and the certificate issued shall be proof as to the certification and accuracy of the instrument. A log shall be maintained on each gas chromatograph and all inspections and certifications noted therein.

B. A log book listing all repair work, maintenance and inspection shall be kept and will be available for inspection. The minimum information required in the log book shall state the date, time, nature of work, and name of person(s) performing task.

C. At the time of the periodic inspection and certification, the analyst or technician performing said inspection shall perform at least four analyses, the first three of which shall each utilize certified reagent solutions with alcohol concentrations between .04 and .30 grams percent. The fourth analysis shall utilize a known reagent solution of acetone and ethyl alcohol mixed with deionized water to check the resolution of the gas chromatograph.

D. The department shall formulate a program for the inspection and certification of all gas chromatographs being used for blood alcohol analyses in this state. The completion

of the initial inspection and certification shall be on or before January 20, 1992; however, the lack of certification prior to January 20, 1992 shall not be grounds for the disqualification of the accuracy or authenticity of the results obtained from the use of any such gas chromatograph.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17: (July 1991).

§559. Certification Testing

An applicant for certification to perform blood alcohol analysis shall submit for certification testing conducted by the Louisiana State Crime Laboratory.

A. Applicant shall perform analysis on four unknown samples of whole blood at least three of which shall contain ethyl alcohol percentages of between .01 and .30g percent. The fourth sample may contain ethyl alcohol within previously stated values, other volatile compounds or a sample free of any volatile compounds.

B. The stock solution used to prepare certification testing shall be from a sealed bottle of 200 proof pure anhydrous grade ethyl alcohol diluted to a concentration of 5g/100ml with deionized water. This will then be diluted further with alcohol-free blood to obtain concentrations within the range listed in the previous section.

C. Blood samples shall be placed in an approved blood alcohol kit and a sample of each unknown shall be tested and retained by the Louisiana State Police Crime Laboratory until applicant is certified.

D. The samples will then be sent to each applicant for alcohol analysis.

E. The applicant shall submit the results of analysis, the completed application, the procedure used for analysis, and all paperwork generated in the process of determining the blood alcohol values to the Louisiana State Police Crime Laboratory.

F. Results must be within a value of ± 10 percent of known values. In addition, paperwork will be reviewed to determine that all procedures were in compliance with these rules and regulations.

G. After review of all paperwork and if results are within accepted ranges, the applicant will be certified as a blood alcohol analyst and will be issued a blood alcohol analyst certificate. This certificate will be valid for a period of two years.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17: (July 1991).

§561. Quality of Glassware and Supplies

A. All non-disposable glassware used in the blood alcohol analyses and standard calibration solutions must be cleaned with non-alcoholic detergents and must be free of any foreign residue.

B. All non-disposable supplies must be cleaned and contain no interfering substances which could affect the blood alcohol analysis test.

C. All chemicals used shall be at least reagent grade.

D. All reagent solutions utilized in the testing, mainte-

nance and certification shall be drawn from commercially available solutions with known and certified alcohol contents between .04 and .40 grams percent. Each lot of pre-prepared solutions shall be spot checked by the department for conformity to the value certified by the manufacturer. The manufacturer's certificate of standard reagent quality shall be prima facie evidence as to the standard of quality of the reagent solutions.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17: (July 1991).

§563. Proficiency Testing

Each laboratory providing blood alcohol analysis is to participate in a regional or national proficiency testing program at least twice a year or a proficiency testing program conducted by the State Police Crime Laboratory, which participation shall be certified for each such laboratory. A copy of the results shall be forwarded to the State Police Crime Laboratory in Baton Rouge, Louisiana within 30 days of receipt by each laboratory.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17: (July 1991).

§565. Certified Personnel

Each "chemist" and each "qualified technician," as these terms are utilized in R.S. 32:664, must be certified by an accredited licensing agency as a certified phlebotomist in order to remove blood samples for purposes of determining alcoholic content.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (July 1991).

Col. Marlin A. Flores
Deputy Secretary

RULE

Department of Social Services Office of Community Services

In accordance with R.S. 46:2406, notice is hereby given that the Children's Trust Fund Board has adopted a plan for preventing Child Abuse and Neglect in Louisiana for 1991-1993, which establishes criteria for grant awards and other activities of the Louisiana Children's Trust Fund. The plan will form the basis for future activities of the Children's Trust Fund.

A copy of the plan is available for review by the public through the office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 or at the Louisiana Children's Trust Fund Office, 1755 Florida Street, Baton Rouge, LA

70804. Interested parties may call the office at 504-342-2245 to make arrangements to review the plan.

May Nelson
Secretary

RULE

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Aid to Families with Dependent Children (AFDC) Program.

This rule is mandated to provide financial assistance and medical benefits to children in low-income households that are eligible for inclusion in an existing AFDC certification as essential persons. These children were included as essential persons and eligible for AFDC benefits prior to January 1989. At that time the Department of Health and Human Services issued new federal regulations identifying possible essential persons that did not include these unrelated children. Subsequent federal court cases have held those regulations to be in conflict with Section 402(a) (7) (A) of the Social Security Act which was interpreted as providing states with the authority to identify the categories of individuals who may be recognized as essential persons. Pursuant to Action Transmittal No. FSA-AT-91-1, the Department of Social Services is proceeding to reinstate this category.

RULE

Louisiana will exercise the option to provide AFDC to children who are not within the required degree of relationship for AFDC but who live in the home of an AFDC recipient and who meet all other AFDC eligibility requirements. These "essential persons" may be included in an existing AFDC certification at the request of a recipient. Such assistance cannot be provided unless there is an otherwise eligible assistance unit. Section 402(a) (7) (A) of the Social Security Act allows states to exercise this option.

May Nelson
Secretary

RULE

Department of Transportation and Development Office of the Secretary

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Department of Transportation and Development adopted the following rule entitled "Display of American Flags Within Highway Right-of-Way", in accordance with the provisions of R.S. 48:21.

Title 70
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part III. Office of Highways

Chapter 5. Display of American Flags Within Highway Right-of-Way

§501. Conditions

The Department of Transportation and Development will allow the display of American Flags within its right-of-way under the following conditions.

A. Permanent flag poles shall be located behind barriers or beyond the designated clear zone of the highway. Clear zone distances are to be in accordance with the current approved design standards of DOTD at the time the application is made and a copy is to be attached to the permit. In cases where the right-of-way width is less than the clear zone distance, the flag pole may be installed within one foot of the right-of-way.

B. Design of the flag poles are to conform with the standards as set forth in the Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals as prepared by the American Association of State Highway and Transportation Officials (AASHTO). Maximum height of flag poles shall be 30 feet with an approximate maximum flag size of five feet by nine feet. A six foot diameter concrete mowing apron shall be installed around the base of the flag pole in a typical installation.

C. Yard arm or outrigger flag poles may be mounted on light standards providing their placement does not degrade the light standards' structural integrity or interfere with traffic and maintenance of the light fixtures. In those cases where the light standards are owned by local government agencies and are maintained by them or private power companies, additional approval shall be obtained from the local government agency and/or power company. Minimum mounting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be six feet and the maximum flag size shall be approximately three feet by five feet.

D. Yard arms or outrigger flag poles may be mounted on utility poles providing their placement does not create a hazard or degrade the poles' structural integrity. Approval from the poles' owner must be obtained by the permittee prior to applying for a permit. Minimum mounting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be six feet and the maximum flag size shall be approximately three feet by five feet.

E. Temporary flag poles may be erected along the right-of-way for holidays such as Memorial Day, Independence Day, etc. These poles shall have a maximum diameter of one and one-half inches and be located in such a manner that if they should fall they will not interfere with traffic. These temporary flag poles should be erected in a sleeve mounted flush with ground and shimmed to project the pole in a vertical, stabilized position. They shall be constructed of a material which will allow them to collapse when struck by a vehicle.

F. Flags will not be allowed to be mounted on the substructure of bridges since they could cause a distraction to the motorists thus creating a traffic hazard. Flags may be flown from the substructure of bridges providing they are mounted in such a manner as not to allow the wind to blow

the flag into the travel lanes of the bridge. Positive tie downs or sufficient weight is to be added to the trailing edge of the flag to prevent the uplift of the flag.

G. Flags are to be displayed as outlined in Public Law 94-344.

H. Location of existing underground utilities shall be verified by the permittee or his agent prior to digging the foundation hole for the flag pole.

I. Purchase, installation cost, removal cost, and maintenance of the flag pole shall be the responsibility of the permittee.

J. The installation or removal of flags shall be accomplished in a manner that will not interfere with the normal flow of traffic.

K. Uplighting shall be allowed providing that the light is shielded and will not interfere with drivers' vision; and further providing that there is sufficient space to allow placement of the lighting within the right-of-way.

L. Prior to erecting a flag pole or poles, yard arms or outriggers, or the display of flags from the substructure of bridges it shall be necessary to obtain a permit from the local DOTD District Office, on project permit form 593, describing the location, type and method of erecting the poles and displaying the flags.

M. Flags and/or flag poles installed without permit, or not installed in accordance with the conditions of the permit, shall be immediately removed at the expense of the party responsible for the installation.

N. Issuance of flag permits shall be at the discretion of the DOTD, and only governing bodies or non-profit organizations may obtain them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17: (July 1991).

Neil L. Wagoner
Secretary

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 Documents of Benefits as follows:

Amend Article 1, Section I (J) (4) and (K) (2) (d) as follows:

J. The term *Children* as used herein shall mean (health and accident only).

4. Grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of those parents is a covered dependent as defined in Article 1, Section I (I) (2) or (3). If the employee seeking to cover the grandchild is a paternal grandparent, the program shall require that the biological father, i.e. the covered son of the plan member, execute an acknowledgment of paternity in accordance with Louisiana law (effective July 1, 1991).

K. The term *Date Acquired* as used herein shall mean the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

2. Children . . .

d. Grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined in Article 1, Section I (I) (2) or (3):

1. the date of birth, provided all the requirements delineated in Article 1, Section I (J) (4) are met at the time of birth; or

2. the date on which the coverage becomes effective for the covered dependent, if all the requirements delineated in Article 1, Section I (J) (4) are not met at the time of birth.

Amend Article 2, Section II by inserting a new Subsection D and redesignating the present Subsection D as Subsection E as follows:

D. For grandchildren for whom the employee does not have legal custody or has not adopted, on the date the child's parent ceases to be a covered dependent under this contract or the grandchild no longer meets the definition of children as defined in Article 1, I (J) (4);

Donald R. Payne
Acting Deputy 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 Documents of Benefits as follows:

Amend Article 1, Section I, "Definitions", by adding thereto Subsection KK. as follows:

KK. The term well-child care as used herein shall mean routine physical examinations, immunizations, check-ups and office visits to a physician, except for the treatment and/or diagnosis of a specific illness, from the time a newborn is discharged from the hospital following birth until attainment of age seven.

Amend Article 3, Section I(G) entitled Eligible Expenses by adding Subsection (G) (28) as follows:

(28) Well-child care charges shall not be subject to the annual deductible or co-payments but are limited to one office visit per year subject to a maximum payment of \$35.

Donald R. Payne
Acting Deputy 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 Documents of Benefits as follows:

Amend Article 1, Section I, "Definitions", by adding thereto Subsection JJ. as follows:

JJ. The term *well-baby care* as used herein shall mean that routine care given in a hospital to a well newborn infant from the date of birth until discharge from the hospital.

Amend Article 3, Section I(G) entitled Eligible Expenses by deleting a portion of Subsection (G) (12) and adding Subsection (G) (27) as follows:

(12) services of a physician, except for other services as are otherwise excluded herein;

(27) Well-baby care expenses, including facility and professional charges, shall be considered for payment as charges incurred by the plan member or plan member's covered spouse.

Amend Article 3, Section VIII, entitled Exceptions and Exclusions for all Medical Benefits by adding thereto the following:

DD. Hearing aids, or any examination to determine the fitting or necessity thereof;

FF. Eyeglasses or contact lenses or any examination for the prescription or fitting thereof, except as provided in Article 3, Section (G) (19).

GG. Routine physical examinations or immunizations, except as provided in Article 3, Section (G) (28).

Donald R. Payne
Acting Deputy Director

RULE

Department of Wildlife and Fisheries Office of the Secretary

In accordance with R.S. 49:950, the Administrative Procedure Act, notice is hereby given that the Department of Wildlife and Fisheries does adopt a rule to regulate and administer the Louisiana Natural and Scenic Rivers System by amending and reenacting Sections 101, 103, 105, 107, 109, 111, 113, 115 and 117 of Chapter 1, Part IX, Title 76, LA Administrative Code; and Sections 119, 121, 123, 125 and 127 are hereby enacted.

Title 76

WILDLIFE AND FISHERIES

Part IX. Natural and Scenic River System

Chapter 1. Guidelines and Procedures for the Administration of the Natural and Scenic Rivers and Historic and Scenic Rivers

§101. Authority and Purpose

A. These regulations are adopted pursuant to the authority of the "Louisiana Scenic Rivers Act," Acts 1988, No. 947, Section 1, effective July, 27, 1988, or R.S. 56:1840, et seq.

B. The purpose of these regulations is to establish procedures and provide a mechanism whereby the Department of Wildlife and Fisheries can preserve, protect, develop, reclaim and enhance the wilderness qualities, scenic beauties and ecological regime of rivers and streams or segments thereof included within the Louisiana Natural and Scenic Rivers and Historic and Scenic Rivers System and for the further purposes of preserving aesthetic, scenic, recreational, fish, wildlife, ecological, archaeological, geological, botanical and other natural and physical features and re-

sources found along these rivers and streams or segments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1841(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§103. Definitions

A. *Administrator* means the Secretary of the Department of Wildlife and Fisheries.

B. *The Act* means the Louisiana Scenic Rivers Act, Acts 1988, No. 947, Section 1, effective July 27, 1988, or R.S. 56:1840 et seq.

C. *Channel realignment* means the practice by which dredging, ditching, or other means are used to shorten or reroute the natural stream course.

D. *Channelization* means the practice of changing a natural stream, or segment thereof, into a man-made ditch or canal with channels of a relatively uniform width and depth usually necessitating the removal of trees and other woody vegetation adjacent to the stream and constructed for the purpose of accelerating water runoff.

E. *Selective harvesting* means the removal of trees, either as single scattered individuals or in small groups at relatively short intervals resulting in openings generally less in width than twice the height of the dominant trees. Repeated indefinitely, selective harvesting ensures the continuous establishment of reproduction, and an uneven aged stand adequate to encourage and maintain stream shading and stream and stream bank integrity.

F. *Clearing and snagging* means the practice of removing most obstructions, trees, snags and other impediments that retard the natural stream flow.

G. *Historic and Scenic River* means a river, stream, or bayou or segment thereof that has been designated by the Legislature as part of the Louisiana Historic and Scenic River System.

H. *Natural and Scenic River* means a river, stream, or bayou or segment thereof that has been designated by the Legislature as part of the Louisiana Natural and Scenic Rivers System.

I. *Normal Activities* means those activities on lands that do not directly and significantly degrade the ecological integrity of a Natural and Scenic River.

J. *Person* means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, receiver, tutor, curator, executor, administrator, fiduciary, organization or representative of any kind, the United States Government, federal agency, the state of Louisiana, state agency, municipality, commission, political subdivision, local governing authority or special subdivision of the state of Louisiana.

K. *Pollutant* means any substance in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity or quality of the water in a river.

L. *Reservoir construction* means any permanent dam or impoundment which alters the shoreline of a river in the system.

M. *River* includes rivers, streams, bayous and segments thereof and their waters, and generally those bodies of water having the characteristics of being confined within a distinct, longitudinal channel which is defined by continuous

or interrupted banks and which exhibits a width to length ratio of less than one ($W/L < 1$).

N. *Scenic servitude* means a contract between the adjacent riparian landowner and the administrator that shall be in the nature of a development agreement for the purpose of preserving the natural state of the landscape through mutual agreement on the activities which might affect the natural landscape.

O. *Surface servitude* means a contract between the stream owner and the administrator that shall relieve the landowner of liabilities and assure the public of access and use of the stream surface.

P. *System* means all Natural and Scenic Rivers and all historic and scenic rivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1842.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§105. Applicability of these Regulations

These regulations shall apply to all uses proposed to be undertaken on the stream or on adjacent lands within 100 feet of a designated system stream by any "person" whether or not concurrence, authorization, or matching funding is provided by any state agency, local governing authority, political subdivision, or special district of the state of Louisiana, unless restriction of those uses are exempted from regulations pursuant to the provisions of R.S. 56:1852(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1850 and 56:1852(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§107. Duties and Powers of the Administrator

The administrator may delegate powers and duties to individuals within the Department of Wildlife and Fisheries for the implementation of these regulations and procedures and to ensure compliance with the Act. The administrator shall provide said individuals with sufficient technical and clerical assistance to accomplish this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1843.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§109. Study and Recommendation of Natural and Scenic Rivers

A. *Study and Report to the Legislature.* Upon nomination for inclusion or declassification of a river by the Legislature through passage of a concurrent resolution, the administrator shall study, file a report, and issue a recommendation, to the natural resource committees of the Legislature regarding any river nominated for inclusion in or declassification from the system. The administrator's recommendation shall be made no sooner than eight months and no later than 12 months from the date of nomination for inclusion and no later than 120 days from the date of nomination for declassification. All recommendations shall use evaluation procedures provided for in these regulations.

B. *Criteria for Study and Recommendation.* In under-

taking the study and making the recommendation, the administrator shall consider, but will not be limited to, the following criteria:

1. whether the river is free flowing;
2. whether the river has been channelized, cleared or snagged, realigned, inundated, or otherwise altered, within the past 25 years;
3. whether the river has a shoreline covered by native vegetation;
4. whether the river has no or few man-made structures along its banks;
5. whether the scene as viewed from the river is pleasing (i.e. primitive or rural-pastoral) or these conditions are restorable;
6. whether the river and its setting possess natural and recreational values of outstanding quality;
7. whether the river and its setting are large enough to sustain substantial recreational use and to accommodate existing uses without undue impairment of the natural values of the resource or quality of the recreational experience;
8. whether the river will provide present and future benefits to Louisiana citizens through preserving, protecting, and enhancing its wilderness qualities, scenic beauties, and ecological regimes and its aesthetic, scenic, recreational, fish, wildlife, ecological, geological, botanical, and other natural and physical features and resources found along the river and adjacent lands;
9. whether the river receives any point source discharges that would tend to cause pollution;
10. existing uses of adjacent lands within 100 feet of the ordinary low water line of the river, and the economic impact of such usages;
11. state ownership of the bed of the river; and
12. appropriate longitudinal boundaries for the river segment to be included within the system.

C. Consultation. Prior to submission of the report and recommendation to the Legislature, the administrator shall consult with the Louisiana State Planning Office, the Department of Environmental Quality, the Louisiana Department of Culture, Recreation and Tourism, the Department of Agriculture and Forestry and other agencies that the administrator determines may have an interest in the evaluation.

D. Form of Report and Recommendation. The report and recommendation to the Legislature shall:

1. be in the form of a written report;
2. include the evaluation of the criteria and the recommendation of the administrator;
3. include the written comments of other agencies; and
4. become part of the record of the decision regarding the proposed recommendation.

E. Copies of Report. The administrator shall provide copies of the report to the Louisiana State Planning Office, the Department of Environmental Quality, the Department of Culture, Recreation and Tourism, the Department of Agriculture and Forestry, the governing authorities of those parishes through which the river flows, and all readily identifiable adjacent landowners. Upon payment to the department for reproduction costs, the administrator shall provide copies of the report to all other interested parties who have made a written request for the report.

F. Written Comments and Public Hearing. As part of the evaluation process and prior to any recommendation to

the Legislature, the administrator shall:

1. provide all interested parties and the public with the opportunity to submit written comment on the nomination, allowing a 45-day comment period;

2. pursuant to the Louisiana Administrative Procedure Act, hold not less than one public hearing in the vicinity of the river nominated for inclusion in or declassification from the system to receive comments and recommendations from all interested parties and the public. The administrator shall give its first notice at least 30 days prior to the hearing;

3. notices referred to in this Section will be published in the official journal of each parish in which the river is located in three separate issues and in the official state journal; however, the comment period shall begin with publication of the notice in the official state journal. The administrator shall notify each parish governing authority of the hearing by letter to its chief executive officer. The administrator shall also give special notice of the public hearing to all readily identifiable landowners with property adjacent to the nominated stream and to other interested parties who have requested such notifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1845.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§111. Management Plan

A. Period for Plan Development. Within one year from the time a river is designated as a Natural and Scenic River or a Historic and Scenic River by the Legislature the administrator shall adopt and commence development of a management plan for each river or designated segment. For rivers designated prior to January 1, 1989 development of management plans will commence no later than January 1, 1990.

B. Consultation. The plans shall be developed by the administrator in consultation with the:

1. Louisiana State Planning Office;
2. Department of Environmental Quality;
3. Department of Culture, Recreation and Tourism;
4. Department of Agriculture and Forestry; and
5. any other agency that the administrator determines may have an interest in the plan.

C. Plan Contents. Each management plan shall be in the form of a written document, and shall:

1. be consistent with the purposes, policies, and provisions of the Scenic Rivers Act;
2. contain a clear description and delineation in narrative and graphic form (maps or photographs) of:
 - a. natural, cultural and aesthetic resources and features of the river area;
 - b. existing land and water uses;
 - c. land ownership; and
 - d. existing land and water use controls, management devices and programs;

3. set forth a detailed program to address existing features which have been identified as being important to be protected and preserved, and potential issues, problems and needs that impact, or may impact, resources and features of the river. The plan may include recommendations to federal, state, local and private entities on enhancement and reclamation of resources and features on a system river and may specify the mechanism through which the recommendations

can be implemented;

4. Set forth management goals, objectives, policies, standards and management guidelines for the preservation of the system river;

5. be reviewed every five years;

6. provide for the continuing involvement of the public in the development, implementation and administration of the plan.

D. Copies. The administrator shall provide copies of the plan to:

1. Louisiana State Planning Office;
2. Department of Environmental Quality;
3. Department of Culture, Recreation and Tourism;
4. governing authorities of those parishes through which the river flows;
5. Department of Agriculture and Forestry;
6. all readily identifiable adjacent landowners; and
7. interested parties who have made a written request.

E. Written Comments and Public Hearing. Prior to adoption of the final management plan, the administrator shall:

1. provide all interested parties and the public, the opportunity to submit written comment on the draft management plan, allowing a 45-day comment period;

2. pursuant to the Louisiana Administrative Procedure Act, hold not less than one public hearing in the vicinity of the river included in the management plan to receive comments and recommendations from all interested parties and the public. The administrator shall give the first notice at least 30 days prior to the hearing;

3. notices referred to in this Section will be published in the official journal of each parish in which the river is located in three separate issues and in the official state journal; however, the comment period shall begin with publication of the notice in the official state journal. The administrator shall notify each parish governing authority of the hearing by letter to its chief executive officer. The administrator shall also give special notice of the public hearing to all readily identifiable landowners with property adjacent to the nominated stream and to other interested parties who have requested such notifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1845.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§113. Planning Considerations

R.S. 56:1848 specifies responsibility of local, state, and federal agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1848.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§115. Prohibited Activities

A. The following uses of a system river, and all uses functionally related thereto, shall be absolutely prohibited:

1. channelization;
2. clearing and snagging;
3. channel realignment;
4. reservoir construction; and

5. commercial cutting or harvesting of trees or timber in violation of the provisions of R.S. 56:1854.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1853.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991).

§117. Permitted Activities

A. All activities that may detrimentally affect or significantly degrade the wilderness quality, aesthetic values, or the ecological integrity of a system river shall be subject to a permit except:

1. those prohibited uses set forth in §115 of these regulations;

2. normal activities of private landowners within the boundaries of their property as provided by R.S. 56:1852(B); and

3. harvesting of trees in accordance with R.S. 56:1854, provided that prior notification of any commercial harvesting of trees shall be given to the Louisiana Office of Forestry.

B. Activities requiring permits shall include, but not be limited to, the following activities:

1. crossings by roads, bridges, railroads, pipelines or utilities;

2. sharing of land and airspace by such roads, railroads, pipelines and utilities;

3. point source discharge of any pollutant (prior to any person applying to the Department of Environmental Quality for a permit to discharge any pollutant into a system river, the person shall give written notice to the administrator);

4. prospecting, drilling and mining for non-renewable natural resources;

5. structures and buildings of any kind or size;

6. piers, boat slips, bulkheads and landings;

7. commercial uses, activities and access;

8. commercial signs or other forms of outdoor advertising that are visible from the waters within a natural and scenic river; and

9. water withdrawals, except for withdrawals made by an individual, adjacent property owner solely for residential purposes.

C. Application. Upon written request, the administrator shall provide an application form to any person wishing to apply for a permit. Any person who proposes to make any permitted use of a system river, shall submit one original and six copies of a complete application to the administrator. The application shall contain:

1. name, address and telephone numbers of the applicant;

2. names and addresses of adjoining property owners whose property also adjoins the waterway;

3. background information on the proposed use;

4. a detailed description of the proposed use;

5. full description of any portion of the project which is under development or is completed;

6. photographs and maps of the area where the uses would be made;

7. full and thorough evaluation of the use's effect on the criteria listed in Subsection F, below;

8. any alternatives to the proposed action;

9. description of steps taken to minimize detrimental

effects to the system river, and measures taken to ensure preservation of the system;

10. identification of all authorizing local, state, and federal agencies and all permits applied for or obtained from such agency; and

11. description of any noncompliance by applicant, adjudicated within Louisiana, regarding the Louisiana Scenic Rivers Act, the United States Wild and Scenic River Act, and all regulations and ordinances pertaining to these acts.

D. Insufficient and Incomplete Application. Upon receipt of an application, the administrator shall determine whether the application is sufficient and complete in light of the requirements enumerated in Subsection C, above. If the application is not sufficient and complete, the administrator shall return the application to the applicant with a description of how and why the petition is insufficient or incomplete. The applicant shall be entitled to resubmit the petition after making the necessary changes or amendments.

E. Application Fees. An administrative fee of \$100 shall accompany each application. The administrative fee shall be deposited immediately upon receipt into the state treasury to be credited to the Scenic River Fund.

F. Project Evaluation. In determining whether or not a permit should be issued, the administrator's evaluation shall consider the purposes for which the system is established and shall be made with a view toward maintaining the fundamental character and unique natural values associated with the system river. Any evaluation required to be made by this Section, shall fully and thoroughly consider, but not be limited to, the following criteria:

1. wilderness qualities;
2. scenic values;
3. ecological regimes;
4. recreation;
5. aesthetic values;
6. fish and other aquatic life;
7. wildlife;
8. historical and archaeological resources;
9. geological resources;
10. botanical resources;
11. water quality;
12. cultural resources;
13. economics;
14. compliance history as required in §117.C.11;
15. any reasonable alternatives to the proposed use;

and

16. a. whether reasonable steps have been taken by the applicant to minimize and/or offset any detrimental effects on natural and physical features and resources.

b. a field evaluation of the project site by the administrator's staff may be required. If such a field evaluation is necessary, the applicant shall pay a service charge of \$135 for each day required to complete the actual, on-site field evaluation.

G. Consultation. Prior to any final decision on any application for a permit, the administrator shall prepare a written evaluation of the application and shall consult with the Louisiana State Planning Office, the Department of Environmental Quality, the Department of Culture, Recreation and Tourism, the Department of Agriculture and Forestry and any other agency the administrator determines may have an interest in the permit. The consultation shall be conducted within 30 days of receipt of a sufficient and complete applica-

tion. By the end of this time period, the reviewing agencies shall forward any written comments and supporting documents to the administrator. However, the administrator can grant additional time for a consultation for good cause.

H. Written Comments and Public Hearing. Prior to making the final decision on a permit application, the administrator shall:

1. provide all interested parties and the public the opportunity to submit written comment on the permit application, allowing a 45-day comment period;

2. in response to a showing of substantial interest by the public for a hearing as demonstrated by written requests from no less than 25 persons or from a group representing not less than 25 members, or upon request by the applicant, or at the administrator's own discretion, hold a public hearing. The hearing will be held whenever such a hearing might clarify one or more issues concerning the application, and to receive comments and recommendations from all interested parties and the public. If a hearing is held it shall be in the vicinity of the river. The administrator shall give its first notice at least 30 days prior to the hearing;

3. notices referred to in this Section will be published in the official journal of each parish in which the river is located in three separate issues and in the official state journal; however, the comment period shall begin with publication of the notice in the official state journal. The administrator shall notify each parish governing authority of the hearing by letter to its chief executive officer. The administrator shall also give special notice of the public hearing to all readily identifiable landowners with property adjacent to the nominated stream and to other interested parties who have requested such notifications.

I. Time Period for Review of the Application. The administrator shall make a decision whether to grant or deny the permit within 15 days after the adjournment of the hearing or the end of the written comment period, whichever is latest.

J. Waiver of Evaluation Time Period. Upon the specific authorization of the administrator, or the state Legislature, the evaluation required by §117.F - I, and/or the procedural delays provided for in Subsections L and M may be waived; provided, however, that the administrator may only authorize a waiver in emergency circumstances clearly appearing from the face of the applicant's application and only after concurrence in the waiver is given by personnel of the Department of Wildlife and Fisheries, the Department of Culture, Recreation and Tourism, State Planning Office, the Department of Agriculture and Forestry, and the Department of Environmental Quality.

K. Reports of Permitted Uses. To the extent that it is feasible, it shall be the policy of the administrator to inform users and potential users of system rivers as to what types of uses will be permitted. In carrying out this policy, the administrator shall, from time to time, publish reports describing what types of uses have been permitted and what types of uses have not been permitted after the evaluations required by §117 have been undertaken.

L. Denial of Permits. The administrator shall deny a permit for use of a system river if, after a full and thorough evaluation, the administrator finds that the proposed or alternative use would be unreasonable in light of the objective of maintaining the fundamental character and unique natural values associated with the system river.

M. Permit Conditions.

1. In issuing any permit, the administrator may:

a. require conditions in the use and may require that appropriate steps be taken to minimize and/or offset the detrimental effects on the natural and physical features and resources enumerated by Subsection F, above, as a condition to the granting of the permit; and

b. require assurance, including security, during the construction phase of the project, to assure compliance with permit requirements.

2. In setting the required assurance and security, the administrator shall consider any noncompliance by applicant, adjudicated within Louisiana, regarding the Louisiana Scenic Rivers Act, the United States Wild and Scenic Rivers Act, and all regulations and ordinances pertaining to these acts.

N. Final Decision. The final decision by the administrator on any application for a permit shall:

1. be in the form of a written report;
2. be part of the record of the decision;
3. include an evaluation of the impacts on the criteria provided for in Subsection F, above; and

4. give full and meaningful consideration and appropriate weight to the comments from other reviewing agencies.

O. Copies. The administrator shall provide copies of the final decision to:

1. Louisiana State Planning Office;
2. Department of Environmental Quality;
3. Department of Culture, Recreation and Tourism;
4. Department of Agriculture and Forestry; and
5. other interested parties who provide a written request.

P. Modification and Revocation. The administrator may modify or revoke a permit, for good cause, after notice and an adjudicatory hearing, unless waived by permittee. Good cause includes, but is not limited to:

1. any adjudicated violation of the permit conditions, the Act or these regulations;
2. new and material evidence regarding the evaluation criteria listed in §117.F; and
3. intentional misrepresentation of a material fact on the permit application.

Q. Failure to Begin Activity: Extensions. The permit shall expire if the activity has not begun within 18 months of permit issuance, except that the administrator may grant a maximum of two extensions of six months each upon a finding that there has been no significant change in circumstances.

R. Appeals of Final Decisions. Any person aggrieved by any final decision of the administrator shall be entitled to an appeal in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1844, 56:1849, 56:1852 and 56:1854.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Office of the Secretary, LR 17: (July 1991)

§119. Civil Penalties and Enforcement

A. For any violation of the provisions of §117.A and B, or any permit condition the administrator, in accordance with R.S. 49:950 et seq. (Administrative Procedure Act) may:

1. impose a civil penalty of up to \$1,000 for each violation;
2. suspend, annul, withdraw, or revoke any permit;
3. institute civil proceedings to enforce department rulings in the district court for the parish in which the violation occurs; and

4. issue cease and desist orders, compliance orders, and obtain injunctions or other appropriate relief upon determining that a violation of these regulations has occurred, is about to occur, or is occurring.

B. Each day in which a violation occurs prior to voluntary cessation of the activity as a result of the receipt of any lawful order from the administrator or the administrator's authorized representative, or prior to cessation as the result of an injunction, shall be a separate offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1851(A) and (B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), repromulgated by the Office of the Secretary, LR 17: (July 1991).

§121. Criminal Penalties and Enforcement

Criminal penalties shall be assessed in accordance with R.S. 56:1851.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1851.C.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), repromulgated by the Office of the Secretary, LR 17: (July 1991).

§123. Complaints

Any person shall have the right to file a complaint with the administrator alleging a violation of the Act or regulations. When, from the complaint, it appears to the administrator that there is reasonable cause to believe that a violation has occurred, is about to occur, or is occurring, the administrator shall conduct an investigation. If the investigation indicates that a violation has occurred, is about to occur, or is occurring, the administrator shall initiate an enforcement action pursuant to §119 or shall refer the matter to the attorney general or appropriate district attorney for an enforcement action pursuant to the statutes referenced in §121. The administrator shall respond to the complainant in an appropriate manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1841 and 56:1843.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), repromulgated by the Office of the Secretary, LR 17: (July 1991).

§125. Grants, Donations and Servitudes

Pursuant to R.S. 56:1843(2) and R.S. 56:1844 the administrator may accept donations and grants for the purposes of administering the Scenic River System from public and private sources. The donations shall be deposited immediately upon receipt into the state treasury to be credited to the Scenic River Fund. Further, pursuant to R.S. 56:1843(7), the administrator may enter into scenic and surface servitude agreements with landowners for the purposes of the Scenic River Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1843(2), 56:1843(7) and 56:1844.

HISTORICAL NOTE: Promulgated by the Department

of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), repromulgated by the Office of the Secretary, LR 17: (July 1991).

§127. Severability

If any provision of these regulations is held invalid, such invalidity shall not affect the other provisions of these regulations which can be given effect without the invalid provisions, and to this end the provisions of these regulations are here declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1850.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), repromulgated by the Office of the Secretary, LR 17: (July 1991).

A. Kell McInnis, III
Acting Secretary

RULE

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

In accordance with the notice of intent published in the March 1991 *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulations on opening hunting season dates, bag limit, methods of taking, and rules and regulations on department-operated wildlife management areas for the period of October 1, 1991-May 15, 1992. Authority to establish regulations is vested in the commission by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950.

Summary of 1991-92 Resident Game Hunting Season

Dates and Bag Limits

Quail: Nov. 28-Feb. 29 - Daily Bag Limit 10, Possession 20

Pheasant: Nov. 28-Dec. 8 (Cock Pheasant Only) - Daily Bag Limit 2, Possession 4

Squirrel: Oct. 5-Jan. 26 - Daily Bag Limit 8, Possession 16

Rabbit: Oct. 5-Feb. 29 - Daily Bag Limit 8, Possession 16

Deer: Dates Vary - See Schedule Below - Bag Limit: One per day, 6 per season

Archery: Oct. 1-Jan. 20

Muzzleloader: Dec. 2-6

Area 1 - 59 Days Days
Nov. 23-Dec. 1 9 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)
Dec. 7-Jan. 2 27 (with or without dogs)
Jan. 3-20 18 (still hunt only)

59
Area 2 - 61 days Days
Nov. 2-Dec. 1 30 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)
Dec. 7-Jan. 1 26 (with or without dogs)

61
Area 3 - 61 days Days
Nov. 2-Dec. 1 30 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)

Dec. 7-Jan. 1 26 (still hunt only)
61
Area 4 - 44 days Days
Nov. 23-Dec. 1 9 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)
Dec. 7-Jan. 5 30 (still hunt only)
44
Area 5 - 14 days Days
Nov. 23-Dec. 1 9 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)
14
Area 6 - 58 days (NEW AREA)
Nov. 23-Dec. 1 9 (still hunt only)
Dec. 2-6 5 (still hunt, muzzleloader only)
Dec. 7-Jan. 19 44 (with or without dogs)
58

Turkey - Season Dates Vary - See Schedule Below -
Limit: One per day, 3 per season

Area A Days
March 28-April 26 30
Area B
March 21-April 26 36
Area C - CLOSED
Area D
April 11 -April 26 16

For those interested, a more detailed copy of the rules and regulations is available upon request to Hugh A. Bate-man, Administrator, Game Division, Box 98000, Baton Rouge, LA 70898-9000 and from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 17: (July 1991).

James H. Jenkins, Jr.
Chairman

**Notices
of
Intent**

NOTICE OF INTENT

**Department of Agriculture and Forestry
Market Commission**

The Department of Agriculture and Forestry advertises its intent to amend regulations regarding the collection of an assessment on pint containers of strawberries. These regulations will clarify the procedures and bookkeeping requirements necessary for the implementation of this assessment.

These regulations comply with and were mandated by the enactment of Act No. 908 of the 1990 Regular Legislative Session, which amended R.S. 3:475. The funds generated by this assessment shall be used by the Louisiana Strawberry Marketing Board pursuant to R.S. 3:476.

These regulations may be viewed in their entirety at the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA or at the Department of Agriculture and Forestry at the address below.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 35. Louisiana Strawberry Marketing Board

§3503. Collection

A. The assessments provided for by these regulations and R.S. 3:475 shall be collected at the first point of sale in Louisiana. The person selling the containers of strawberries shall collect the assessments and complete a department prescribed assessment form.

B. Distributors, wholesalers, brokers or retailers of strawberries produced outside of Louisiana shall collect this assessment at the time they first distribute or sell such strawberries in this state.

C. Each person who collects the assessments shall remit the collections and assessment forms to the department within 60 days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30 of the next calendar year.

D. Persons who purchase pint containers and who do not use those containers for the sale of strawberries may apply for a refund of the assessment upon the signing and submission of a refund form to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

§3504. Records

A. Each person who collects the assessments levied by these regulations shall keep accurate records, including one copy of each completed assessment form, of the number of pint containers sold and the assessments collected.

B. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of sales of pint containers sold within the state. This shall include sales invoices and shipping tickets. Each invoice or ticket should state the number of pint containers sold, or in the case of containers containing multiples of pints, the number of pint equivalents.

C. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of all shipments received from outside of Louisiana for distribution within the state. This shall include receiving and shipping tickets and all sales invoices. Each invoice should state the number of pint containers of strawberries or equivalent pint containers.

D. Original documentation shall be kept for a period of two years from the date of sale or distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

§3505. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entrance onto any property or premises in the State of Louisiana during normal business hours for the pur-

pose of carrying out the provisions of these regulations. Agents shall notify the dealer, distributor or shipper before performing any inspections.

B. Agents of the department are authorized to inspect all records maintained by dealers, distributors and shippers in order to enforce the provisions of R.S. 3:475 et seq. and these regulations.

C. No person shall in any way interfere with an agent in making inspections on properties or premises in carrying out the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

§3506. Refunds

A. Each person who purchases pint containers for a use other than for the sale of strawberries may obtain a refund of the assessment by submitting a written request on a form prescribed by the department to the department within 60 days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30 of the next calendar year.

B. Each request for a refund shall be accompanied by copies of invoices or sales receipts showing the amount of containers purchased, along with a completed and signed department prescribed form showing that the containers were not used for the sale of strawberries. In the case of assessments against containers for strawberries produced outside of Louisiana, distributed in this state, but not sold in this state, along with said signed form, documentation must be included with the request which corroborates this claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

§3507. Penalties

A. Any person who willfully evades the payment of the tax provided for in R.S. 3:475, or who violates any other provision of these regulations, may be fined in accordance with the provisions of R.S. 3:478.

B. Prior to the assessment of any civil penalties, there shall be an adjudicatory hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475 and R.S. 3:478.

A public hearing on these proposed regulations will be held on August 26, 1991 in Baton Rouge, LA at the Department of Agriculture and Forestry Building at 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Tax on Strawberries in Pint Containers

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Distributors in this state of strawberries produced outside of Louisiana and sellers of pint containers for use in strawberry sales are the only persons or groups directly affected by these proposed regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Agricultural Commodities Commission**

The Department of Agriculture and Forestry advertises its intent to adopt a rule revising LAC Title 7, Part IX, Section 112. These rules will establish a stay of claims to take place when litigation is pending which could determine the outcome of a claim under the Self-Insurance Fund. This rule complies with R.S. 3:3401 et seq.

§112. Stay of Claims

Where the commission finds that litigation is pending which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

A public hearing on these proposed regulations will be held on August 27, 1991 in Baton Rouge, LA at the Department of Agriculture and Forestry Building at 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing. Written comments may be sent to Steve Stark at the above address.

Bob Odom
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Stay of Claims**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No cost or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No estimated costs and/or economic benefits to di-

rectly affected persons or non-governmental groups is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

The Civil Service Commission will hold a public hearing on Wednesday, August 7, 1991, to consider proposed changes to Civil Service Rules. The hearing will begin at 8 a.m. in the Commission Hearing Room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, LA.

Proposed amendments to be considered at the meeting are as follows:

PROPOSED RULE

6.20 Options for Full-time Employees for Overtime Hours Actually Worked in Excess of 40 Hours per Week

* * *

	PAY RANGE	OPTIONS
(a)	GS-11 and below in General Schedule and GS-56 and below in Medical Schedule	(1) . . . (2) . . . (3) . . . (4) . . .
(b)	GS-12 and above in General Schedule and GS-57 and above in Medical Schedule	(1) . . . (2) . . . (3) . . .

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.21 Overtime Options for Full-Time Employees for Overtime Hours Not Actually Worked in Excess of 40 Hours per Week Due to Holidays Observed or Leave Taken.

	PAY RANGE	OPTIONS
(a)	GS-11 and below in General Schedule and GS-56 and below in Medical Schedule	(1) . . . (2) . . .
(b)	GS-12 and above in General Schedule and GS-57 and above in Medical Schedule	(1) . . . (2) . . . (3) . . .

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.22 Overtime Options for Part-Time Employees

- (a) ...
- (b) A regular part-time employee who works in excess of 40 hours per week and is nonexempt, or is GS-11 and below in the General Schedule or GS-56 and below in the Medical Schedule:
Options:
Compensation in accordance with Rule 6.20.
- (c) A regular part-time employee who works in excess of 40 hours per week and is exempt and is GS-12 and above in the General Schedule or GS-57 and above in the Medical Schedule:

Options:

- 1. ...
- 2. ...

(d) An intermittent employee:

Options:

1. Overtime for work in excess of 40 hours per week by nonexempt employees, or those GS-11 and below in the General Schedule or GS-56 and below in the Medical Schedule, shall be compensated in accordance with Rule 6.20.

2. Overtime for work in excess of 40 hours by exempt employees or those GS-12 and above in the General Schedule or GS-57 and above in the Medical Schedule, shall be compensated by cash payment at regular rate.

3. ...

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.23 Overtime Options for Work on Holidays

(a) ...

	PAY RANGE	OPTIONS
1.	GS-11 and below in General Schedule and GS-56 and below in Medical Schedule	(a) . . . (b) . . . (c) . . .
2.	GS-12 and above in General Schedule and GS-57 and above in Medical Schedule	(a) . . . (b) . . . (c) . . .

(b)-(c) ...

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.26 Civil Service Review of Nonexempt Positions GS-12 or Above in the General Schedule and GS-57 or Above in the Medical Schedule

(a) It is the responsibility of the appointing authority to determine whether or not an employee occupying a position GS-12 or above in the General Schedule or GS-57 and above in the Medical Schedule should be considered nonexempt under the Fair Labor Standards Act on an ongoing basis. Such employees must be paid in accordance with that federal law, and this should be done without requesting prior approval from the director of civil service. However, within a reasonable period of time following such determination by the appointing authority, he shall provide the director with a listing of the job titles and applicable number of positions GS-12 and above in the General Schedule or GS-57 and above in the Medical Schedule that are considered to be exempt.

(b) ...

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.27 Exceptions to the Overtime Rules

Exceptions to the rules on overtime compensation are as follows:

(a) For positions in classes GS-12 or above in the General Schedule or GS-57 and above in the medical schedule, which are exempt under the Fair Labor Standards Act, the commission may grant authority to use any of the options for overtime compensation when:

1. An appointing authority petitions the commission for this authority. The commission may, with such restrictions as it deems appropriate, permit the use of time and one-half compensation to employees who occupy positions in jobs

GS-12 and above in the General Schedule and GS-57 and above in the medical schedule.

2. The Civil Service director petitions the commission for authority to utilize time and one-half compensation to specific jobs GS-12 and above in the General Schedule or GS-57 and above in the medical schedule. Such authorizations, when approved, shall be published as part of the Personnel Manual.

(b) ...

1. - 4. ...

(c) - (d) ...

EXPLANATION

GS levels for the new Medical Pay Plan have been included in this rule.

6.28 On-Call Pay/Shift Differential

(a) ...

(b) On-call pay is compensation for hours in excess of his regularly scheduled hours of duty, when he is available for call back to his duty station, work-ready, within a specified period of time, at the direction of his appointing authority. On-call pay is in addition to the employee's regular pay and is not to be included in terminal leave payments allowed under provisions of other Sections of the rules. On-call pay shall not be granted to an employee for his regularly scheduled hours of duty. Further, when an employee is called back he shall be considered in duty status and eligible for applicable overtime compensation.

(c) ...

EXPLANATION

The revised rule will be in conformity with the federal wage and hour law which requires including on-call pay in computation of overtime payments for nonexempt employees who work in excess of 40 hours per week.

7.20 Noncompetitive Classes

(a) - (b) ...

(c) The director may waive competitive appointment requirements and approve the noncompetitive appointment of an applicant to a position provided such applicant:

1. Is a bona fide client of the State Vocational Rehabilitation Services Program or the State Blind Services Program; and

2. - 3. ...

(d) - (e) ...

EXPLANATION

This rule change removes the designation of "Vocational Rehabilitation Program or the Blind Services Program of the Office of Rehabilitation Services, Department of Health and Human Resources." This designation is no longer correct due to reorganization or legislative reorganization.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Economic Development Board of Certified Public Accountants

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Board of Certified Public Accountants proposes to revise and amend LAC 46:XIX.Chapters 3-27.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

Chapter 3. Operating Procedures

§305. Meetings

A. Any meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working day of January, April, July and October.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), LR 12:88 (February 1986). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 5. Rules of Professional Conduct

§505. Responsibilities to Clients

A. ...

B. Records

A licensee shall furnish to his client or former client upon request:

1. - 3. ...

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records; and

5. a copy of computer generated books of original entry and general ledger.

C. The nonpayment of professional fees and/or out of pocket expenses shall not be a basis for failure to furnish the records referred to in Subsection B. 3, 4 and/or 5 above. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing a return and/or report referred to in Subsection B. 1, 2 and 5 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), LR 11:757 (August 1985). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§507. Other Responsibilities and Practices

A. - F. ...

G. Firm Name

The name under which a licensee practices public accounting must indicate clearly whether he is an individual

practicing in his own name or a named member of a partnership or professional accounting corporation. If the name includes the designation "and Company" or "and Associates" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners or employees of the firm. However, names of one or more past partners or shareholders may be included in the firm name or a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee and who is not in partnership with him or his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983) and LR 10:278 (April 1984). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

*As appears in the published rule.

Chapter 7. Requirements for Continuing Professional Education

§705. Programs Which Qualify

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant.

Formal programs of learning are those programs that are designed, and primarily intended, as educational activities, and comply with all CPE standards. Magazines are not designated as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles will not qualify for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§709. Credit Hours Granted

A.-F. ...

G. Special Limitations and Requirements

1. ...

2. All reporting periods shall include at least two hours of Professional Ethics that include a review of the State Board's Rules of Professional Conduct (LAC Vol. 3, Title 46, Part XIX).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5 (January 1980). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:

Chapter 13. Examination

§1301. General Requirements

A. 1. ...

2. Applications for the May examination must be received in the office of the board's agent no later than March 1. Applications for the November examination must be received in the office of the board's agent no later than September 1.

3. ...

B. - C. ...

D. All examinations shall be in writing and must be completed in the time allotted by the board. The use of calculating equipment is prohibited unless provided by the board.

E. - F. ...

G. 1. Prior to the May 1994 examination Subparagraphs a, b and c shall read as follows:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passes Practice or at least two other subjects at a single examination shall receive credit for the subject or subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Anyone who is a conditioned candidate as of the effective date of the Act shall have four consecutive examinations, beginning with and including the November 1979 examination, with which to comply with Subparagraph b above.

2. Beginning with the May 1994 examination and thereafter, the following rule shall apply:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passed Practice or at least two other subjects at a single examination shall receive credit for the subject or subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Persons who have conditional credit obtained on examinations given prior to May 1994 shall be given credit under the new examination format as follows: conditional credit in Theory of Accounts shall constitute conditional credit in Financial Accounting and Reporting - Business Enterprises; conditional credit in Accounting Practice shall constitute conditional credit in Accounting and Reporting - Taxation, Managerial, and Governmental and Not-for-Profit Organizations; conditional credit in Auditing shall constitute conditional credit in Auditing; and conditional credit in Business Law shall constitute conditional credit in Business Law and Professional Responsibilities.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January

1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 15. Certification

§1503. By Reciprocity

A. An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71F, shall be eligible for certification by the board, provided that:

1. ...

2. the applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants, and the scores achieved by the applicant thereon are certified to the board by the state which issued the applicant's original certification;

3. the original, initial certification need not be in good standing; however, it may not have been suspended for cause other than non-payment of fees; and

4. at the time of the application and consideration thereof by the board, the applicant possesses current certification in good standing issued by any state which grants reciprocity certification to public accountants certified by the board.

B. An applicant otherwise eligible for reciprocity certification under Subsection A of this Section, save for possession of a baccalaureate degree, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the 10 years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78 and R.S. 37:77.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 17. Qualifications for Licensing

§1701. Eligibility for Licensing; Experience Requirements

A. To be eligible for initial licensing, other than upon renewal pursuant to R.S. 37:82, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has obtained such professional accounting experience as is prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing.

B. To be eligible for reinstatement of licensure which has expired by virtue of nonrenewal, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has:

1. obtained such professional accounting experience as prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing;

2. presented proof, documented in a form satisfactory to the board, that he has satisfied the requirements for con-

tinuing professional education for the preceding period as specified in §701.A; and

3. if the experience obtained within the six years immediately preceding the date of application for licensing does not satisfy the requirements of §1703, he may obtain reinstatement of his license by completion of the following specific Continuing Education courses:

2 hours - Ethics, including the State Board Rules (LAC Vol. 3, Title 46, Part XIX)

118 hours - Accounting and Auditing, including financial reporting and disclosures

C. Continuing education courses used to reinstate a license to practice, under Paragraph 2 or 3 above, may be used to satisfy the requirements of either the preceding reporting period or the current reporting period but may not be used to satisfy the requirements of more than one reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77, and R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1705. Equivalent Experience

A. 1. ...

2. Sufficient Quality and Depth

The experience must be of sufficient depth and quality meeting the following criteria:

a. A level of responsibility shall have been attained which requires the applicant to exercise professional judgment on significant financial accounting and reporting matters.

b. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77, and R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 19. Applications for CPA Examination, Certification, Licensing; Procedures

§1907. Rejection or Refusal of Application

The board may reject or refuse to consider any application which is not completed in every detail, including submission of every document required by the application form and received in the board's office or for applications for the CPA examination, received in the office of the board's agent by the appropriate due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1909. Unable to Sit for Examination

If, after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the board not later than 7 working days prior to the first day of the examina-

tion; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1911. Fees

Each application for examination, certification, or licensing shall be accompanied by a fee set by the board. In no event may the fee exceed \$200. Should such application be rejected, the fee shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee he shall be required to pay the proctoring fee in addition to the fee provided in Chapter 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 20. Temporary Permits

§2003. Scope of Authority

A. Subject to satisfaction of the qualifications and procedures prescribed by this Chapter, a temporary permit may be issued by the board to a person who or firm which is neither a resident of Louisiana nor licensed by the board, but who is certified and licensed as a certified public accountant by another state, to authorize the permittee's incidental, temporary practice of public accounting in Louisiana in connection with and limited to a single, specified engagement.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13) and R.S. 37:77.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 21. Fees and Service Charges for CPA Examination, Certification, Licensing

§2101. Assessment of Fees

A. Examination fees shall be assessed by the board in conformity with R.S. 37:80.E.

Service Charge for refund of examination

fee under §1909	\$ 50
Original certification	\$ 50
Original license	\$ 50*
Replacement certificate	\$ 50**
Temporary permits	\$100

B. - C. ...

D. Returned Check

A fee not to exceed \$25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR

11:757 (August 1985). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 25. Renewals of Certification, Licensing

§2501. Annual Renewals, Reinstatement, Fees

A. Each certified public accountant shall renew his certificate and each licensee shall renew his license (such renewals hereinafter sometimes referred to as "register" or "registration") annually on or before the last day of December preceding the year for which renewal is applicable.

B. ...

C. Repeal

Renumber Subsections

D to C

E to D

F to E

G to F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§2503. Annual Notice of Form of Practice, Firm Registration

A. 1. Every licensed certified public accountant who is registered with the board and who is engaged either on a full- or part-time basis in the practice of his profession on his behalf shall file annually with the board a certification that he is practicing as an individual and that there are no partners or associates practicing with him.

2. Every certified public accountant who is licensed by the board and who is not practicing public accounting in his own name or who is not a partner or shareholder in a firm's registration must complete an Annual Notice of Form of Practice and CPA Firm Registration form.

B. ...

C.1. ...

C.2. In addition to the information to be filed as set forth above, each professional accounting corporation practicing public accounting in the state of Louisiana shall designate which shareholders have and which do not have voting privileges.

D. ...

E. An original letterhead must be attached to the statement referred to in Subsections A and C above. Only licensed employees or licensed associates may be shown on stationery but such names shall be separated from that of the individual practitioner or those of the partners or voting shareholders by an appropriate line. Deceased or retired partners or shareholders shall be appropriately identified.

F. Repeal

Renumber Subsection G to H

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§2504. Practice Monitoring Programs

A. Positive Enforcement Program (PEP)

The board hereby establishes a positive enforcement program which will consist of the desk review of a compilation, review and audit report prepared during the preceding calendar year by practice units selected and approved by the board for audit. Upon notification of selection, the firm will submit one legible copy of a compilation, review and audit report issued by the Certified Public Accountant or firm of Certified Public Accountants within the preceding 12 months of the Annual Notice of Form of Practice.

B. Governmental Positive Enforcement Program (GPEP)

The board hereby establishes the Governmental Positive Enforcement Program (GPEP). The program will consist of a desk review of selected audit reports filed by municipalities and other governmental entities which have filed audit reports prepared by a CPA or firm of CPAs and submitted to the legislative auditor in accordance with law.

C. Working Paper Review Program (WPRP)

The board hereby establishes the Working Paper Review Program (WPRP). The Working Paper Review Program shall consist of a review of working papers developed by individual or firm registrants in connection with the issuance of any audit, review or compilation report. Such review shall encompass all individual and firm registrants within each three-year period.

D. Any firm which shall have been subjected to a professional Peer Review and Quality Review approved by and acceptable to the board and conducted pursuant to standards not less stringent than Peer Review and Quality Review standards applied by the American Institute of Certified Public Accountants shall be exempted from the provisions of Subsections A, B and C above provided that said firm shall have furnished a copy of a Peer Review report to the board should it have undergone a Peer Review or the American Institute of Certified Public Accountants, its designee or other approved providers shall have certified to the board the accountant's or firm's participation in a Quality Review program and the dates of the accountant's or firm's most recent quality review should the firm seek exemption on the basis of a Quality Review.

E. If a Certified Public Accountant or firm of Certified Public Accountants has not provided evidence pursuant to the terms of Subsection D above, then the board shall undertake a review of a compilation, review, audit, or governmental audit reports, or shall undertake a review of the working papers of any such Certified Public Accountant or firm prepared in connection with the issuance of any audit, review or compilation report; further, any firm which shall have its working papers reviewed by the board, pursuant to this Subsection E, shall be charged reasonable travel expenses and a per diem; provided that the aggregate amount of such reimbursable expenses shall not exceed the sum of \$1,000 as to any Certified Public Accountants or firm of Certified Public Accountants within any three-year period. This limitation shall not apply to approved sponsoring organizations.

F. Each Certified Public Accountant or firm of Certified Public Accountants shall undergo a Peer Review, a Quality Review or a review of working papers or reports by the board at least once each three years.

G. No licensee or firm of Certified Public Accountants shall be required to become a member of any organization in

order to comply with the provisions of §2504.

H. 1. Oversight

The board shall appoint a Quality Review Oversight Board (QROB) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on Quality Reviews. The QROB shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall:

- a. be currently licensed by the board and,
- b. be former State Board members who are no longer in public practice, whenever possible.

2. Responsibilities

At least one member of the QROB will attend all meetings of the Society of Louisiana of Certified Public Accountants Quality Review Committee, or any successor thereof.

3. Compensation

Compensation of the QROB members shall be set by the board.

4. Duties of the QROB

a. The QROB will observe the plenary sessions of the QRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

b. May periodically review files of the reviewers;

c. May observe the deliberations of the QRC and report their observations to the board; and

d. Make recommendations relative to the operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 27. Renewals of Licensing - Reports on Continuing Professional Education

§2701. Submit with Application

Each licensee shall submit with his application for license renewal, on forms supplied by the board, a report of programs of continuing professional education completed during the applicable period and other information relative to fulfilling the continuing education requirements, except that such report will not be required of a licensee who is included in a report in accordance with §2703 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980). Amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Interested parties may submit written comments on the proposed rules through 5 p.m., August 6, 1991 to Mildred M. McGaha, CPA, Executive Director, Board of CPAs of Louisiana, 2 Canal Street, Suite 1515, New Orleans, LA 70130.

Mildred M. McGaha, CPA
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC 46:XIX. Chapters 3 through 27

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

It is not anticipated that the proposed rules amendments will result in any additional costs to the State Board of CPAs of Louisiana.

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

An increase in revenue collections of approximately \$8,430 to \$7,590 annually is anticipated from the implementation of Rule §2101.A. It is not anticipated that the other proposed rules amendments will have any effect on the board's revenue collections.

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

A. The amendment to Rule §2101.A will directly affect candidates withdrawing from the CPA examinations. The board believes the \$30 increase in the service charge will not be significant to these examination candidates.

B. It is not anticipated that implementation of the proposed rules amendments §1301.A.2, §1301.D, §1301.G, §1907 and §1909 will have a material effect on costs, paperwork or workload of persons applying to take the certified public accountants examination.

C. It is not anticipated that implementation of the proposed rules amendments §305, §505.B, §505.C, §507.G, §705.A, §709.G, §1701.B and C, §1705.A.2.a, §1911, §1915, §2003, §2101.D, §2503.A.1 and 2, §2303.C.2, §2503.E, §2504.A through H and §2701 will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.

D. It is anticipated that implementation of the proposed rules amendments §1503, §2501, and §2503.F will provide a cost saving and a reduction in paperwork to directly affected licensees and CPA practice units regulated by this board; however, the effect will not be material.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Mildred M. McGaha, CPA
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Board of Certified Public Accountants

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Certified Public Accountants gives notice of its intent to promulgate rules and regulations implementing amendment to LAC 46:XIX.1303.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIX. Certified Public Accountants

Chapter 13. Examinations

§1303. Educational Requirements

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by a university or college recognized and approved by the board, and in addition shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of post-secondary, graduate or postgraduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and in addition said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting courses:	24	21
Intermediate	6	3
Cost	3	3
Income tax	3	3
Auditing	3	3
Accounting electives:	9	9

3 semester hours from one of the following:

- Advanced financial accounting
- Not-for-profit accounting/auditing
- Theory

6 semester hours in accounting above the basic and beyond the elementary level

Business courses:

(other than accounting courses): 24 24

Including at least 3 semester hours in Commercial Law*
 (as it affects accountancy)

* 1. A course described as "Legal Environment of Business" emphasizing consumer protection and the regulatory environment, is not recognized as equivalent to, nor does it satisfy, the specified Commercial Law requirements at either the undergraduate or graduate level.

2. Up to six semester hours for internship may be applied to the 150 hours requirement, but may not be used to meet the accounting or business courses requirement.

3. Standard conversion (4 quarter hours equals 3 semester hours) will be applied whenever a school is not on the semester basis.

E. If the applicant's degree does not reflect the credit hours in the courses prescribed by Subsections A. and C. of this Section, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and receive credit for satisfactory comple-

tion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

F. Other than for correspondence courses at an accredited university, with respect to the course requirements specified by Subsections A. and C. of this Section, the board does not recognize credit received for courses granted on the basis of advanced placement examination (such as CLEP, ACT or similar examinations). To be recognized by the board the course credits specified by Subsections A. and C. of this Section shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987) amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:

Interested parties may submit written comments on the proposed rules through 5 p.m. August 6, 1991 to Mildred M. McGaha, CPA, Executive Director, State Board of Certified Public Accountants, 2 Canal Street, Suite 1515, New Orleans, LA 70130.

Mildred M. McGaha, CPA
 Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:XIX

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

It is not anticipated that the proposed rules amendments will result in any additional costs to the Board of Certified Public Accountants.

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

There are no material effects on the revenue collections of state or local governmental units from implementation of these rules amendments.

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

There can be the increased cost to students of from 15 semester hours to 27 semester hours of additional educational courses. This can vary because some prospective candidates are in higher degree programs. Other candidates may have more than one baccalaureate degree, thereby possibly meeting part of the 150 hour requirement.

Because candidates with 150 hours or more of education are much more likely to pass the CPA examination, they save time and expense of multiple sittings. Many may also save the costs of a CPA review course.

The effects on future earnings and employment in educating individuals are certain, but difficult to precisely quantify. Several studies related to on-the-job performance and educational backgrounds have found that ac-

countants with advanced degrees have significantly higher annual evaluations and are promoted faster than those without advanced studies. A New Mexico study found the benefits accruing in additional expected income exceeded the additional education costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact of these proposed amendments on competition and employment are unknown.

Mildred M. McGaha, CPA
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1793. Testing for Alcohol Abuse

A. Any person licensed by the commission shall, when directed by the state steward, submit to a breathalyzer test and, if the results thereof show a reading of .05 percent or more of alcohol in the blood, such person shall not be permitted to continue his duties.

B. For the first offense, any person having a reading of .05 percent or more shall be fined \$50 and not be permitted to perform his duties for the day. For the second offense, any person having a reading of .05 percent or more shall be fined \$100 and not be permitted to perform his duties for the day. For a third offense, any person having a reading of .05 percent or more shall be suspended for 30 days and be subjected to an evaluation as called for in §1791.

C. Failure or refusal to submit to a breathalyzer test when directed by the state steward shall result in a minimum seven-day suspension. Failure or refusal to submit to a breathalyzer test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission.

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

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 13:290 (May 1987), amended by Department of Economic Development, Racing Commission, LR 17:172 (February 1991), amended 17:

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, August 5, 1991, 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.1793 "Testing for Alcohol Abuse"**

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 track employees by establishing a minimum penalty for those individuals refusing to submit to mandatory daily breathalyzing (testing for alcohol use).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment, except for suspended employment for individuals refusing to be breathalyzed.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to repeal the following rule.

**Title 35
HORSE RACING**

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5742. Cellular Telephones Prohibited

REPEALED IN ITS ENTIRETY

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), repealed LR 17:

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, August 5, 1991, 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.5742 "Cellular
Telephones 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 repeal benefits patrons by lifting the prohibiting of cellular telephones on race tracks.
- 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

Board of Elementary and Secondary Education

Amendment to Bulletin 741, Standard 1.015.03

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 amendment to Standard 1.015.03 of Bulletin 741, Louisiana Handbook for School Administrators. This amendment was also adopted as an emergency rule, effective July 1, 1991.

Amend Standard 1.015.03 to read:

"Each school system shall employ at least one school nurse certified by the BESE and shall not exceed a ratio of 3,700 students to one nurse."

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Staff Organization; School Nurse
Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of this rule is in agreement with ratios established by Louisiana Revised Statute 17:28 and is currently being fully implemented by 47 local school systems. However, 19 school systems are not in compliance with a 3,700 student population to one school nurse ratio. Full implementation will cost approximately \$350,000.
This cost, depending upon decisions by local school boards, can be funded from state general funds provided by the MFP Part II: Support Services Block Grant, or local revenue sources.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact 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)
General health care services will be provided to all Louisiana public elementary and secondary school students.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Additional BESE certified school nurses will be employed by 19 local school boards.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendments to Bulletins 1508 and 1706

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 federally required amendments to Bulletin 1508, Pupil Appraisal Handbook and Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act including assurance statements for Fiscal Year 1992. These amendments were adopted as an emergency rule and printed in the June, 1991 issue of the *Louisiana Register*.

Bulletin 1508 - Pupil Appraisal Handbook

Amend III. INDIVIDUAL EVALUATION H. Independent Individual Evaluation to read:

1.a. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system agrees with the parent.

d. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent but does not request a hearing.

Delete 2.b.(3) and renumber (4) to (3), (5) to (4), and (6) to (5).

Bulletin 1706 - Regulations for Implementation of the Exceptional Children's Act

Amend §431 A.1 to read:

A.1. A written request from a parent has been received.

Amend §504 B.1 to read:

B.1. If the parent gives written notice of disagreement with the evaluation provided by the school system and the hearing officer determines that the school system's evaluation was inappropriate.

Amend §504 B.4 to read:

B.4. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent but does not request a hearing.

Delete §504 C.2.c

Amend §507 A.2 to read:

A.2. That it is unable to locate the parent or legal guardian by calls, visits, and by sending a letter by certified mail (return receipt requested) to the last known address of the parent or the legal guardian and allowing 20 operational days for a response of the intention to appoint a surrogate parent.

Delete §507 B and reletter C to B, D to C, E to D, F to E, and G to F.

Delete Comment following §509 A.2.

Amend §511 F. to read:

F. The hearing decision must be reached and a copy of the decision mailed to each party and the department not later than 45 calendar days after the written request for a hearing unless a specific extension of time, requested by a party, is granted by the hearing officer for good cause. When an extension is granted, the hearing officer shall reach his decision and mail copies to the parties and the department not later than 10 operational days from the termination of the hearing. In each circumstance the department shall delete any personally identifiable information in the findings and decisions and transmit those to the State Advisory Council.

Amend §515 A.

A. The review and written findings and decision shall be completed and mailed to each of the parties with 30 calendar days after the receipt of a request for a review.

Delete §516 A.3.

Amend §516 B. to read:

B. Within 30 operational days from receipt of the request for a review by the office, the Review Panel will issue an independent written review decision which either affirms the decision, overrules the hearing decision and substitutes a decision approved by the Review Panel.

Amend §517 to read:

The decision made by the Revision Panel shall be final unless a party brings a civil action within 30 operational days of the decision. This timeline does not apply to federal court.

NEW STATE PLAN REQUIREMENTS UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS ADDED BY P.L. 101-476

Assurances Regarding Implementation of the Requirements During Fiscal Year 1992

For purposes of implementing provisions of the Education of the Handicapped Act Amendments of 1990 (Pub. L. 101-476), which amend Part B of the Individuals with Disabil-

ities Education Act (20 U.S.C. 1411-1420), the state of Louisiana makes the following assurances:

(1) In accordance with Section 612(2) of the Act, during the period of the grant award, the state's definition of "children with disabilities," or its equivalent, will include "children with autism" and "children with traumatic brain injury" as separate disability categories under Part B, as required by Section 602(a)(1) of the Act. The state will make conforming changes to state statutes, regulations, or policies and procedures, as appropriate for the state, not later than July 1, 1992.

(2) In accordance with Section 612(2) of the Act, during the period of the grant award, the state's definition of "special education," or its equivalent, will include "instruction in other settings" in the list of settings in which "specially designed instruction" may be provided to children with disabilities, as required by Section 602(a)(16) of the Act. The state will make conforming changes to its statutes, regulations, or policies and procedures, as appropriate for that state, not later than July 1, 1992.

(3) In accordance with Section 612(2) of the Act, during the period of the grant award, the state's definition of "related services," or its equivalent, will include "rehabilitation counseling" as an eligible related service, as required by Section 602(a)(17) of the Act. The state will make conforming changes to its statutes, regulations, or policies and procedures, as appropriate for that state, not later than July 1, 1992.

(4) In accordance with Section 612(4) of the Act, by the beginning of school year 1991-92, but in no case later than September 1, 1991, each public agency in the state will implement individualized education programs (IEPs) for students with disabilities, as provided in Section 614(a)(5) of the Act, which IEPs include the following provisions, as required by Section 602(a)(19) and (a)(20) of the Act:

(A) A statement of needed transition services for students with disabilities beginning at age 16 and each year thereafter, and to the extent appropriate, for students with disabilities 14 years of age or younger;

(B) Where appropriate, a statement of interagency responsibility if a state or local agency, other than the public agency responsible for the student's education, is responsible for providing or paying for needed transition services;

(C) A statement that where a participating agency, other than the public agency responsible for the student's education, has failed to provide agreed upon transition services, the public agency will reconvene a meeting of the participants on the IEP team to identify alternative strategies to meet the transition objectives in the student's IEP; and

(D) That with respect to IEPs of students with disabilities, "transition services" has the same meaning as the term "transition services," as defined in Section 602(a)(19) of the Act.

The state will make conforming changes to state statutes, regulations, or policies and procedures, as appropriate for that state, not later than July 1, 1992.

(5) In accordance with Section 613(a)(3) of the Act, during the period of the grant award, the state is implementing a comprehensive system of personnel development (CSPD), which includes the following:

(A) procedures and activities for the development, updating, and implementation of a plan that:

(1) addresses current and projected special education

and related services personnel needs, including the need for leadership personnel; and

(2) coordinates and facilitates efforts among state and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities;

(B) a description of the procedures and activities the state will undertake to ensure that personnel necessary to carry out the purposes of the Act are appropriately and adequately prepared, including procedures for the continuing education of regular education, special education, and related services personnel, including leadership personnel, as well as the procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and procedures for adopting, where appropriate, promising practices, materials, and technology, proven effective through research and demonstration; and

(C) a description of the procedures and activities used by the state for the development and maintenance of a system for annual data collection on numbers and types of special education and related services personnel, including leadership personnel, as well as procedures for the development and maintenance of a system for determining, on an annual basis, data on qualified personnel, including:

(1) the number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(2) the number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate state certification, licensure, or other credentials comparable to certification or licensure for that profession or discipline; and

(3) the number and type of personnel, including leadership personnel, in each profession or discipline needed and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

The state will make conforming changes to state statutes, regulations, or policies and procedures, as appropriate, not later than July 1, 1992.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendments to Bulletin 1706, 1508, and the State Plan

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

The estimated cost to the state for printing and postage of the proposed change is \$1,400.

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)

No cost or benefits are estimated from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment from this proposed change.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Definition of "Speech Therapy Program" Bulletin 1706

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 revised definition for the term "Speech Therapy Program" in Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, R.S. 17:1941 et seq.

Amend Section 984 to read:

Speech therapy program is a service delivery pattern in which exceptional children receive speech/hearing/language intervention services as specified on the IEP when the speech disorder is identified according to Bulletin 1508.

This revision was adopted as an emergency rule, effective June 20, 1991 and printed in the June, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Bulletin 1706 §984 Speech Therapy Program

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

There are no implementation costs or savings to state or local educational agencies.

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

Adoption of this rule will not impact 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 economic benefit or cost to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this rule will not affect competition and employment.

Graig A. Luscombe
Deputy Superintendent
for Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 1822, Competency-Based Postsecondary Curriculum Outlines

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved an amendment to Bulletin 1822, Competency-Based Postsecondary Curriculum Outlines which changed the length of the Truck Driving Course to 620 hours, five and one-half months.

Interested persons may comment on the proposed policy change and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Instructor Guides and Amendments to Bulletin 1822, Competency-Based Postsecondary Curriculum Outlines

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

In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. These amendments to this bulletin are updates on title names, course lengths, and content. The cost to implement this change would be approximately \$75. This would be for printing and postage to mail out the revisions.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs or economic benefits to the affected groups. We will, however, produce better trained people for business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All technical education students will receive the same

minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Board of Elementary and Secondary Education
Revisions to Bulletin 1877 - Time Schedule
LTIP/LaTEP Assessment Process**

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 Bulletin 1877, Implementation Guide for LTIP/LaTEP. The Louisiana Department of Education proposed these recommendations in an effort to be more than fair to those teachers being evaluated this first year of implementation. These revisions were adopted as an emergency rule, effective April 25, 1991 and printed in full in the May, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Revision to LaTIP/LaTEP Assessment Procedure

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

A cost of \$4,548,749 in FY 91-92 is estimated. All teachers rated satisfactory or below in FY 90-91 (5,000) could ask to be reevaluated in FY 91-92. The cost estimate for the necessary assessors and their related expenses were derived utilizing the current salary and travel costs with a two per day assessment schedule for four days per week. Also included are needed personal services and operating expenses totaling \$78,749.

As relating to local governments, there could be a possibility of a reduced workload if a substantial number of unsatisfactory teachers are now able to achieve a satisfactory rating and remediation would not be necessary. The amount of this possible cost savings is not determinable at this time. The source of funding affected cannot be specifically identified.

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

There will be no effect on revenue collection on either the state or local government by this action.

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

Teachers who choose to be reevaluated could be directly affected as a revised rating could have a very positive economic benefit to these individuals.

The amount of the economic impact to these teachers cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be effects on employment of teachers with more satisfactory and/or superior teachers being available.

Graig A. Luscombe
Deputy Superintendent
for Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Entrance Requirements for
Postsecondary Technical Institutes

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 revised entrance requirements for postsecondary technical institutes, effective July 1, 1991. These requirements were also adopted as an emergency rule and printed in full in the June, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Addition to Board of Elementary and Secondary Education Entrance Requirements

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

This is an addition to the Board of Elementary and Secondary Education entrance requirements policy for the postsecondary technical institutes. The cost to implement this policy would be approximately \$75. This would be for printing and the postage to mail out this addition to the administrative code book. The cost of the test recommended is about the same cost of the other main test that has been used. The BESE previously permitted use of many standardized aptitude tests. As of 5/23/91, BESE officially adopted the Test of Adult Basic Education (TABE) as the standardized aptitude test to be used throughout the postsecondary tech. inst. system. This

test shall be given to anyone who wishes to enroll in full-time day programs offered in the technical institute system.

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

There will be no effect on revenue collections of state or local governmental units as a result of this action.

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

There will be no cost to persons or non-governmental groups from this action. Administration of this test will identify those individuals entering the postsecondary technical institute system who are in need of remediation. To the extent that remediation is available at the individual technical institute, those individuals will be channeled into a remediation activity concomitantly with skill training.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Reduction in Force Plan for Vocational-Technical Personnel

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 revised Reduction in Force Plan for Vocational-Technical Personnel. This revised Plan, effective May 23, 1991 was adopted as an emergency rule and printed in full in the June, 1991 issue of the *Louisiana Register*. This is an amendment to Bulletin 1868, BESE Personnel Manual.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Revision to Reduction in Force Plan for Vocational Technical Personnel

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

This is revising the Board of Elementary and Secondary Education policy on the Reduction in Force Plan for Vocational Technical Personnel. The revision added the regional management center directors into the plan. It also reformatted the plan to include administrative, in-

structional and support personnel. This will be a revision to Bulletin 1868, Chapter C, 131.C. The cost to implement this change would be approximately \$75. This would be for printing and postage to mail out the revision to the personnel bulletin.

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

There would be no effect on revenue collections to state or local governmental units as a result of this action.

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

There will be no cost to persons or non-governmental groups from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes

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 Salary Schedule for State Technical Institutes to include appropriate salaries for Associate Degree Licensed Practical Nursing instructors, effective May 23, 1991, as stated below:

Associate degree and three-year diploma nursing salary schedule.

a. Associate degree nursing instructor would start at \$22,873. This would be base pay with no degree with credit for the equivalent of 72 college credit hours for associate degree in nursing.

b. Three-year diploma nursing instructor would start at \$23,033. This would be base pay with no degree with credit for the equivalent of 96 college credit hours for three-year diploma in nursing.

The associate degree and three-year diploma nurses would receive, upon receipt of grade slip to Office of Vocational Education, credits for pay purposes up to 105 hours towards a B.S.N. degree.

The current BESE approved salary schedule does not have a schedule for Associate Degree Registered Nurse Instructors. This amendment will add the Associate Degree Registered Nurse Instructors to the schedule and provide for an equitable and corresponding increase for three-year diploma Registered Nurse Instructors. Nurse instructors must be employed immediately to fill instructor vacancies in ongoing Practical Nursing programs. This is an amendment to Bulletin 1868, BESE Personnel Manual and was adopted as an emergency rule and printed in the June, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy change and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Approved salary schedule for LPN instructors

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

This is modifying the BESE approved salary schedule to include the appropriate salaries for the Associate Degree and the three year Diploma Licensed Practical Nursing Instructors. The cost to implement this change this year would be approximately \$830. The cost next year would be \$9,220. In addition to this cost we would have to mail out the revised salary schedule at a cost of \$75. Amendment to Bulletin 1868, Board of Elementary and Secondary Education Personnel Manual Chapter D: Employee Compensation Section 145: Vocational Technical System A, 1. In FY 90-91, 25 diploma RN's and four AD RN's were affected by this change. It is estimated that in 91-92, 24 diploma RN's and six AD RN's will be affected by this change.

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

There will be no effect on revenue collections to state or local governmental units as a result of this action.

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

There will be no cost to persons or non-governmental groups from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action. By this action, we hope that we can employ better employees for the Vocational Technical System.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Louisiana Model Career Options Program Guide

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 Louisiana Model Career Options Program Guide, Bulletin 1895. This Guide was also adopted as an emergency rule and printed in full in the June, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana MCOP Guide**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The amount of \$3,500 is requested for printing and postage necessary to print and mail the new guide.
There are no costs or savings to local governmental units resulting from the proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no effects on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Public school teachers could be positively affected if the teacher is eligible for participation in the program as the guide more adequately explains the details of the program.
If the teacher chooses to participate, their income would be increased by up to \$2,600 per year.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There could be some stabilizing effect on employment of public school teachers and this program does offer incentives to continue in teaching.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Teacher Tuition Exemption Guidelines

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the Revised Teacher Tuition Exemption Guidelines. These guidelines were adopted as an emergency rule and printed in the June, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., September 7, 1991 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Tuition Exemption Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs associated with the adoption of these rules. The Tuition Exemption Program has been awarded \$2,900,000 of 8(g) funds for fiscal year 1991-92. Administrative costs for fiscal year 1991-92 are estimated at \$109,603.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that there will be a decrease in the number of teachers able to participate in the program, due to a decreased funding level that should result in a decrease in payments to institutions of higher education.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Public and non-public, elementary and secondary classroom teachers are eligible for tuition waivers at participating Louisiana colleges and universities.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Council for the Development of French in Louisiana
(CODOFIL)**

Bilingual Writing Assistance Fee Schedule

In accordance with the Administrative Procedure Act, R.S. 49:950-970, the Department of Education, Council for the Development of French in Louisiana (CODOFIL), is hereby giving notice of its intention to adopt the fee schedule described below for bilingual writing assistance. The bilingual writing assistance includes French-English and English-French translation, proofreading and copywriting. Upon submission of proposal or text, CODOFIL shall evaluate the feasibility of said project based upon the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and estimated amount of time required to complete the work. Once CODOFIL and the contractee have agreed to the conditions described in the contract, an hourly fee of \$15 shall be charged to recover operating expenses.

Bilingual Writing Assistance

1. Any public or private party may submit a proposal or text for bilingual writing assistance to CODOFIL.
2. Requests for bilingual writing assistance must be submitted in writing, using the following contract proposal.
3. The contract proposal must be completed and signed in order to be considered. Incomplete forms will be automatically rejected.

4. The contract proposal will contain the following information: name, address, organization and telephone number of the requesting party, a legible copy of the proposal or text, an estimate of the number of hours required to complete said work and a projected date of completion.

5. CODOFIL will make an evaluation of the feasibility of said proposal based on the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and amount of time required for preparation, research, copywriting and translation.

6. Once both parties have reached an agreement of conditions, they will sign the contract and CODOFIL will lend the bilingual writing assistance for a fee of \$15 per hour. This fee has been designated to recover operating expenses.

CODOFIL Bilingual Writing Assistance Contract

CODOFIL will review the work proposal and decide if it fits within its objectives and whether or not the service can be completed within a time frame acceptable to the contractee. Once CODOFIL agrees to perform the bilingual writing assistance, the contractee agrees to pay CODOFIL a fee of \$15 per hour for this service. This service may include bilingual writing assistance in the form of translation, copywriting and/or editing. Both parties, CODOFIL and the contractee, must sign this contract in order for the agreement to be valid.

To be completed by the contractee:

Name _____ Association _____

Address _____ City _____ Zip _____

Daytime phone () _____

Date of submission ____ / ____ / ____

Nature of the document _____ Number of pages _____

Type of assistance requested _____

Requested date of completion ____ / ____ / ____

I, the undersigned, understand and accept the terms of this agreement:

_____/_____/_____
 Signature of Contractee Date of signature

To be completed by CODOFIL:

Work proposal approved? yes _____ no _____

Total cost of services \$ _____

Completed work approved by:

_____/_____/_____
 Signature of Director Date of signature

Comments may be submitted in writing to Jacques Henry, Director, Council for the Development of French in Louisiana, 217 West Main Street, Lafayette, LA 70501, until August 16, 1991.

Jacques Henry
 Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Bilingual Writing Assistance

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

The initial implementation cost to CODOFIL is minimal. The cost of the hours of planning by the staff is estimated at \$100. The cost of following official procedures required to put the proposed rule into effect is estimated at \$15 (postage, telephone, copies). This amounts to a total implementation cost of \$115.

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

The anticipated sum of \$1,500 in self-generated revenue will be used to recover the expenses incurred by CODOFIL in providing 100 hours of bilingual writing assistance services at a cost of \$15 per hour. The estimate of 100 hours is based upon previous requests made to CODOFIL for such services.

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

A fee of \$15 will be charged for each hour of service rendered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no effect on employment and on competition given the limited volume of assistance requests expected.

Jacques Henry
 Director

John R. Rombach
 Legislative Fiscal Officer

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

The Louisiana Student Financial Assistance Commission hereby gives notice of its intent to adopt the Louisiana Scholarship and Grant Policy and Procedure Manual, codifying the rules governing the commission's administration of assigned programs.

Interested persons may submit written comments until 4:30 p.m., September 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

A copy of the proposed Scholarship and Grant Policy and Procedure Manual may be obtained from the office of the State Register, 1051 Riverside North, Baton Rouge, LA or from the Office of Student Financial Assistance.

Jack L. Guinn
 Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Louisiana Scholarship and Grant Policy and
Procedure Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Publication costs are estimated to be \$2.36 per manual produced, and 50 manuals will be printed, for a total estimated cost of \$118 to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated from publication of this document.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The codification of currently approved rules into a manual format has been recommended by auditors of the programs and will aid staff in administration of the programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment is foreseen from publication of this document.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Worker's Compensation**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 23:1168 and Act 1983 of the 1990 Regular Legislative Session, the Office of Worker's Compensation through the Department of Employment and Training hereby gives notice of its intent to amend rules and regulations pertaining to the fiscal responsibility of Worker's Compensation carriers. This rule will provide methods and criteria for implementing self-insurance and own risk programs. The proposed rule:

establishes that all employers are responsible for compliance with R.S. 23:1168 and provides directions for notifying the Office of Worker's Compensation of compliance with this legislation; and

provides guidelines for the termination of a Worker's Compensation policy by an insurance carrier.

This rule begins by giving definitions to several insurance terms contained in the rules. This rule also provides guidelines for acceptable securities, establishes penalties for improper reporting by self-insurers, provides guidelines for selecting acceptable excess insurance, sets forth the requirements for becoming a qualified service company, and establishes a vehicle for revocation of the self-insurers privilege. Lastly, this rule establishes minimum qualifying criteria that must be met by self-insurance applicants, application processing fees for self-insurers and service companies, and minimum security requirements for self-insurers.

Comments should be forwarded to Gerald East, Financial Manager of the Office of Worker's Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through August 26, 1991.

A copy of this rule may be obtained by contacting Gerald East at the above address, or the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095.

Stephen Cavanaugh
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Rules for Louisiana Office Worker's Compensation, Fiscal Responsibility Unit

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This program will increase the costs of operation of the Office of Worker's Compensation Administration by \$418,520. This estimate is independent of the income that implementation is expected to generate. Anticipated cost of distribution and mailing is approximately \$5,000 and printing approximately \$10,000. The increased cost in the Office of Worker's Compensation's operation includes salaries and equipment. The additional personnel will need to perform mandated duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Self-insured employers will pay a \$100 fee per application, 350 applications are anticipated, which will generate approximately \$35,000. In addition, fines and penalties up to \$500 pursuant to R.S. 23:1170 et seq., are expected to generate another \$100,000 (based on estimates by other state administrations).
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Given that employers will be required to purchase worker's compensation insurance pursuant to R.S. 23:1168, the only increase to affected parties will be the application fee for Individual Self-Insurers. Self-insured employers will be required to pay a \$100 fee per application; with 350 applications anticipated, approximately \$35,000 will be generated.
R.S. 23:1170 provides for a penalty to be assessed against an employer's failure to secure compensation as provided in R.S. 23:1168. Penalties may be assessed up to \$500.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
R.S. 23:1168 is a state law which will require all employers, whether in the public or private sector, to carry worker's compensation insurance. Therefore, all employers subject to the provision of the Louisiana Worker's Compensation Act will be impacted.

Stephen Cavanaugh
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., particularly R.S. 30:2193, 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, §2201, 2203, 2207, 2227, 2246 and Tables 3 and 8, (Log Number HW29).

This proposed regulation will further explain the requirements of LAC 33:V.Subpart 1.Chapter 22. The definition of "deactivation" has been revised. The revised definition will confirm that dilution is not a permissible form of deactivation. Also, Table 8 has been added. Table 8 lists recommended methods of deactivation for wastewaters.

These proposed regulations are to become effective on October 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

PROPOSED RULE

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental Quality -
Hazardous Waste**

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 16:398 (May 1990), LR 16:1057 (December, 1990), amended LR 17:

* * *

§2203. Definitions Applicable to This Chapter

A. When used in this Chapter the following terms have the meanings given below:

* * *

Deactivation -- treatment to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, toxicity and/or reactivity. Dilution of a characteristic waste by the addition of nonhazardous material is not a permissible form of deactivation by treatment except as provided under LAC 33:V.2207.B.

* * *

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 16:221 (March 1990), LR 16:1057 (December 1990), LR 17: (July 1991), LR 17:

* * *

§2207. Dilution Prohibited as a Substitute for Treatment

* * *

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under Section 402 of the Clean Water Act (CWA) or that treats wastes for purposes of pretreatment requirements under Section 307 of the CWA is not prohibited dilution for purposes of this Section, as follows:

1. for D001-D003 wastes;
2. for all other characteristic wastes unless a method has been specified as the treatment standard in LAC 33:V.2227.

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 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:

* * *

§2227. Treatment Standards Expressed as Specified Technologies: Procedures for Approval of Alternative Treatments

* * *

E. Recommended methods of deactivation for hazardous wastes are listed in Table 8 of this Chapter.

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 16:1057 (December 1990), LR 17: (July 1991), LR 17:

* * *

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

* * *

E. Wastes that are hazardous only because they exhibit a hazardous characteristic and that are otherwise prohibited under this Chapter are not prohibited from land disposal if the wastes:

1. are disposed into a nonhazardous or hazardous injection well defined under Statewide Order Number 29-N-2, Section 203.C; and
2. have been treated to remove any prohibited characteristic of hazardous waste identified in LAC 33:V.4903 prior to the point of injection at the wellhead. The generator must comply with the notification and certification requirements of LAC 33:V.2246.D.

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 16:1057 (December 1990), LR 17: (July 1991), LR 17:

* * *

TABLE 3
TECHNOLOGY CODES AND DESCRIPTION
OF TECHNOLOGY-BASED STANDARDS

Technology Code	Description of Technology-Based Standard
	* * *
DEACT	Deactivation by treatment to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, toxicity, and/or reactivity. Dilution of a characteristic waste by the addition of nonhazardous material is not a permissible form of deactivation by treatment except as provided under LAC 33:V.2207.B.

TABLE 8
RECOMMENDED METHODS OF DEACTIVATION
FOR HAZARDOUS WASTES

Waste Code	Waste Code Subcategory	Recommended Treatment Methods for Wastewaters ^{1,2}
D001	Ignitable wastewater subcategory (containing <1% TOC)	RORGS, INCIN, WETOX, CHOXD, or BIODG
D001	Ignitable oxidizers	CHRED or INCIN
D002	Acid subcategory	NEUTR or INCIN
D002	Alkaline subcategory	NEUTR or INCIN
D002	Other corrosives	CHOXD, CHRED, or INCIN
D003	Reactive sulfides subcategory	CHOXD, CHRED, BIODG, or INCIN
D003	Explosives subcategory	INCIN, CHOXD, CHRED, BIODG, or CARBN
D003	Other reactives subcategory	INCIN, CHOXD, CHRED, BIODG, or CARBN
K044	Wastewater treatment sludges from the manufacturing and processing of explosives	CHOXD, CHRED, BIODG, CARBN, or INCIN
K045	Spent carbon from the treatment of wastewater containing explosives	CHOXD, CHRED, BIODG, CARBN, or INCIN
K047	Pink/red water from TNT operations	CHOXD, CHRED, BIODG, CARBN, or INCIN

¹The five-letter treatment method codes are defined in Table 3.

²These treatment methods are found in the June 1, 1990, edition of the *Federal Register*.

A public hearing will be held on August 29, 1991, at 1:30 p.m. in the A.D. Smith Memorial Auditorium, State Education Building, 626 North 4th Street, Baton Rouge, LA. 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, August 30, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log Number HW29.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revisions to LAC 33:V.Chapter 22

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The regulated community is already required to abide by LAC 33:V.2207 and 40 CFR 268.3(a) which both prohibit dilution as a substitute for treatment. These state rules became effective January 1, 1991 to bring state rules into conformity with EPA rules which became effective on August 8, 1990; so there would have been no costs to the regulated community since they already had to comply with the federal regulations. However, more recently EPA issued a clarification to the original dilution prohibition. Therefore, the DEQ is issuing this rule to clarify its position on this issue. Therefore, no additional cost is anticipated to the regulated community as a result of this rule.

The economic benefits to directly affected persons or non-governmental groups are difficult to quantify but remain significant. Such benefits include more business in the treatment industry to comply with the stricter treatment standards. Industries that produce the affected waste streams may opt to redesign their processes to reduce and/or eliminate generating these wastes. These benefits might have taken the form of more jobs at facilities and at environmental consulting firms. Other benefits could include reduced human health risks, improved safety at facilities, and reduced ecological effects. These benefits would have been realized when DEQ's Third Third rule became effective on January 1, 1991.

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

Initially, there were additional costs only to those facilities who produce the affected waste streams. Therefore, this might have had an adverse effect on competition for those particular facilities. However, these same affected facilities might have created a positive effect on employment by hiring additional personnel or contracting environmental consulting firms to treat these affected waste streams or redesign their processes to eliminate the generation of these waste streams. All effects, both adverse and positive, would have taken place on or after January 1, 1991 when DEQ's Third Third rule became effective. Therefore, there are no anticipated effects on competition and employment as a result of this rule.

Timothy W. Hardy
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality
Office of Water Resources/Water Pollution
Control Division

Under, the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2074(B)(1), 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 Water Quality Regulations, LAC 33:IX.703, 713, 1109, 1113 and 1115, (Log No. WP09).

In Chapter 7, §703, the scope is modified to include chlorine-bleaching pulp and paper mill dischargers. Subsequently, §713 is added that states the applicability, definition, and effluent limitations for chlorine-bleaching pulp and paper mill dischargers. In Chapter 11, the addition of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) (dioxin) numerical criteria to §1113.C.6 Numerical Criteria, Table 1 (No. 46) is necessary due to its presence in fish tissues and potential threat to water uses. Consequently, this revision will result in the following numbers in Table 1 to be renumbered No. 47-55 accordingly. The addition of the dioxin numerical criterion is proposed in order to comply with federal regulations and establish a Louisiana-specific criterion. See Federal Register published April 17, 1990, 55 FR 14350.

These proposed regulations are to become effective on October 20, 1991, or as soon thereafter as practical upon publication in the Louisiana Register.

PROPOSED RULE

Title 33
ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 7. Effluent Standards

§703. Scope

A. The following categories and classes of discharges are covered by this Chapter:

Table with 2 columns: Discharge Category and LAC Reference Number. Includes Sand and Gravel Extraction, Sugar Processing, Exploration for and Production of Oil and Natural Gas, Miscellaneous Small Dischargers, Secondary Treatment for Sanitary Sewage, Chlorine-bleaching Pulp and Paper Mill Dischargers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended LR 17: ***

§713. Chlorine-bleaching Pulp and Paper Mill Dischargers

A. Applicability

The effluent limitations and other provisions of this Section are applicable to discharges of wastewater associated with the production activities of bleached kraft pulp and paper mills.

B. Definitions

Chlorine-bleaching Pulp and Paper Mill Dischargers- Pulp and paper mills utilizing caustic sulfide reagents to process wood chips under high heat and pressure, produc-

ing brown paper and subsequently adding chlorine or chlorine compounds to produce bleached white paper.

C. Effluent Guidelines

The following effluent limitations establish the quantity or quality of pollutants or pollutant properties that may be discharged by a facility subject to this Section after applying to process wastes with the treatment technology currently available. The relaxation of effluent limits based upon state water quality standards or best professional judgment shall be prohibited.

Table with 3 columns: Pollutant or Pollutant Property, Concentration in pg/L (ppq) Daily Average, Concentration in pg/L (ppq) Daily Maximum. Row 1: 2,3,7,8-Tetrachlorodibenzo-p-dioxin, NA, 20. Row 2: 2,3,7,8-TCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17: ***

Chapter 11. Louisiana Surface Water Quality Standards

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this section. Policy statements on antidegradation, water use, exceptions, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

F. Water Quality Standards Revision Process

1. It is the position of the state of Louisiana that the standards contained herein are those that are reasonable on the basis of the actual or potential quality of the state's waters, present and future water uses, and the best practicable wastewater treatment under any conditions. However, standards are not fixed for all time, but are subject to future revision. The nature of future revisions of these standards will be strongly influenced by many factors. Among these are the following:

d. Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:

§1113. Criteria

C. Numerical Criteria

Numerical criteria identified in the Numerical Criteria Tables apply to the specified water bodies, and to their tribu-

taries, distributaries, and interconnected streams and water bodies if they are not specifically named therein, unless it can be shown through a use attainability analysis that unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made watercourses, or naturally dystrophic waters may be excluded from some or all numerical criteria during specified seasonal periods as defined in LAC 33:IX.1123. Numerical criteria specifically apply to water quality conditions of state surface waters attributed to human activities or waste discharges as opposed to naturally occurring conditions.

6. Toxic Substances

Numerical criteria for specific toxic substances are listed in Table 1.

c. Criteria for human health are derived using EPA guidelines, procedures, and equations for both water bodies used as drinking water supplies and those not used as drinking water supplies are developed to protect that water supply for human consumption, including protection against taste and odor effects, and to protect it for primary and secondary contact recreation and to prevent contamination of fish and

aquatic life consumed by humans. Criteria for water bodies not designated as drinking water supplies are developed to protect them for primary and secondary contact recreation and to prevent contamination of fish and aquatic life consumed by humans. In some cases, the maximum contaminant level (MCL) from the National Drinking Water Regulations, when more restrictive, is used in setting criteria. For those toxic substances that are suspected or proven carcinogens, an incremental cancer risk level of 10^{-6} (1 in 1,000,000) is used in deriving criteria, with the exception of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD), in which case 10^{-5} (1 in 100,000) is used to derive the criteria.

f. A variance to statewide numerical criteria for toxic substances may be allowed to prevent the inappropriate application of toxic criteria to a specific water body. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance is temporary and shall last no more than three years. Any person may request that the office grant a variance. The office will approve or disapprove the variance only after appropriate public participation and EPA review and approval. Variances to toxic substances criteria are allowed only when at least one of the reasons listed below can be reasonably expected to cause non-attainment of water quality standards.

TABLE 1

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
	*	*	*			

(TABLE 1 CONTINUED)

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
	*	*	*			
	Other Organics					
46. 2,3,7,8-Tetrachloro-dibenzo-p-dioxin (2,3,7,8 TCDD) ⁹	--	--	--	--	0.71 ppq ⁸	0.72 ppq
	Metals					
47. Arsenic	360	190	69.00	36.00	50.0	--
48. Chromium III (Tri) ⁷	(980, 1700, 3100)	(120, 210, 370)	515.00	103.00	50.0	--
49. Chromium VI (Hex)	16	11	1.10 mg/L	50.00	50.0	--
50. Zinc ⁷	(65, 120, 210)	(59, 110, 190)	95.00	86.00	5.0 mg/L	--
51. Cadmium ⁷	(15.4, 33.7, 73.6)	(0.66, 1.13, 2.0)	45.62	10.00	10.0	--
52. Copper ⁷	(9.9, 19.2, 36.9)	(7.1, 12.8, 23.1)	4.37	4.37	1.0 mg/L	--
53. Lead ⁷	(34, 82, 200)	(1.3, 3.2, 7.7)	220.00	8.50	50.0	--
54. Mercury	2.4	0.012	2.10	0.025	2.0	--
55. Nickel ⁷	(790, 1400, 2500)	(88, 160, 280)	75.00	8.30	--	--
	*	*	*			

⁸ ppq = parts per quadrillion

⁹ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:_____ (October 1991).

§1115. Application of Standards

D. Mixing Zones

11. In those cases where unique site-specific conditions preclude the application of the critical flow requirements for Category 3 water bodies as stated in LAC 33:IX.1115.D.7 under Critical flow, the office may on a case-by-case basis approve an alternative critical flow when determining 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) permitted effluent concentrations. Any flow specification shall be protective of designated uses.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:

A public hearing will be held on August 29, 1991, at 1:30 p.m. in the A.D. Smith Memorial Auditorium, State Education Building, 626 North 4th Street, Baton Rouge, LA. 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, August 30, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log No. WP09.

J. Terry Ryder
Assistant Secretary

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

There will be no effect on revenue collections in implementing the additional criteria.

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

For those facilities that must incorporate treatment in order to meet the proposed criterion, there will be added costs to pay for that treatment. Costs to affected persons are difficult to accurately estimate due to the variability of facility type, production, process requirements, and extent that additional treatment must be added as a result of this proposed rule. If state promulgation procedures for the criterion are not initiated in 1991, the U.S. Environmental Protection Agency will promulgate more restrictive criterion for this toxicant, that will undoubtedly create a much greater cost to persons/facilities directly affected. Economic benefits of increased public health and well-being are anticipated as a result of this rule but fiscal assessment of such benefits is difficult to estimate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated appreciable short-term effect on competition and employment since all parties affected must comply with the proposed criterion. However, improving Louisiana's water quality through promulgated regulations that provide specific guidelines can and does promote long-term industrial development, encourage interstate commerce, and help to increase employment.

Dr. Paul Templet
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Board of Trustees of the
Firefighters Pension and Relief Fund
for the City of New Orleans**

The Board of Trustees of the Firefighters Pension and Relief Fund for the City of New Orleans hereby gives notice of its intent to amend its rules regarding Reciprocal Recognition of Years of Service Credit and Transfer of Credit in accordance with R.S. 42:697 et seq.

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Surface Water Quality Standards and Effluent
Standards**

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

There will be no costs to the state in implementing these additional criteria.

Rule I(A)(1): Provides option to former employee of state agency of either retaining membership in another system and combining his years of service accrued under that system with his years of service accrued under this system. Requirement that employee wishing to combine his years of service under R.S. 42:697 make written application to fund on appropriate application form.

Rule I(A)(2): General provision regarding eligibility of employee who wishes to combine his years of service accrued under any other system with years of service accrued under this system. Employee must meet eligibility requirements of the other fund and have accrued at least one and one-half years of service with that fund.

Requirement that employee meets the eligibility requirements of this fund and have accrued at least one and one-half years of service with this fund.

Rule I(B): General provision regarding the calculation of the pro rata benefits.

Rule I(B)(1): Provides that the benefit from each system will be calculated on the benefit formula, terms and conditions of each system in effect on the employee's date of retirement, disability or death; compensation earned by employee and credited under each system; and service credit accrued under each system, including a maximum of four years of military service.

Prohibits duplicating years of service credit and provides that years of service are not to exceed more than one year of service during a single calendar or fiscal year.

Also governs lump sum distribution of employee's pro rata benefit. Employee is entitled to a percentage of the lump sum payment from each system in proportion to the years of service accrued under each system to his total years of service accrued under both systems.

Rule I(B)(2): Provision governing the maximum pro rata benefit allowed. An employee's benefit from both systems is not to exceed 100 percent of highest average compensation on which the benefit is based; the highest benefit under either system if all years of service accrued under both systems were considered in calculating such benefit under that one system. Also provides that if the pro rata benefit exceeds the aforementioned limitation, the pro rata benefit from each system will be reduced in proportion to the total pro rata benefit from both systems.

Rule I(B)(3): Mandates that the trustees approve the application of payment of a pro rata benefit that complies with these rules and regulations.

Rule I(B)(4): Allows trustees to agree that the pro rata benefit be made by one system with the other system making reimbursements.

Rule II(A)(1): Option to former employee of state agency of transferring his years of service accrued under another system to be added to his years of service under this system, provided he make an application in writing on appropriate form.

Rule II(A)(2): Option to employee of this department who terminates his employment and who subsequently becomes employed by a public agency of this state and who becomes a member of any retirement or pension system of the other agency of transferring his years of service accrued under this system to the other system, provided he make an application in writing.

Rule II(A)(3): Requires six months of membership in the Firefighters Pension and Relief Fund and membership in

any other retirement or pension system in order to be able to transfer credits.

Rule II(A)(4): Provision prohibiting an employee wishing to transfer credits from having received a refund of his employee contributions from either transferring or receiving system, unless he had at least six months of credited service and repays the employee contributions plus compounded interest at the board-approved rate until paid.

Rule II(A)(5): Provision mandating trustees' approval of any application in compliance with rules and regulations.

Rule II(A)(6): Provisions governing time and place of approval of transfers into the Firefighters Pension and Relief Fund. Also provides the member of the Firefighters Pension and Relief Fund shall determine whether to transfer funds and credit out of Firefighters Pension and Relief Fund.

Rule II(B)(1): Provides information required for transfer of credits from another system to the Firefighters Pension and Relief Fund.

Rule II(B)(2): Provides the calculations for the transfer credits and funds to be used by the trustees.

Rule II(B)(3): Provides a condition that the amount that would be transferred to the Firefighters Pension and Relief Fund if transfer is approved must be equal to or greater than amount that would have been contributed by the employee had all of the employee's credits originally been contributed in accordance with the Firefighters Pension and Relief Fund rules for approval of transfer of employee's credit to the Firefighters Pension and Relief Fund.

Rule II(B)(4): Provision allowing transfer even though condition is B(3) is not met if employee pays difference in amounts or if employee accepts an amount of credit based on amount of funds that would be transferred to the Firefighters Pension and Relief Fund were the trustees to approve the transfer.

Rule II(B)(5): Provision prohibiting approval of application for transfer of credits to this system unless the assets transferred amount to 100 percent of the increase in accrued liability. Although, employee can pay the difference in the accrued liability.

Rule II(B)(6): Governs the transfer of free service credit accumulated in the transferring system upon the payment by the employee to the Firefighters Pension and Relief Fund of the employee contribution plus a matching employer contribution plus interest equal to the board-approved actuarial valuation rate of this system from date said contribution would have been due until date paid.

Rule II(B)(7): Governs actuarial calculation which uses the retirement percentage factor of the transferring system based on the number of years transferred.

Rule II(B)(8): Governs the transfer of credit upon the death of an employee after his filing a written application for transfer of credits to this fund from another system.

Rule II(C)(1): Provision regarding requirement for transfer of credits from the Firefighters Pension and Relief Fund to any other system.

Rule II(C)(2): Provides that once the trustees receive notification from the receiving system that it has approved the transfer, the trustees shall transfer the contributions and interest accumulated.

Rule II(C)(3): Governs the transfer of credit upon the death of an employee after his filing a written application for transfer of credits from this fund to another system.

Rule II(D)(1): General provision declaring the Firefigh-

ters Pension and Relief Fund free from future liability with respect to an employee who transfers credits to another system. Also, provides that once credits are transferred to the Firefighters Pension and Relief Fund, the transferring system shall have no future liability to the employee.

Rule II(D)(2): General provision mandating that trustees cannot consider any request for transfer of a deceased employee's credits if the request is made by his survivor, heir or estate.

Rule II(D)(3): Provision regarding retirement of an employee after completing a transfer and his ineligibility to participate in a system which has previously transferred credits for that employee.

Rule II(D)(4): Allows trustees to assess an actuarial transfer fee in such amount as is deemed appropriate.

A public hearing will be conducted by the Board of Trustees of the Firefighters Pension and Relief Fund for the City of New Orleans on Thursday, August 29, 1991 at 10 a.m., 329 South Dorgenois Street, New Orleans, LA.

Any interested party may submit data, views, or arguments orally or in writing concerning these rules to Bernard V. Nicolay, Secretary-Treasurer of the Board of Trustees, 329 S. Dorgenois Street, New Orleans, LA 70119. Comments will be accepted through the close of business at 4:30 p.m. on August 20, 1991.

William M. Carrouche
Chairman

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Reciprocal Recognition of Years of Service and Transfer of Credit

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

The only estimated implementation cost which is anticipated will be the cost of printing and distributing copies of the Restated Rules and Regulations to persons making a request for a copy of such Rules and Regulations. Copying cost (if every participant in the Firefighters Pension and Relief Fund requested one copy) is estimated at \$262.92.

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

Adoption and implementation of the Restated Rules and Regulations for Reciprocal Recognition of Years of Service Credit and Transfer of Credit should not have any 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)

Adoption and implementation of the Restated Rules and Regulations for Reciprocal Recognition of Years of Service Credit and Transfer of Credit should not have any effect on cost and/or economic benefits to any person or entity.

IV. ESTIMATED EFFECT ON COMPETITION AND EM- PLOYMENT (Summary)

Adoption and implementation of the Restated Rules and Regulations for Reciprocal Recognition of Years of

Service Credit and Transfer of Credit should not have any effect on competition and employment.

Maria C. Cangemi
Fund Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration Community Development Section

Louisiana Community Development Block Grant (LCDBG) Program FY 1992 Final Statement

I. Program Goals and Objectives

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 70 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons.

Each activity funded must meet one of the following two national objectives.

A. Principal benefit (at least 60 percent) to low/moderate income persons.

B. Elimination or prevention of slums and blight. In order to justify that the proposed activity meets this objective, the following must be met. An area must be delineated by the grantee which:

1. meets the definition of slums and blight as defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8 (See Appendix 1); and

2. contains a substantial number of deteriorating or dilapidated buildings or public improvements throughout the area delineated. The grantee must describe in the application the area boundaries and the conditions of the area at the time of its designation and how the proposed activity will eliminate the conditions which qualify the area as slum/blight. If an applicant plans to request funds for an activity claiming that the activity addresses the slums/blight objective, the state must be contacted for the specific requirements for this determination/qualification prior to application submittal.

To accomplish these national objectives, the state has established the following goals:

A. strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons;

B. benefit low and moderate income persons;

C. eliminate or aid in the prevention of slums or blight;

or

D. provide for other community development needs having a particular urgency because existing conditions

pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

II. General

A. Application Process. This statement sets forth the policies and procedures for the distribution of LCDBG funds. Grants will be awarded to eligible applicants for eligible activities based on a competitive selection process to the extent that funds are available.

The state shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1992 funds for housing and public facilities will be rated and ranked and funded to the extent that monies are available. The ranking under the FY 1992 program will also be used to determine the grants selected for funding under the FY 1993 LCDBG Program. In other words, the top ranked applications, to the extent that monies are available, will be funded under the FY 1992 Program; the next highest ranked applications will be funded in FY 1993 to the extent that monies are available. Only one application for housing or public facilities can be submitted for FY 1992 funds (with the exception noted under II. G.); that same application will be considered for FY 1993 funds. No new applications for housing and public facilities will be accepted in FY 1993. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1993.

B. Eligible Applicants. Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria (depending on eligibility status which will be determined by the U.S. Department of Housing and Urban Development), Baton Rouge, Bossier City, Terrebonne Parish Consolidated Government, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego), Kenner, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport, Slidell and Thibodaux. Each eligible applicant may only submit an application(s) on its own behalf.

In general and in most instances, the applicant for a particular project will be determined by (will be synonymous with) the location of the potential beneficiaries of that project. There may be instances, however, in which the potential beneficiaries reside within the jurisdiction of more than one local governing body. In those circumstances, the following specific rules will apply:

1. If the proposed project will service beneficiaries that reside in two or more units of general local government and more than 51 percent of those beneficiaries are located within the jurisdiction of one of those units, the appropriate applicant would be the unit of government in which more than 51 percent of the beneficiaries reside.

Only the applicant, not the other units of government involved, for this type of project will have to meet the threshold criteria to be eligible for funding. The applicant will have to enter into a cooperation agreement with the other unit(s) of government involved.

2. If the proposed project will serve beneficiaries that reside in more than one unit of general local government and no more than 51 percent of the beneficiaries are located within the jurisdiction of one of those units, the state will consider this as a joint or multi-jurisdictional application. Such an application will require a meeting with this office prior to submitting the application. The purpose of that meeting will

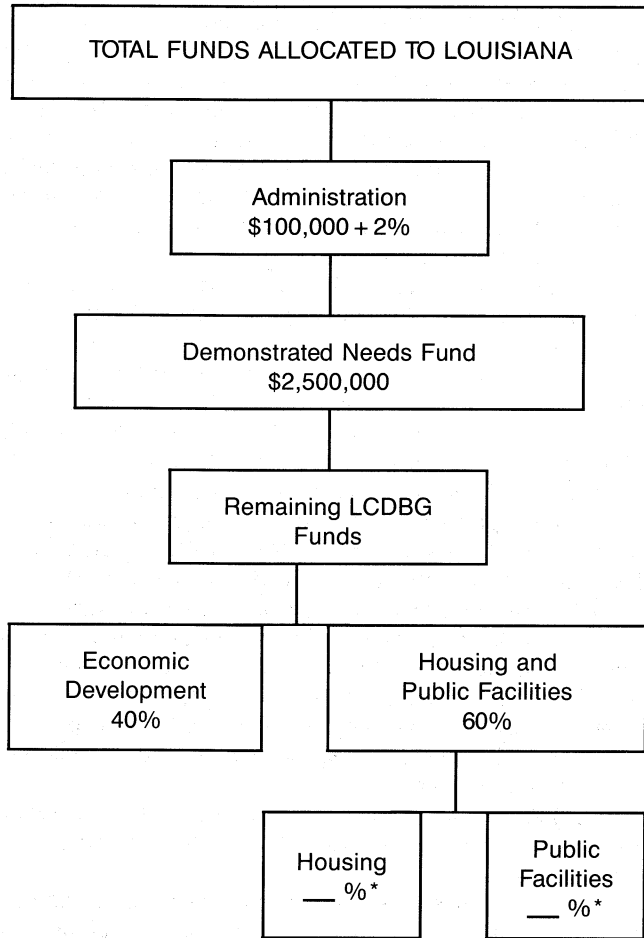
be to determine the appropriate applicant and to explain all of the steps that must be taken by all units of local government involved in the application. All local governing bodies involved in this application must be eligible according to the threshold criteria. The designated applicant (one unit of government) would apply for the grant and act as the representative for the other participating units. Although each jurisdiction would have to make the required certifications, the designated applicant would be responsible for ensuring that the approved activities would be carried out in accordance with all applicable state and federal requirements. To meet the citizen participation requirements for a multi-jurisdictional application, *each* unit of government involved would have to hold the public hearings and publish the notices required for an application. The application would also have to contain individual sets of assurances signed by each local governing body involved. The designated applicant would also have to enter into a legally binding cooperation agreement with each local governing body stating that all appropriate requirements of the Housing and Community Development Act of 1974, as amended, will be complied with; those specific requirements will be discussed during the pre-application meeting with this office. A copy of the cooperation agreement must be included in the application.

C. Eligible Activities. An activity may be assisted in whole or in part with LCDBG funds if the activity meets the provisions of Title 24 of the U. S. Code of Federal Regulations, Subpart C, and the Housing and Community Development Act of 1974, as amended, as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated need.

D. Types of Grants. The state will only accept applications for single purpose grants. A single purpose grant provides funds for one need (water or sewer or housing, et cetera.) consisting of an activity which may be supported by auxiliary activities. Single purpose economic development grants are for one project, consisting of one or more activities.

E. Distribution of Funds. Approximately \$24,000,000 (subject to federal allocation) in funds will be available for the FY 1992 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

FIGURE 1



*The percentage distribution between the housing and public facilities program categories will be based upon the number of applications received and amount requested in each category. Half of the funds will be distributed based on percentage of applications received in each category and half on the basis of amount of funds requested in each category. However, the dollar amount allocated for housing will be no more than 15 percent of the total funds available for housing and public facilities. Subcategories will be established under public facilities based upon the program priorities (sewer systems for collection and/or treatment, water systems addressing potable water and water systems primarily for fire protection purposes) and other type projects. The dollar amount for each of these subcategories will be distributed based upon the percentage of applications submitted and amount of funds requested in each subcategory.

Of the total CDBG funds allocated to the state, up to \$100,000 plus two percent will be used by the state to administer the program.

In addition, \$2,500,000 will be set aside for the Demonstrated Needs Fund. Since the creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, up to 40 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. The 40 percent allocation will be reduced by the amount of funds available for use in the economic development revolving loan fund. That reduction in funds allocated for economic development would then be allocated to the amount provided for housing and public facilities. Only economic development applications will compete for these funds. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the timeframe designated by the state. Public

facilities and housing applications will be funded with the remaining LCDBG funds. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each program category as established under the FY 1992 LCDBG Program. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 15 percent of the funds allocated to housing. Within the maximum 15 percent allocated for housing, an award of up to \$500,000 will be made for an "innovative housing" program. The public facilities category will be allocated in the same manner, by number and dollar amount of applications for sewer (collection and/or treatment), water (potable water and fire protection), and other type projects.

Six months following the date of the state's executed grant agreement with HUD, the status of the monies originally allocated (40 percent minus the amount of the economic development revolving monies) for economic development will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been applied for under the economic development category will then be transferred to the current program year's public facilities category to fund the project(s) with the highest score that was not initially funded. Twelve months following the date of the state's executed grant agreement with HUD, all monies not yet applied for which remain in the original allocation for economic development will be transferred to the current program year's public facilities category to continue to fund the highest ranked project(s) not already funded. In this latter instance, if a determination is made that a particular application for economic development funds will not be funded, the funds reserved for that application will be immediately transferred to the current program year's public facilities category.

F. Size of Grants

1. Ceilings. The state has established a funding ceiling of \$550,000 for housing grants, \$500,000 for an innovative housing grant, \$600,000 for public facilities grants with the exception of sewer grants which have a funding ceiling of \$750,000, and \$225,000 for demonstrated needs grants. The state has established a funding ceiling of \$635,000 for economic development projects involving a loan for the creation of a new business and a funding ceiling of \$1,035,000 for economic development projects involving a grant to the local governing body for infrastructure improvements, and a funding ceiling of \$335,000 for the acquisition, construction or rehabilitation of buildings and improvements (including parking lots) by the local governing body when necessary for the creation/retention of jobs. Projects involving infrastructure improvements and the acquisition, construction, or rehabilitation of buildings and improvements shall have a total combined funding ceiling of \$1,035,000. No funding ceiling is imposed for economic development projects involving a loan for the expansion of an existing business.

Within the ceiling amounts the state allows applicants to request funds for administrative costs with the following limitations. Administrative funds for housing programs cannot exceed 13 percent of the estimated housing costs. Each local governing body will be allowed a *maximum* of \$35,000 in LCDBG funds for administrative costs on public facilities,

demonstrated needs, and economic development projects; within the \$35,000 maximum, the local governing body may utilize *no more than \$30,000* for administrative consulting services. In all instances (including those where the local governing body requests less than the maximum allowed for administrative costs), the local governing body must retain sufficient LCDBG administrative funds to cover its costs of administering the LCDBG Program; such costs on the local governmental level include but are not limited to audit fees, advertising and publication fees, staff time, workshop expenses, et cetera. In addition to the general administrative funds on economic development programs involving a loan to a new business, the state will provide an additional two percent of the estimated economic development project costs or \$3,000 whichever is greater, up to a maximum of \$5,000. These additional funds are specifically dedicated for the grantee to contract with a Small Business Development Center. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for administrative costs; this determination will be made on a case-by-case basis.

Engineering fees may also be requested within the ceiling amounts; the funds allowed by the state will not exceed those established by the American Society of Civil Engineers and/or Farmer's Home Administration. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for engineering costs; this determination will be made on a case-by-case basis.

2. Individual Grant Amounts. Grants will be provided in amounts commensurate with the applicant's program. In determining appropriate grant amounts for each application, the state shall consider an applicant's need, proposed activities, and ability to carry out the proposed program.

G. Restrictions on Applying for Grants

1. With the exception of parishes which have an unincorporated population of more than 25,000, each eligible applicant may apply for one housing or public facilities grant under the FY 1992 LCDBG Program; that application will also be considered for funding under the FY 1993 LCDBG Program. Those parishes which have an unincorporated population of more than 25,000 may submit a maximum of two single purpose applications for housing or public facilities with a combined maximum request of \$1.2 million; the individual amounts requested per application cannot exceed the funding ceiling amount for that particular type of application as identified in Section II.F.1. According to information obtained from the Louisiana Census Data Center as provided by the U.S. Bureau of the Census, those parishes currently include: Acadia, Ascension, Bossier, Caddo, Calcasieu, Iberia, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vermilion, and Vernon.

Any eligible applicant may apply for an economic development project, demonstrated needs grant or innovative housing grant, even those applicants previously funded under the housing and public facilities components. The number of demonstrated needs grants which an eligible applicant may receive during each program year is limited to one.

2. Capacity and Performance: Threshold Consider-

ations for Grant Approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Community Development Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1992 will be made as of the deadline date for submittal of the housing and public facilities applications. Performance and capacity determinations for FY 1993 will be made as of the date the state receives its executed grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a housing or public facilities grant award in FY 1993, the following thresholds must have been met.

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, and FY 1991) awarded by the state have been conditionally closed-out with the following exceptions.

For recipients of economic development awards under the FY 1988, FY 1989, and FY 1990 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1991 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1992 funding;

(b) Audit and monitoring findings made by the state or HUD have been cleared;

(c) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state;

(d) Any funds due to HUD or the state have been repaid or a satisfactory arrangement for repayment of the debt has been made and payments are current.

In order to be eligible for a grant award in FY 1993, the following thresholds must have been met.

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991, and FY 1992) awarded by the state have been conditionally closed-out with the following exceptions.

For recipients of economic development awards under the FY 1989, FY 1990, and FY 1991 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1992 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1993 funding.

Those parishes with an unincorporated population of more than 25,000 (identified in Section II. G. 1) that may have received a grant award under the FY 1992 LCDBG Program will also be eligible for an FY 1993 award if the state makes the determination that the recipient has thus far performed adequately.

(b) Audit and monitoring findings made by the state or HUD have been cleared.

(c) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state.

(d) Any funds due to HUD or the state have been re-

paid or a satisfactory arrangement for repayment of the debt has been made and payments are current.

All applications will be rated upon receipt. Any applications that are determined to be ineligible for FY 1992 funding will be re-evaluated for eligibility for FY 1993 funding.

The state is not responsible for notifying applicants as to their performance status.

The capacity and performance thresholds do *not* apply to applicants for economic development, demonstrated needs, and innovative housing funds with the exception that no award will be made to a previous recipient who owes money to the state unless an arrangement for repayment of the debt has been made and payments are current.

H. DEFINITIONS. For the purpose of the LCDBG Program or as used in the regulations, the term:

1. *Unit of general local government* means any municipal or parish government of the state of Louisiana.

2. *Low/moderate income persons* are defined as those having an income equal to or less than the Section 8 lower income limits as determined by the U. S. Department of Housing and Urban Development. (See Appendices 3 and 4.)

3. *Auxiliary activity* means a minor activity which directly supports a major activity in one program area (housing, public facilities). Note: The state will make the final determination of the validity (soundness) of such auxiliary activities in line with the program intent and funding levels and delete if deemed appropriate.

4. *Slums and blight* is defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8. (See Appendix 1.)

5. *Division* refers to the Division of Administration.

III. METHOD OF SELECTING GRANTEES

The state has established selection and rating systems which identify the criteria used in selecting grantees.

A. Data

1. *Low and Moderate Income.* The low/moderate income limits are defined as being equal to or less than the Section 8 income limits as established by HUD. In order to determine the benefit to low/moderate income persons for a public facility project, the applicant must have utilized either census data (if available) or conducted a local survey. A local survey must be conducted for housing activities and must involve 100 percent of the total houses within the target area. Local surveys which have been conducted within 12 months prior to the application submittal date will be accepted, provided the survey conforms to current program requirements.

(a) *Census Data.* If an applicant in a non-metropolitan area chooses to utilize census data rather than conducting a local survey, the higher of either 80 percent of the 1980 median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state will be utilized to determine the low/moderate income levels. The 1980 annual income limits for low/moderate income persons for each parish is shown in Appendix 4. The FY 1979 median income for non-metropolitan Louisiana was \$15,011; therefore, the non-metropolitan low/moderate income level would amount to \$12,009. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If 1980 census data on income is available by enumeration district, then the division will calculate the applicant's

low/moderate income percentages. The applicant must request this data prior to submittal of the application.

(b) *Local Survey.* If the applicant chooses to conduct a local survey, the survey sheet in the FY 1992 application package must be used. Local surveys *must* be conducted for all housing activities.

When conducting a local survey rather than using 1980 census data, an applicant in a non-metropolitan area will determine the low and moderate income level based on the higher of either 80 percent of the median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state. The annual income limits for low/moderate income persons for each parish are provided in Appendix 3. The FY 1991 median income for non-metropolitan Louisiana was \$25,800; therefore, the non-metropolitan state low/moderate income level would amount to \$20,650 and the low income limit would be \$12,900. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If the applicant chooses to determine low/moderate income based on family size, the following sliding scale *must* be used:

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA* MEDIAN INCOME
1	70
2	80
3	90
4	100
5	108
6	116
7	124
8	132
9	140
10	148

For each additional person in excess of 10, add an additional eight percent.

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low/moderate benefit, a random sample which is representative of the population of the entire target area must be taken. There are several methodologies available to insure that the sample is random and representative. The methodology used must be stated in your application. If you have questions on the methodology to use, you should contact the division for assistance. The appropriate sample size varies with the total number of occupied households in the target area and is determined by using the following formula:

$$n = .9604 \times N \div (.0025N + .9579)$$

Where n = required number of households in sample

Where N = total number of occupied households in target area.

If the situation arises where it must be determined as to whether or not the sample taken was indeed random, then standard statistical tests at the appropriate geographical level will be used.

B. Program Objectives

Each activity must address one of the two national objectives previously identified under Section 1. Program

Goals and Objectives.

C. Rating Systems

All applications submitted for housing, public facilities, and economic development projects will be rated according to the following criteria established for each program category.

Each housing and public facilities application will be rated/ranked against all similar activities in the appropriate program category/subcategory.

1. Housing (Total of 100 points)

All units which will be rehabilitated or replaced must be occupied by low/moderate income persons. Proof of ownership for owner occupied substandard units targeted for housing assistance must be verified by the applicant through the local clerk of court's office or another method which has been approved by the state prior to the submittal of the application. Also, the number of housing target areas may not exceed two. In delineating the target areas, it must be kept in mind that the boundaries must be coincident with visually recognized boundaries such as streets, streams, canals, etc.; property lines cannot be used unless they are also coincident with visually recognized boundaries. All houses rehabilitated within the FEMA 100-year flood plain must comply with the community's adopted flood damage prevention ordinance, where applicable.

(a) Program Impact (Maximum Possible Points-25)

This will be determined by dividing the total number of owner occupied units to be rehabilitated and/or replaced plus vacant units to be demolished in the target area by the total number of owner occupied substandard units in need of rehab and/or replacement plus vacant units in need of demolition in the target area.

$$\frac{\# \text{ of owner occupied units to be rehabilitated and replaced} + \# \text{ of vacant units to be demolished inside the target area}}{\# \text{ of owner occupied substandard units including those in need of demolition and replacement} + \text{vacant units in need of demolition inside the target area}} = \text{Raw Score}$$

of owner occupied substandard units including those in need of demolition and replacement + vacant units in need of demolition inside the target area

The raw scores will be arrayed and the top ranked applicant(s) will receive 25 points. All other applicants will receive points based on how they scored relative to that high score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

No project will be funded that meets less than 75 percent of the identified need.

Rental units which are occupied by low/moderate income persons are eligible as long as the number of rental units to be treated does not exceed 10 percent of the total owner occupied units proposed for rehab; the rehab of rental units will not affect the impact score in any way. All units must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards.

(b) Needs Assessment (Maximum Possible Points-25)

This will be determined by comparing the total number of owner occupied and vacant units to be treated in the target area to the overall needs of the target area.

$$\frac{\# \text{ of owner occupied and vacant units to be treated in target area}}{\# \text{ of units in need of treatment in target area}} = \text{Raw Score}$$

The raw scores will be arrayed and the top ranked applicant(s) will receive 25 points.

$$\text{Needs Assessment Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

(c) Project Feasibility (Maximum Possible Points-50)

This will be rated based upon the project's cost effectiveness and overall needs of the area including housing as well as infrastructure.

2. Innovative Housing

The state will develop the criteria for evaluating applications for innovative housing and will notify all eligible applicants of such through a direct mailing. These applications will be accepted at a different and separate time from the regular housing applications.

3. Public Facilities (Total of 81 Points)

For the purpose of ranking public facilities projects, subcategories will be established (sewer systems for collection and/or treatment, water systems addressing potable water, water systems primarily for fire protection and other).

Any public facilities project that is funded must completely remedy existing conditions that violate a state or federal standard established to protect public health and safety.

(a) Benefit to Low/Moderate Income Persons (Maximum Possible Points-10)

Projects consisting of more than one activity which involve different numbers and percentages of beneficiaries for each activity must specifically identify the numbers and percentages for each activity.

Percent of Low/Moderate Income (Maximum Possible Points-5)

The percentage of low/moderate income persons benefitting will be calculated by dividing the number of low/moderate income persons benefitting (as defined by the state) by the total persons benefitting. Points for percentage of low/mod benefitting will be assigned according to the following ranges:

- 90% or more - 5 points
- at least 80% but less than 90% - 4 points
- at least 70% but less than 80% - 3 points
- at least 60% but less than 70% - 2 points
- less than 60% - 0 points

Number of Low/Moderate Income (Maximum Possible Points-5)

Points for the number of low/moderate income persons benefitting will be assigned according to the following ranges:

- 500 or more - 5 points
- 200 to 499 - 4 points
- less than 200 - 3 points

(b) Cost Effectiveness (Maximum Possible Points-20)

Cost estimates per person benefitting will be carefully evaluated. The cost per person benefitting will be calculated for all projects. All applicants for the same type project (sewer systems for collection and/or treatment, potable water, water for fire protection, and other) will be grouped and each of these groups will then be grouped by whether the

project is for a new system, improvements to an existing system, or both. Once all of these separate groups are established, they will be separated into categories based on the number of persons benefitted. An average cost per person benefitting will then be determined for each of these categories. Each applicant in a given category will be scored relative to the average cost per person figure determined for that given category. An average cost project will receive 10 points, a project with a lower than average cost per person benefitting will receive more than 10 points (a maximum of 20), and a project with higher than average cost per person will receive fewer than 10 points. The following formula will be used to determine the cost effectiveness points for each applicant in each grouping:

$$\text{CE Points} = \frac{\text{Average Cost per Person Benefitted}}{\text{Applicant Cost per Person Benefitted}} \times 10$$

If the calculation yields more than 20, it will be revised downward to the 20 point maximum. This will allow all applications for new sewer systems, sewer system repairs, new water systems, water system repairs, etc. to be rated against similar type projects. It also allows those projects benefitting many people and those benefitting few people to be rated against other projects helping a similar number of persons.

(c) Project Severity (Maximum Possible Points-50)

This will be rated based upon the severity of the problem and extent of the effect upon the health and welfare of the community. Priority will be given to sewer systems for collection and/or treatment and water systems addressing potable water and fire protection.

In assigning points for project severity, the following general criteria will be critiqued for the type of project proposed.

Water systems primarily for fire protection purposes - well capacity, reliability of supply, amount of water stored, extent of hydrant coverage or spacing, and water pressure and volume for fire fighting. A comprehensive approach must be taken for the target area as all factors relating to the remedy of fire protection problems will be assessed. If funds are requested for a fire truck, the service area of that truck will also be evaluated for availability of water, size of lines, hydrant spacing, et cetera. For example, if a community applies for a fire truck which would serve an area having water lines of an inadequate size, a lower overall rating will be assigned.

Water systems addressing potable water and sewer systems - the existence of conditions in violation of those provisions of the State Sanitary Code that most directly safeguard public health and the adequacy of the proposed improvements to eliminate such conditions. Compliance with the Environmental Quality Act will also be taken into consideration for all projects involving sewerage treatment facilities. The assessment will be based upon the problem as documented by DHH and DEQ records, the relative degree of risks to human health posed and the number of persons most directly affected.

Problems that are generally attributable to a lack of routine operation and maintenance will result in a less favorable evaluation. The proposed actions to eliminate verified problems will be evaluated in terms of the direct applicability of the solution; superfluous or inadequate solutions will result in a lowering of the overall rating.

(d) Use of Local Funds (Maximum Possible Points-1)

Those applicants which inject local funds into project construction will receive one bonus point. This point will only be assigned when the amount of local funds meets or exceeds 10 percent of the total construction costs (including contingencies but excluding administrative and engineering services costs). The 10 percent calculation will not include any local funds which will be used to pay for any engineering and/or administrative services but will include any local funds which will be used to pay off loans received from other state, federal, or private sources.

4. Economic Development

The economic development program category involves two types of projects: loans to a business/developer and grants to the local governing body. The specific requirements of each type are identified herein and must be adhered to according to type. Although most economic development awards will involve only one type, both types (loan and grant) may be involved in one award.

The economic development loan set aside is to be used to provide loans to businesses for job creation or retention projects. The LCDBG economic development funds go from the state to the local unit of government to the private developer. A three-way agreement (contract) is signed by these three participants, and other parts of the application are reviewed by them to ensure a complete understanding by the three parties of the planned development, the expected number of jobs to be created or retained, the sources and uses of all funds to be committed to the project, the payback arrangements for all funds borrowed, the security assigned to each loan granting institution or agency, the financial and other reporting requirements of the developer and the local unit of government to the state, and all other obligations of the developer, the local governmental unit and the state.

An application for LCDBG economic development funds may be submitted at any time during the year.

The term *developer* shall mean the corporate entity as well as the individual investors, stockholders, and owners of the applicant business. As an example of the effect of this definition, an LCDBG economic development loan to Company A cannot be used to purchase equipment, land, etc. from Company B, when both Company A and Company B are substantially owned by one or more of the same individuals.

The state will recoup 100 percent of the payback of LCDBG economic development loans (program income to the state) unless the local governing body will utilize the payback for expansion of the originally funded development. These program income funds received by the state will be placed in an Economic Development Revolving Loan Fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income. The interest rate charged on the LCDBG economic development loan depends on the financial and cash flow projections of the applicant business. This rate will be determined in the application review.

In some instances it may be necessary and appropriate for a local unit of government to receive a grant for infrastructure improvements or the acquisition, construction, or rehabilitation of a building needed by a specific developer before his proposed job creation project can be fully imple-

mented. This economic development grant could be used by the local unit of government to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used to acquire, construct, or rehabilitate a building or to create a general industrial park project with the hope that a business client will then be attracted. It must be tied to a specific developer creating a specific number of jobs for low to moderate income people. Although the grant will be tied to a specific developer, all/any other developments that occur within the life of the program as a result of the infrastructure improvements must also be considered to fall under LCDBG requirements. Therefore, when preparing the closeout documents, the job creation/retention and low/moderate income figures would be the total of all of the benefitting businesses in aggregate.

It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure. The developer must provide sufficient financial and other statements, projections, et cetera to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified time-frame.

Certain assurances by the developer, related to the timing of his development on the site, will be required. Other agreements between the local governing body and the developer/property holder, relative to public rights of way, et cetera will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure or building acquisition, construction, or rehabilitation type project grant is \$10,000 per job created or retained, with a \$1,035,000 limit for infrastructure improvements on any single project (including a building and improvements) or a \$335,000 limit for the acquisition, construction, or rehabilitation of a building and improvements, including parking lots. In those instances where a local governing body has received a grant for the acquisition, construction, or rehabilitation of a building and improvements and the building is sold within 10 years of the purchase date, an amount equal to the original purchase price (excluding any lease payments previously made to the state) shall be returned to the state.

The following five requirements must be met by all economic development applicants.

A. A firm financial commitment from the private sector will be required upon submission of the application.

For a loan, the private funds/public funds ratio must not be less than 1:1 for manufacturing firms with Standard Industrial Code classifications of 20-39. A private to public ratio for nonmanufacturing firms must have a ratio of 2.5:1.

For a grant to the local governing body for infrastructure improvements, the private funds/public funds ratio for a grant of less than \$500,000 must be 1:1 and for a grant of \$501,000 to \$1,000,000 must be 2:1. For a grant to the local governing body for the acquisition, construction, or rehabilitation of a building and improvements for economic development, the private funds/public funds ratio must be 1:1.

In addition, the state must be assured that non-manufacturing projects will have a net job creation impact on the community and not simply redistribute jobs around

the community.

Private funds must be in the form of a developer's cash or loan proceeds. Revenues from the sale of bonds may also be counted if the developer is liable under the terms of the bond issue. Previously expended funds will not be counted as private funds for the purpose of this program, nor will private funds include any grants from federal, state or other governmental programs, nor any recaptured funds. The value of land, buildings, equipment, et cetera already owned by the developer and which will be used in the new or expanded operation, will not be considered as private match.

Personal endorsement from all principals of corporations, partnerships, or sole proprietorships shall be required on the LCDBG loan documents. The principals shall: 1) endorse the LCDBG loan to the corporation and 2) guarantee the payment and fulfillment of any obligation of the corporation. These endorsements will be made jointly to the local government and state of Louisiana.

Normally, a principal is defined as owning five percent or more of the business.

B. If cost per job created or retained exceeds \$15,000 for a loan to a developer or \$10,000 for a grant to the local governing body, applications will not be considered for funding.

C. A minimum of 10 jobs created or retained is required for LCDBG economic development assistance.

D. A minimum of 60 percent of the employment will be made available to people who at the time of their employment are living in households whose total income is below the low to moderate income limit for the parish where the development occurs (see Appendix 3).

E. The application must include documentation showing that the project is feasible from the management, marketing, financial and economic standpoints. Management feasibility has to do with the past experience of the developer in managing the type of project described in the application, or other similar managerial experience. Marketing feasibility deals with how well the market for the product has been documented at the application stage - the best case being that the developer has verifiable commitments substantiating the first year's sales projection. A typical market study includes a detailed analysis of competition, the expected geographical sales plan, and letters of intent to buy, specifying quantity and price. Economic feasibility relates to whether or not the developer has realistic projections of revenues and variable costs, such as labor and cost of materials, and whether they are consistent with industry value added comparisons. An assessment will be made of the industry sector performances for the type of industry/business described in the application. Financial feasibility has to do with the ability of the firm to meet all of its financial obligations in the short and long run, determined by a cash flow analysis on the financial history and projections of the business. In analyzing the financial feasibility of a project, the state may suggest alternatives in the timing of expenditures, the amount and proposed use of public and private funds, as well as other financial arrangements proposed in the application.

For an application to be funded, the state must be assured that: the project is credit worthy; there is sufficient developer equity; the LCDBG funds will be efficiently and effectively invested; the maximum amount of private and the

minimum amount of public funds will be invested in the project; the project will make an adequate return in the form of public benefits commensurate with the money invested; the state and the local community will not assume a disproportionate amount of risk in the project; and, the state and the community will receive an adequate security interest proportionate to the LCDBG funds invested in the project.

Default: The local governing body shall be ultimately responsible for repayment of the contract funds which were provided by the state.

The state shall look to the local governing body for repayment of all funds disbursed under this contract and default by the developer shall not be considered as just cause for non-payment by the local governing body. In case of a default by the local governing body in the repayment of contract funds to the state, in accordance with the terms and conditions of the contract, the full sum remitted to the local governing body shall become due and payable to the state upon demand, without the need of putting the local governing body in default.

The state shall deem the local governing body in default, regardless of the fact that the default was precipitated by the developer, to the extent that the local governing body failed to perform its contractual obligations in good faith.

D. Demonstrated Needs Fund

A \$2.5 million reserve fund will be established to alleviate critical/urgent community needs. The ceiling amount for demonstrated needs projects is \$225,000.

An application cannot be submitted for consideration under this fund if the same application is currently under consideration for funding under any other LCDBG program category.

Subject to the availability of funds, projects that meet the following criteria will be funded:

1. General Eligibility

Proposed activities must be eligible under Section 105 (a) of the Housing and Community Development Act of 1974, as amended (see Appendix 2). These funds will only be awarded, however, to projects involving improvements to existing utility systems.

Each proposed activity must address one of the two national objectives.

2. Critical/Urgent Need - Project Severity

Each activity must address a critical/urgent need which can be verified by an appropriate authority, (cognizant state or federal agency), other than the applicant as having developed within six months prior to submittal of the application.

The project evaluation request will be submitted to the appropriate cognizant agency by the applicant. In addition to the stipulation that the critical/urgent need must have developed within six months prior to submittal, the cognizant agency will rate the severity or urgency of the project on a scale of 1 to 10 based upon the same criteria established by the cognizant agency for determining program severity for public facilities projects. Only those projects receiving a rating of nine or ten from the cognizant agency will be fundable.

3. Application Requirements

All items and forms necessary for a regular public facilities application will also be required for demonstrated needs. An application will not be considered unless all items, including the completed evaluation form from the

cognizant agency, are included in the application package.

E. Submission Requirements

Applications shall be submitted to the Division on forms provided by the Division and shall consist of the following:

(1) Program Narrative Statement. This shall consist of:

i. Identification of the national objective(s) that the activity will address.

ii. A detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street serving as a boundary of the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also required for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated. If the applicant is applying for a public facilities project, the description must specifically describe what means will be taken by the applicant to ensure that adequate revenues will be available to operate and maintain the proposed project; the description must identify the source of and estimated amount of funds that will be generated for this purpose.

iii. A statement describing the impact the activity will have on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(2) Map. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific locations of each activity.

(3) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(4) Title VI Compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(5) Certification of Assurances. The certificate of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certificate includes, but is not limited to, Title VI, Title VIII, and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be

strictly adhered to; otherwise, the grant award will be subject to penalty.

(6) Certification to Minimize Displacement. The applicant must certify that it will minimize displacement as a result of activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and nonresidential property not governed by the Uniform Relocation Act.

(7) Certification of Residential Antidisplacement and Relocation Assistance Plan. The applicant must certify that it has developed and is following a residential antidisplacement and relocation assistance plan. The plan must include two components - a requirement to replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of LCDBG assistance and a relocation assistance component.

(8) Certification to Promote Fair Housing Opportunities. Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) Certification Prohibiting Special Assessments. The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) Certification of Citizen Participation. Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an adequate opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. At least one public hearing must be held prior to application preparation in order to obtain the citizens' views on community development and housing needs. A notice must be published informing the populace of the forthcoming public hearing; a minimum of five calendar days is required for this notice. The notice must inform the citizens that accommodations will be provided for individuals with handicaps and non-English speaking persons. Citizens must be provided with the following information at the hearing:

- i. the amount of funds available for proposed community development and housing activities;
- ii. the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;
- iii. the plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities;
- iv. if applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published *after* the first public hearing has been held but *before* the application is submitted. The second notice must inform citizens of the

proposed objectives, proposed activities, the location of the proposed activities and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the proposed submittal date of the application. In order to provide a forum for citizen participation relative to the proposed activities, a second hearing must be held to receive comments and discuss the proposed application. The details on this second hearing should be included in the second public notice. The notice must inform the citizens that accommodations will be made for individuals with handicaps and non-English speaking persons. The second public hearing must also be held prior to the submittal of the application.

Applicants must submit a notarized proof of publication of each public notice.

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the LCDBG program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide opportunity to comment on the applicant's community development performance. In order to achieve these goals each applicant shall prepare and follow a written citizen participation plan that incorporates procedures for complying with the following regulations (a-f). The plan must be made available to the public at the beginning of the planning stage, i.e., the first public hearing.

The written plan must:

(a) provide for and encourage citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

(b) provide citizens with reasonable and timely access to local meetings, information, and records relating to the state's proposed method of distribution, as required by regulations of the secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended;

(c) provide for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(d) provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped and non-English speaking persons;

(e) provide for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(f) identify how the needs of non-English speaking and handicapped residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(11) Certification Regarding Lead-Based Paint. The applicant must certify that its notification, inspection, testing, and abatement procedures concerning lead-based paint are in compliance with Section 570.608 of the Housing and Community Development Act of 1974, as amended.

(12) Certification on Excessive Use of Force. This certification will require each unit of general local government to be distributed Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent Civil Rights demonstrations in accordance with Section 519 of Public Law 101-144 (the 1990 HUD Appropriations Act).

(13) Certification Regarding Government-Wide Restrictions on Lobbying. The applicant must certify that no federally appropriated funds have been paid for any lobbying purposes regardless of the level of government.

(14) Certification Prohibiting Discrimination of Handicapped Individuals. Applicants shall provide written certification that as a recipient of LCDBG funds, and subject to Section 504 of the Rehabilitation Act of 1973, as amended, they will prohibit discrimination based on handicap under any program or activity, in whole or in part, receiving federal financial assistance from the Department of Housing and Urban Development. This certification guarantees that the recipient will complete a self-evaluation and transition plan, if applicable, and actively pursue remedying discrimination based on handicap as required by Section 504. This certification further obligates the recipient for the period during which federal financial assistance is extended.

(15) The state may require additional certifications from applicants/recipients whenever so required by federal regulations.

(16) Local Survey Data. Those applicants who conduct a local survey to determine specific data required for the application must include one copy of all completed survey forms.

(17) Submission of Additional Data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. Application Review Procedure.

(1) The application must be mailed or delivered prior to any deadline dates established by the Division. The applicant must obtain a "Certificate of Mailing" from the post office, certifying the date mailed. The Division may require the applicant to submit this Certificate of Mailing to document compliance with the deadline, if necessary.

(2) The application submission requirements must be complete.

(3) The funds requested must not exceed the ceiling amounts established by the Division.

(4) Review and Notification. Following the review of all applications, the Division will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for Conditional Approval. The Division may make a conditional approval, in which case the grant will be approved, but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termina-

tion of the grant. Conditional approval may be made:

i. where local environmental reviews have not yet been completed;

ii. where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;

iii. to ensure the project can be completed within estimated costs.

iv. to ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time.

(6) Criteria for Disapproval of an Application. The Division may disapprove an application for any of the following reasons.

i. Based on a field review of the applicant's proposal or other information received, it is found that the information was incorrect; the Division will exercise administrative discretion in this area.

ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, area wide, or state comprehensive planning data;

iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.

iv. The activities cannot be completed within the estimated costs or resources available to the applicant;

v. The proposed activity is not eligible for funding or one of the two national objectives is not being met.

G. Program Amendments for LCDBG Program.

The Division may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior Division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

1. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

2. All amended activities must receive environmental clearance prior to construction.

3. The state will ascertain as to whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project *and* which are not located within the boundaries of the originally approved target area will *not* be approved.

IV. Administration

Rule for Policy Determination. In administering the program, while the Division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The Division reserves the right to exercise this discretion in either interpreting or establishing new policies.

V. Redistribution of Funds

Any monies awarded by the state that are later recaptured by or returned to the state will be reallocated in accordance with the Division's policy, then in effect. The

sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, et cetera.

With the following exceptions and the stipulations identified in Section II.E., the monies as defined above will be placed in the current program year's public facilities category and will be used to fund the project(s) with the highest score that was not initially funded. This policy will govern all such monies as defined herein from the FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991 and FY 1992 LCDBG program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development grants/loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category at the end of the FY 1992 program year will be transferred to the public facilities category for distribution as described in Section II. E. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income.

These regulations are to become effective upon publication as a "rule" in the *Louisiana Register*, and are to remain in force until they are amended or rescinded. Anyone having any comments should submit them in writing by September 13, 1991, to Susan Elkins, Policy and Program Manager, Community Development Section, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

APPENDIX 1

Act 590 of the 1970 Parish Redevelopment Act Section Q-8

(8) *Slum area* means an area in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open space, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or an area of open land which, because of its location and/or platting and planning development, for predominantly residential uses, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) *Blighted area* means an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which en-

danger life or property by fire and other causes, or any combination of such factors which substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use; but if the area consists of any disaster area referred to in Subsection C (5), it shall constitute a "blighted area."

APPENDIX 2

Eligible Activities

Sec. 105.(a) Activities assisted under this Title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this Title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this Title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this Title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by the such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this Title, and which are to be

used for such services, unless the secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this Title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this Title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculations yields the higher amount;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this Title;

(10) payment of the cost of completing a project funded under Title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this Title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, or entities organized under Section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of Section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new fa-

cilities) in which elderly families (as defined in Section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provisions of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under Subparagraphs (A) through (E);

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937;

(19) (a) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low- and moderate-income persons (A) where the need for reconstruction was not determinable until after rehabilitation under this Section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction; and

(20)* provision of direct assistance to facilitate and expand homeownership among persons of low- and moderate-income (except that such assistance shall not be considered a public service for purposes of Paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts of low- and moderate-income homebuyers;

(B) finance the acquisition of low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtaining by low- moderate-income homebuyers from private lenders (except that amounts received under this Title may not be used under this Subparagraph to directly guarantee such mortgage financing and grantees under this Title may not directly provide such guarantees);

(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyers; or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.

(b) upon the request of the recipient of assistance under this Title, the secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under Subsection (a)(4).

(c)(1) In any case in which an assisted activity described in Paragraph (14) or (17) of Subsection (a) is identified as principally benefitting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in Subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) the requirements of Subparagraph (A) do not prevent the use of assistance under this Title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the secretary determines that—

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee. The percentage of the cost of the development, establish-

ment, and operation of such a system that may be paid from assistance under this Title and that is considered to benefit low- and moderate-income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this Title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

*Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act provides the following termination for Sec. 105(a)(20):

(2) TERMINATION.—Effective on October 1, 1992 (or October 1, 1993, if the secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under Title II of the Cranston-Gonzalez National Affordable Housing Act), Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by inserting "and" at the end;

(B) in paragraph 19, by striking "; and" at the end and inserting a period;

(C) by striking paragraph (20).

APPENDIX 3

1991 Median Family Income
By Parish and MSA

<u>Parish</u>	<u>1991 Median Family Income</u>	<u>Low/Mod Income*</u> <u>Limit</u>	<u>Low Income*</u> <u>Limit</u>
Acadia	\$ 23,200	\$ 20,650	\$ 12,900
Allen	26,900	20,650	12,900
Ascension	See MSA - Baton Rouge		
Assumption	28,000	22,400	13,600
Avoyelles	19,500	20,650	12,900
Beauregard	29,900	21,900	12,900
Bienville	25,200	20,650	12,900
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	22,900	20,650	12,900
Cameron	35,300	25,900	13,900
Catahoula	20,800	20,650	12,900
Claiborne	26,500	21,200	13,250
Concordia	24,700	20,650	12,900
Desoto	27,100	21,700	13,550
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	18,800	20,650	12,900
East Feliciana	33,800	25,300	12,900
Evangeline	21,300	20,650	12,900
Franklin	21,600	20,650	12,900
Grant	22,400	20,650	12,900
Iberia	30,200	24,150	15,100
Iberville	36,200	27,050	12,900
Jackson	25,200	20,650	12,900
Jefferson	See MSA - New Orleans		
Jefferson Davis	30,300	22,250	12,900
Lafayette	See MSA - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	24,800	20,650	12,900
Lincoln	30,400	24,300	15,200
Livingston	See MSA - Baton Rouge		
Madison	19,300	20,650	12,900
Morehouse	23,500	20,650	12,900
Natchitoches	24,300	20,650	12,900
Ouachita	See MSA - Monroe		
Plaquemines	34,300	27,450	17,150
Pointe Coupee	31,100	23,300	12,900
Rapides	See MSA - Alexandria		
Red River	22,800	20,650	12,900
Richland	21,900	20,650	12,900

Footnotes:

¹Includes Rapides Parish only.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Terrebonne and Lafourche Parishes.

⁴Includes St. Martin and Lafayette Parishes.

⁵Includes Calcasieu Parish only.

⁶Includes Ouachita Parish only.

⁷Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.

⁸Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, February 1, 1991.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Acadia	\$ 15,792	\$12,634	\$ 8,844	\$ 7,896	\$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA - Shreveport				
Caddo	See MSA - Shreveport				
Calcasieu	See MSA - Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
DeSoto	14,887	11,910	8,337	7,444	5,211
East Baton Rouge	See MSA-Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA-Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872
Jefferson	See MSA - New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA - Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA - Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Natchitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA - New Orleans				
Ouachita	See MSA - Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA - Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239
Sabine	13,519	10,815	7,571	6,760	4,732

Footnotes:

¹Includes Rapides and Grant Parishes.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Lafayette Parish only.

⁴Includes Calcasieu Parish only.

⁵Includes Ouachita Parish only.

⁶Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.

⁷Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Dennis Stine
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Louisiana Community Development Block
Grant (LCDBG) Program - FY 1992 Final Statement**

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

Approximately \$580,000 in federal funds will be provided to administer the LCDBG Program; a state match of \$480,000 is required and will be allocated in the division's budget over a six-year period. As in the past, the state will maximize the use of in-kind services to match the federal funds.

To ensure that the local units of government do not have to expend local funds to administer these grants, administrative funds are provided in the grant to cover the cost of program implementation.

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

The state anticipates receiving approximately \$24,000,000 of which \$23,420,000 will be used to benefit local governing units in the areas of housing, public facilities, and economic development. The distribution of these funds will slightly increase the amount previously available for housing and public facilities and slightly decrease the amount previously available for economic development; this shift would involve approximately \$800,000.

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

The LCDBG Program basically benefits persons of low/moderate income throughout the state. Although slightly less persons will receive benefits from economic development projects, more persons will receive benefits from housing assistance and from infrastructure improvements (water and sewer systems).

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

All construction projects are subject to state and federal bid laws. All professional contracts must be awarded in accordance with OMB Circular A-102.

The allocation of less funds to economic development projects will result in approximately one less business receiving financial assistance. This will be offset by the fact that more monies will be available to small contractors participating in the housing rehabilitation program and to construction contractors participating in the public facilities program.

Dennis Stine
Commissioner of Administration

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Division of Administration, Office of Telecommunications Management hereby gives notice in accordance with

R.S. 39:1751-1755 et seq., and R.S. 39:140-143 that it intends to amend LAC 4:IX relative to telecommunications.

Title 4

ADMINISTRATION

Part IX. Telecommunications

Chapter 20. Delegation of Authority

§2001. Delegation of Authority

The Office of Telecommunications Management may delegate in writing the authority for specific, limited telecommunications activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 17:

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., August 30, 1991 at the following address: Rhonda Brown, Box 94280, Baton Rouge, LA 70804-9280.

Joseph A. Lanier
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Delegation of Authority LAC 4:IX.2001**

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

There is no implementation cost or savings.

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

There is no effect on revenue collected.

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

There is no direct economic effect on any person or non-governmental group.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No effect on competition or employment is expected.

Joseph A. Lanier
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Division of Administration, Office of Telecommunications Management hereby gives notice in accordance with R.S. 39:1751-1755 et seq., and R.S. 39:140-143 that it intends to amend LAC 4:IX relative to telecommunications.

Title 4

ADMINISTRATION

Part IX. Telecommunications

Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services

§503. Approval Criteria

A. When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services.

B. The non-state entities shall be either:

1. political subdivisions created by statute;
2. state credit unions;
3. Blind Services approved operators in state buildings; or,
4. the working press with offices in the State Capitol.

C. A non-state entity may be required to supply documentation or evidence of its creation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), re-promulgated LR 10:80 (February 1984), LR 17:267 (March 1991), amended LR 17:

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., August 30, 1991 at the following address: Rhonda Brown, Box 94280, Baton Rouge, LA 70804-9280.

Joseph A. Lanier
Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Non-State Entity Use of Telecommunications Services LAC 4:IX.503

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

There is no implementation cost or savings.

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

There is no effect on revenue collected.

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

There is no direct effect on any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is expected.

Joseph A. Lanier
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Chiropractic Examiners**

Pursuant to R.S. 49:951, et seq., the Louisiana State Board of Chiropractic Examiners intends to adopt, amend, and repeal rules relative to advertising practices, patient billing, and the general practice of chiropractic. Written and oral comments and inquiries may be made to Dr. J. Michael Flynn, D.C., at 5800 One Perkins Place, Suite 5-C, Baton Rouge, LA 70808.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXVII. Chiropractors**

Chapter 3. Professional Conduct

§306. Itemized Patient Billing

A. When a chiropractic physician licensed under this Chapter renders professional services to a patient, the chiropractic physician shall submit to the patient, concurrent with the submission to the patient's insurance company or to the administrative agency for any federal or state or municipal health program under which the patient is entitled to benefits; an itemized statement of the specific services rendered and the charge for each. This information shall be given to the patient within 30 days or the next regular billing cycle of the doctor, whichever occurs first. This rule will apply to any doctor who:

1. Takes assignment as full payment from the patient.
2. Offers any discount in connection with the treatment or agrees to accept insurance payment for full settlement of the patient's bill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2803E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15: (November 1989).

TO AMEND TITLE 46, PART 27, CHAPTER 3, §307 TO CREATE SECTION I AND TO RENUMBER PRESENT SECTION I TO SECTION K

§307. Advertising Practices

1. Computer generated, or live, unsolicited, telephone canvassing, to prospective new patients shall be (is) prohibited.

2. Cash Payments for patient referrals is prohibited.

J. Any letter or other writing sent by a chiropractor licensed in this state to a person, not then a patient of that chiropractor, for the purpose of soliciting business and/or informing that person of the chiropractor's services shall have the word "advertisement" stamped in red letters of at least 10 point type in size on the front page of said letter.

1. Any targeted mail solicitation of potential plaintiffs or claimants in personal injury cases may only be mailed if 30 days have elapsed since the date of the accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816 (C).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976), amended LR 5:174 (July 1979), LR 13:343 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners,

LR 15:963 (November 1989), amended LR 17:

Chapter 7. Peer Review Committee

§702. Guidelines

For the purpose of claims review, this board authorizes the use of The Chiropractic Manual, 2nd Edition as a guideline for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of case, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 17:

§703. Procedure for Review

* * *

B. The review will be conducted upon request by any party as defined in Section 701(F). Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

* * *

E. Appeals Process

An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing, either be:

1. Submitted to the members of Board of Examiners for review.

a. Any person aggrieved by a decision of the Peer Review Committee shall submit to the board within 10 days of receipt of notice of the ruling of the Peer Review Committee a notice of intent to appeal. All notices shall be forwarded via certified mail.

b. Upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date.

c. The Peer Review Committee will then transfer the record to the board.

d. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing.

e. The parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes.

f. The decision of the Board of Chiropractic Examiners shall be final.

2. Placed in Binding Arbitration

a. Arbitration shall be conducted by a committee of three chiropractors: one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. All parties involved shall agree in advance to abide by the decision of the arbitration committee.

b. The aggrieved party shall notify the board of his

intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the Peer Review Committee. All notices shall be forwarded via certified mail.

c. The board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator.

d. The arbitration panel will schedule a hearing within 60 days of the formation of the panel.

e. The Peer Review Committee will forward the record to the arbitration committee.

f. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing Party may reply within 10 days of the scheduled hearing.

g. The parties may present oral argument to the Arbitration Committee at the appeal hearing. Each party will be allowed 20 minutes.

h. The decisions of the Peer Review Committee shall be final.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17:

Interested persons may present their views at a public hearing on August 27, 1991 at 10 a.m., at 5800 One Perkins Place, Suite 5-C, Baton Rouge, LA.

Dr. J. Michael Flynn, D.C.
Board President

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Chiropractors - Professional and Occupational Standards

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

There are no estimated implementation costs other than the costs of printing and publication.

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

There will be no effect on revenue collections of state or local governmental units.

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

Any costs and/or economic benefits to affected persons are not quantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

J. Michael Flynn D.C.
Board President

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953(B), that the Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6) and 37:1360.24, and the provisions of the Administrative Procedure Act, intends to amend its rules governing the certification and practice of physician's trained assistants. LAC 46:XLV, Subpart 2, §1501-1519; Subpart 3, §4501-4515. Copies of these proposed rules may be obtained from the Office of State Register, 1051 Riverside North, Baton Rouge, LA. Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Physician's Assistants Certification
and Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rules amendments will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rules amendments will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is not anticipated that implementation of the proposed rules amendments will have a material effect on costs, paperwork or workload of persons holding certification as physician's assistants or on their supervising or employing physicians.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and 1275, and the provisions of the Administrative Procedure Act, intends to adopt a rule providing for a provisional temporary permit to be issued to applicants for medical licensure who are required to possess an H-1 or equivalent visa, but whose application therefor is pending with the U.S. Immigration and Naturalization Service. The proposed rule, LAC 46:XLV, Subpart 2, Chapter 4, §401, is set forth below.

§401. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

- 1. 90 days from the date of issuance of such permit;
- 2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
- 3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to Subsection B(1) of this Section, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17: Interested persons may submit data, views, arguments, information or comments on the proposed rule, in writing, to Mrs. Delmar Rorison, Board of Medical Examiners, Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation,

arguments or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Physicians & Surgeons Temporary Permit
Pending Application For Visa**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is not anticipated that implementation of the proposed rule will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rule will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

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 November 21-22, 1991 meeting, intends to amend LAC 46:XLVII.3503.

Public notification made herein indicates no final approval.

The public is made aware of the proposed changes in compliance with R.S. 49:950 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3503. Definitions

G. Curriculum: The planned studies and learning activities designed to lead to graduation and eligibility for registered nurse licensure.

1. *preceptorship experience:* An individual teaching-learning strategy in which a nursing student participates in clinical nursing practice while assigned to a preceptor.

H. *Faculty:*

3. *Preceptor:* A registered nurse who is employed in a clinical setting and serves as a role model, resource person, and clinical teacher to enhance the learning experiences of a nursing student on a one-to-one basis for a specified time.

Written comments may be addressed to Betty N. Adams, Ph.D., R.N., Associate Director/Nursing Consultant for Education, Louisiana State Board of Nursing, 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112 until 4:30 p.m., on August 9, 1991.

Betty N. Adams, Ph.D., R.N.
Associate Director/Nursing Consultant
for Education

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Chapter 35: Nursing Educational Definitions

- 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)
This rule will benefit administrators and educators to enhance instruction and learning in nursing education programs through the utilization of registered nurses as preceptors to nursing students during clinical learning experiences.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment in nursing.

Betty N. Adams
Associate Director/Nursing
Consultant for Education

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 November 21-22, 1991 meeting, intends to amend LAC 46:XLVII.3541.

Public notification made herein indicates no final approval.

The public is made aware of the proposed changes in compliance with R.S. 49:950 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3541. Preceptorship Learning Experiences

A. Nurse faculty shall retain the responsibility for selecting and guiding student learning experiences and the evaluation of student performance with input from preceptors.

B. Preceptor experiences for students shall only occur during the last two academic semesters of a baccalaureate program and during one of the last two semesters of a diploma or associate degree program.

C. The total preceptorship experience shall be limited to a maximum of 25 percent of the total clinical weeks in the program of study. Students required to repeat courses in which preceptorship experiences are conducted due to academic failure or withdrawal are excepted.

D. Preceptors shall be selected according to written criteria jointly developed by faculty, nursing administration in the clinical facility, and in accordance with guidelines established by the Board of Nursing.

E. A faculty member shall be available to preceptors while students are involved in a preceptorship experience.

F. The educational program shall maintain a ratio of not more than 12 students to one faculty member for the preceptorship experience.

G. The faculty member shall confer with each preceptor and preceptee at least once during each daily learning experience.

H. The preceptor shall have at least two years of practice as a R.N. and a minimum of one year in the clinical area in which the preceptorship experience occurs.

I. The preceptor shall have attained the educational preparation of the graduates of the program conducting the preceptorship experience. It is preferable that all hold at least a Baccalaureate in Nursing. Preceptors shall hold a minimum of a Baccalaureate Degree in Nursing, effective January 1, 1996.

J. There shall be one preceptor for each preceptee.

Written comments may be addressed to Betty N. Adams, Ph.D., R.N., Associate Director/Nursing Consultant for Education, Louisiana State Board of Nursing, 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112 until 4:30 p.m., on August 9, 1991.

Betty N. Adams, Ph.D., R.N.
Associate Director/Nursing Consultant
for Education

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Chapter 35: Nursing Educational Preceptorship Learning Experiences

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

There are no estimated implementation costs to state or local governmental units.

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

There is no estimated effect on revenue collections of state or local governmental units.

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

This rule will benefit administrators and educators to enhance instruction and learning in nursing education programs through the utilization of registered nurses as preceptors to nursing students during clinical learning experiences.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment in nursing.

Betty N. Adams
Associate Director/Nursing
Consultant for Education

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Section 301 (a) of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Eliminating System (NPDES) permit. The United States Environmental Protection Agency has issued a draft general NPDES permit (LAG550200) for the state of Louisiana for privately owned facilities with a design flow of less than 2,500 gallons per day. Whereas Chapter XIII of the Louisiana State Sanitary Code regulates the design, operation, and maintenance of individual sewage systems, and the provisions of the above noted general permit are applicable to individual sewage systems, the Department of Health and Hospitals, Office of Public Health hereby gives notice in accordance with law that it intends to make the following changes/additions to Chapter XIII of the Louisiana State Sanitary Code in order to provide regulatory conformity:

**CHAPTER XIII
SEWAGE DISPOSAL**

Subpart A — Definitions

Add:

Daily Maximum means the highest allowable daily concentration during the calendar month.

Grab Sample means an individual sample collected in less than 15 minutes.

Individual Sewage System Effluent Limitations means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of 30 milligrams per liter (mg/l) and a daily maximum concentration of 45 mg/l for the parameters of biochemical oxygen demand (five-day) and total suspended solids. The daily maximum and the 30-day average concentrations shall be based on grab sample(s) analysis results. Sample analysis shall be done in accord-

ance with "Standard Methods for the Examination of Water and Wastewater".

30-day Average is the arithmetic mean of the daily values for all effluent samples collected during a calendar month.

Change to read:

Secondary Treatment Standard means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of biochemical oxygen demand (five-day) of 30 milligrams per liter (mg/l), a maximum seven-day average concentration of biochemical oxygen demand (five-day) of 45 mg/l, and a maximum daily average concentration of biochemical oxygen demand (five-day) of 60 mg/l. The daily average concentration shall be based on at least three effluent portions collected at time intervals no shorter than one hour each and combined in a flow-weighted composite. The 30-day average, seven-day average, and the daily average are the arithmetic means of the values for all effluent samples collected in each said period.

Subpart D - Individual Sewage Systems

Change to read:

13:015 Maintenance and Operation: Individual sewage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with the individual sewage system effluent limitations and to avoid creating or contributing to a nuisance to the public.

Add:

13:019-1(9) For individual lots or sites, regardless of size, when the installation of an individual sewage system is proposed in order to renovate or replace a preexisting inadequate or malfunctioning individual sewage system. Such installation may be allowed when, in the opinion of the state health officer, a public health hazard or nuisance will not result. This provision shall apply to the renovation or replacement of preexisting systems only and shall not be utilized to circumvent other requirements, particularly those relative to minimum lot size for new residences and subdivision development, of this Code.

APPENDIX A
Regulations Controlling the Design
and Construction of
Individual Sewage Systems
I. Septic Tanks

Add:

1.22 Abandoned septic tanks (tanks no longer in active use) shall be pumped out by a licensed sewage hauler, then removed or the cover discarded and the tank filled with soil to natural grade.

III. Absorption Trenches

Change 3.15 to read:

Field pipes must consist of perforated non-metallic pipe. In every case, the minimum acceptable diameter is four inches. Although the trench bottom is level, the field pipes must be laid on a slope of between two to three inches per 100 feet to provide even distribution of the liquid throughout the trench.

Change 3.16 to read:

The field pipe must be surrounded by clean, graded gravel or rock, broken, hard-burned clay brick or other approved material. The bed material may range in size from one-half inch to 2.5 inches. The gravel must extend from at least two inches above the top of the pipe to at least six inches below the bottom of the pipe. The top of the stone should be covered with either untreated building paper, a two-inch layer of hay or straw, burlap, or similar previous material to prevent the gravel from becoming clogged by the earth backfill (See Figure 4).

IV. Oxidation Ponds

Change to read:

4.9 The pond shall be enclosed by a suitable non-climbable fence to keep out children, pets and livestock. An open type fence (woven wire) is preferable because it will not restrict sunlight and air which are necessary for the treatment. The fence shall be at least five feet in height and be provided with a locked gate.

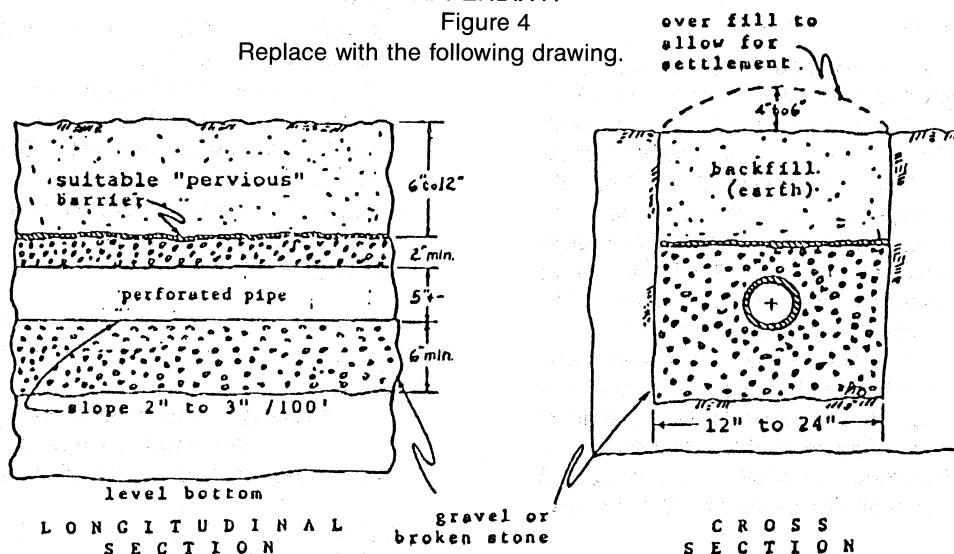
Add:

4.10 Abandoned oxidation ponds (ponds no longer in active use) shall be pumped out by a licensed sewage hauler, then filled with soil to natural grade.

APPENDIX A

Figure 4

Replace with the following drawing.



ABSORPTION TRENCH AND LATERAL DETAILS

July 1991

Persons interested in commenting on the notice of intent may submit written comments until 4:30 p.m., September 20, 1991 to the following address: Joel L. Nitzkin, M.D., D.P.A., Director, Office of Public Health, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Changes/Additions to Chapter XIII of the Louisiana State Sanitary Code (Compliance with Federal Water Pollution Control Act.)

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

Dr. Joel L. Nitzkin, D.P.A.
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospitals (DHH) intends to apply for Block Grant Federal Funding for FY 1991-92 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the Block Grants in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Block Grants and the offices responsible for program administration are as follows:

1. Alcohol Drug Abuse and Mental Health Services - Office of Human Services Division of Mental Health and Division of Alcohol and Drug Abuse. Inquiries and comments may be addressed to: Jerry Vincent, Acting Assistant Secretary, Office of Human Services, Box 4049, Baton Rouge, LA 70821. The application is available for review at any mental health facility.

2. Maternal and Child Health Services - Office of Public Health. Inquiries and comments may be addressed to:

Joel L. Nitzkin, MD, Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160. The application is available for review at any regional OPH facility.

3. Preventive Health and Health Services - Office of Public Health. Inquiries and comments may be addressed to: Joel L. Nitzkin, MD, Assistant Secretary Office of Public Health, Box 60630, New Orleans, LA 70160. The application is available for review at any regional OPH facility.

A public hearing on the Block Grant applications for FY 1991-92 is scheduled for August 2, 1991 at 1 p.m. in the Department of Health and Hospitals' third floor Conference Room A, 1201 Capitol Access Road, Baton Rouge, LA.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed Block Grant applications orally or in writing. Written comments will be accepted through August 20, 1991.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: ADMS Block Grant 91-92**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no projected increase to the state or local governmental units for the implementation of the 91-92 Block Grant.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This grant increased in 1990 to an estimated \$18 million, which is \$1.5 million over the 89-90 level, due to increased congressional authorization. The change in funding for FY 92 is unknown. The total grant will be used to implement current Block Grant commitments, and to fund additional positions/programs.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
An increase in funds over prior year will result in an increase in treatment services to alcohol and drug abuse clients.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Direct employment resulting from an increase in these funds will be enhanced by contract positions in treatment agencies throughout the state. Due to the manpower shortage in this field, there will be increased competition for trained counselors. This demand could result in additional needs by the colleges and universities to provide training modules.

Jerry Vincent
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Maternal and Child Health Block Grant**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This block was implemented in FY '82. Neither an in-

crease nor a decrease in implementation costs is expected, as DHH will continue to administer these programs in accordance with existing federal and state laws and regulations. No workload change is anticipated, as the same amounts and kinds of services are expected to be delivered.

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

No effect on revenue collections is anticipated. Naturally, if the federal allotment to Louisiana for this block decreases, the state will be required to subsequently decrease the allotment to all programs covered under the block, but this is a factor beyond our control.

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

No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment, as the same kinds and amounts of services are to be offered. Should the amount of federal funds eventually appropriated be at such a decreased level as to warrant reductions in staff, unemployment will result.

Dr. Joel L. Nitzkin, D.P.A.
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Preventive Health and Health Services Block Grant

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

This is an ongoing public health grant and therefore has no associated implementation costs.

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

The Office of Public Health Services anticipates receiving \$2.8 million in federal funds during FFY 91-92 under this Block Grant. The same amount was available in FFY 90-91.

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

The effect of this ongoing public health grant is continuation of health services, not economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This grant funds public health programs already in existence. The approval of this grant application continues the work of public health staff currently employed.

Dr. Joel L. Nitzkin, D.P.A.
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

The Commissioner of Insurance hereby advertises his intent to repeal Rule 38 of the rules and regulations of the Department of Insurance. That regulation deals specifically with the policy of the department regarding "Within Limits Defense" type of insurance. The said regulation will be repealed in its entirety.

PROPOSED RULE

Rule number 38 of the regulations of the department of insurance relative to "Within Limits Defense" insurance policies is hereby repealed.

Interested persons may submit written comments to the following address: Carey R. Holliday, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, LA 70804.

Hunter O. Wagner, Jr.
Commissioner of Insurance

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Repeal "Within Limits Defense" Policies

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

This rule requires no cost to the state of Louisiana or the Insurance Department. It requires a cost only to those insurance companies who write this very narrow type of policy and only because it requires a 'secondary' filing by them. The repeal of this rule will cost nothing.

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)

Since currently, regulation 38 requires insurers who write "within limits" types of insurance policies to offer both a "within limits" policy and a "without limits" defense policy for the same thing, it will result in a decrease in cost to the insurer who can then avoid the cost of the second filing of the "without limits" policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None.

Hunter Wagner
Commissioner of Insurance

John R. Sondergaard
Legislative Actuary

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 32:414, relative to the power of the Department of Public Safety to sus-

pend or revoke drivers licenses, notice is hereby given that the Department of Public Safety and Corrections, Office of Motor Vehicles, advertises its intent to add to the rules of the Office of Motor Vehicles.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 2. Administrative Procedure

§201. Suspension, Revocation, or Cancellation of License, Administrative Hearings

* * *

E. Assignment of Hearing; Discovery; Expert Witnesses

1. Each hearing shall be assigned for a specific time, date and place to an individual administrative law judge.

2. Except for implied consent cases, discovery may be obtained by written agreement between the parties, provided that such discovery does not interfere with or postpone a scheduled hearing date. Due to the time constraints placed by law on suspension of driver's licenses, discovery in implied consent hearings will be confined to inspection or copying of the documents in the prima facie case presented by the state. Any interested person may inspect or copy any documents in the case file after it has been supplied to the presiding administrative law judge. Otherwise, documents may be inspected or copied by request made to any other section within the department upon compliance with the rules of that section. Copies may be made by means of any copying device supplied by the person desiring copies.

3. Expert witnesses may be subpoenaed at the request of any party upon receipt of a money order, cashier's check or attorney check, made payable in the name of each expert witness in whatever amount has been agreed to between the party requesting the subpoena and the witness. The request to subpoena the expert witness should accompany the request for the hearing, but in any case must be made in writing addressed to the Administrative Hearing Section, postmarked or received at least 15 days prior to the date fixed for hearing, and must provide the full name and address of the witness to whom the subpoena is to be directed, plus a summary of the opinion testimony expected to be adduced.

4. The administrative law judge shall evaluate the qualifications of the witness prior to being accepted as an expert and prior to any testimony being taken.

* * *

Interested persons may comment on the proposed rule change in writing, until 4:30 p.m., October 1, 1991, at the following address: Louisiana Department of Public Safety and Corrections - Legal Section, Attention: Mr. Howard Elliott, Box 66614, Baton Rouge, LA 70896-6614.

Marlin A. Flores
Deputy Secretary

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: LAC 55:III.201(E) Suspension, Revocation, or Cancellation of License

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 will be a 25 cent per page charge for copies.

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

The proposed rule would allow more efficient discovery procedures at driver's license hearings, and this benefit to the parties will have a cost of 25 cents per page copied.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Rex McDonald
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Fire Marshal

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1651, et seq., notice is hereby given that the Office of State Fire Marshal intends to adopt the following rules and amend the regulations of those businesses which engage in the installation and servicing of portable fire extinguisher fire suppression systems, fire detection and alarm systems. The text of the amendments are as follows:

Title 55
PUBLIC SAFETY
Part V. Fire Protection

Chapter 30. Fire Extinguisher and Fire Detection and Fire Alarm System Rules

§3011. National Institute for the Certification in Engineering Technologies

A. Due to the time constraints inherent in becoming certified by the National Institute for the Certification in Engineering Technologies (NICET), at Level III, in the appropriate discipline, the Office of State Fire Marshal adopts the following schedule of compliance:

1. Each certified firm or each firm seeking certification shall have at least one employee who is NICET Level II certified in the appropriate discipline on or before January 1, 1993.

2. Each certified firm or each firm seeking certification shall have at least one employee who is NICET Level III certified in the appropriate discipline on or before January 1, 1996.

* * *

C. No firm engaged exclusively in the business of the installation or servicing of portable fire extinguishers (Class A) or pre-engineered fire suppression systems (Class B and B-1) or the installation and servicing of fire detection and alarm systems in small business (Class D-1) or hydrostatic testing (Class E) shall be compelled to comply with the NICET requirements described above.

D. In lieu of the NICET CERTIFICATION requirements as detailed above, the Fire Marshal shall have the authority

to determine that an equivalent level of expertise exists based upon an applicant's experience, training or other testing and certifications offered by industry. If the Fire Marshal determines that equivalent expertise is achieved, the Fire Marshal may grant an extension of time within which the applicant must obtain the required NICET Level III certification.

§3013. Definitions

The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

F. 1. Class "B" Certificate - Authorizes a firm to engage in the business of certifying, installing or servicing pre-engineered fixed fire extinguisher systems and those business activities specifically authorized by a Class "B-1" Certificate.

2. Class "B-1" Certificate - Authorizes a firm to engage in the business of certifying, installing or servicing pre-engineered fixed fire extinguisher systems containing wet or dry chemical agents within a kitchen ventilation system.

H. 1. Class "D" Certificate - Authorizes a firm to engage in the business of planning, installing, supervising and certifying fire detection and alarm systems and those business activities specifically authorized by a Class "D-1" Certificate.

2. Class "D-1" Certificate - Authorizes a firm to engage in the business of planning, installing, supervising and certifying fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

§3017. Licenses

B. Types of Licenses. Each license shall be identified by the type, which indicates the authorized act or acts which may be performed by the licensee and are defined as follows:

4. Class "B-1" Installer's License authorizes the person to install pre-engineered fixed extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

5. Class "B-1" Technician's License authorizes the person to plan, install, service, supervise and certify pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

6. Class "C" Installer's License authorizes the person to install engineered fixed fire extinguishing systems.

7. Class "C" Technician's License authorizes the person to plan, install, service, supervise and certify engineered fixed fire extinguishing systems.

8. Class "D" Installer's License authorizes the person to install fire detection and alarm systems.

9. Class "D" Technician's License authorizes a person to plan, install, supervise and certify fire detection and alarm systems.

10. Class "E" Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

11. Class "D-1" Installer's License authorizes the person to install fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

12. Class "D-1" Technician's License authorizes the

person to plan, install, service, supervise and certify fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

§3023. Applications for Certificates of Registration

B. The application for Certificates of Registration shall:

6. be accompanied by:

c. A current certificate of insurance issued to the Office of State Fire Marshal as required by R.S. 40:1654. The minimum amount of liability insurance shall be determined by the Class of Certification and shall be as follows:

i. Class A Certificate (portables)	\$ 300,000
ii. Class B Certificate (pre-engineered)	\$ 500,000
iii. Class B-1 Certificate (hood) kitchen	\$ 500,000
iv. Class C Certificate (engineered)	\$ 1,000,000
v. Class D Certificate (alarm)	\$ 500,000
vi. Class D-1 Certificate (small alarm)	\$ 300,000
vii. Class E Certificate (hydrostatic)	\$ 500,000

§3031. Fees-Specific Information

A. Certificates of Registration Fees

1. Original (Initial) Application Fees: Except for the Class E Certificate of Registration, which is \$50, the first Class of Certification selected is \$450, while each additional Class of Certification is \$100 per additional class. Note: regardless of how many classes you originally desire, Class E Certification will remain \$50.

c. Original Hydrostatic Testing Certification Fees (R.S. 40:1653(E)) \$50

2. Renewal Fees

a. The renewal fees accessed for a timely application for a certification of registration shall be as follows:

i. Class A Certificate (portables)	\$ 150
ii. Class B Certificate (pre-engineered)	\$ 100
iii. Class B-1 Certificate (hood) kitchen	\$ 50
iv. Class C Certificate (engineered)	\$ 100
v. Class D Certificate (alarm)	\$ 100
vi. Class D-1 Certificate (small alarm)	\$ 50
vii. Class E Certificate (hydrostatic)	\$ 50

b. A penalty shall be accessed in accordance with R.S. 40:1657(E) for the untimely renewal of a certificate of registration.

c. Repealed.

C. Fees for All Classes of Licenses Except Class E

E. Fees for Class E Licenses

1. Original (Initial) license fee \$25

2. Renewal license fee \$25

Interested persons may submit written comments on the proposed amendments until October 1, 1991 to Jack Oliver, Project Manager, Office of State Fire Marshal, 5150 Florida Blvd., Baton Rouge, LA 70806.

V.J. Bella
State Fire Marshal

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Fire Suppression and Detection Licensing Law

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

The total estimated cost to the state to implement the proposed amendments will be \$500 to print and disseminate the rule change and to develop two additional proficiency examinations. The implementation of the proposed amendments will be accomplished at no cost to the local government units.

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

The proposed amendments will reduce revenue at the state level by approximately \$52,000/year. The proposed rules will not affect revenue collections of the local governmental units.

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

The proposed amendments would reduce the renewal fees for certificates of registrations for those firms engaged in the business of servicing and installing fire suppression systems and fire alarms and detection systems, thereby saving the industry \$52,000/year. In addition, the proposed amendments would reduce the amount of liability insurance a certified firm must maintain.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Lowering the renewal fees for a certificate of registration and reducing the amount of liability insurance will reduce the cost of doing business and may result in an increase in competition and employment.

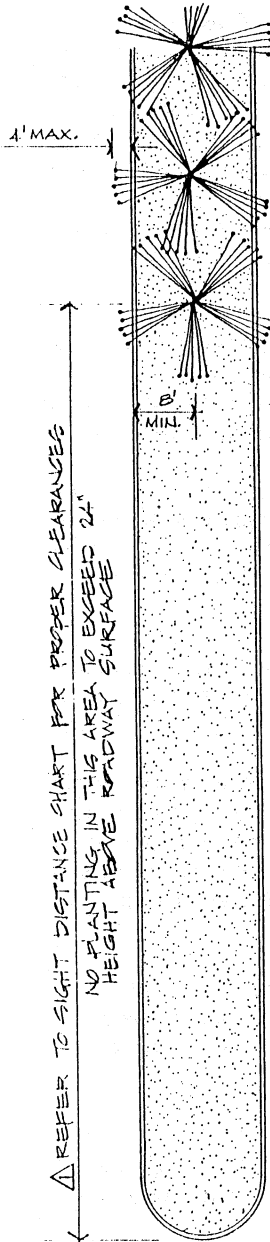
Rex McDonald
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development

In accordance with the applicable provisions of the Administrative Procedure Act, L.R.S. 49:950, et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to amend its rule entitled "Policy for Roadside Vegetation Management", pages 45 and 47, in accordance with the provisions of Act 682 of the 1989 Regular Session.



NOTE:

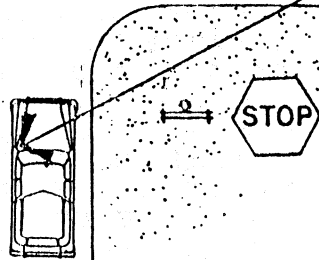
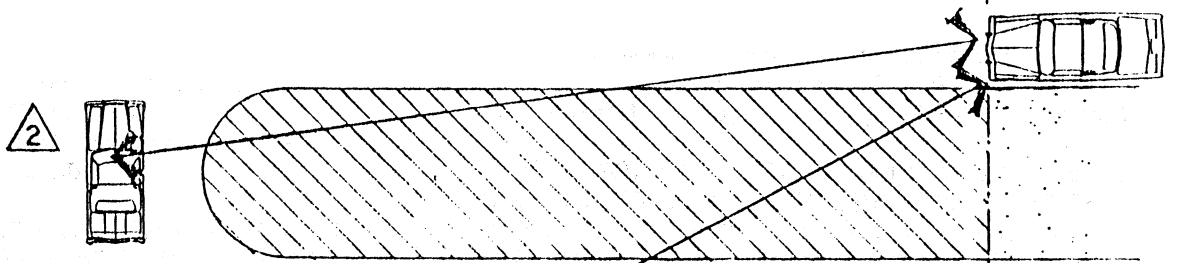
MATURE SPREAD OF TREE CANOPY SHOULD NOT OVERHANG ROADWAY BY MORE THAN 4 FEET AND NOT INTERFERE WITH TRAFFIC.

LARGE TREES SHOULD NOT BE PLANTED IN MEDIANS LESS THAN 40' WIDE WITHOUT CURBS. IN MEDIANS OF LESS THAN 40' WIDTH, EXAMPLES OF ACCEPTABLE TREES ARE GRAPE, MYRTLE, WAX MYRTLE, CRAB APPLE, LEGGY LYNDISTRUM, ETC. ALONG WITH ALL SHR

**MEDIAN PLANTING FOR
BARRIER CURBED
ROADWAYS - PRIMARY &
SECONDARY ROUTES**

▲ Revised: 3/22/91

1 REFER TO SIGHT DISTANCE CHART
 PLANTINGS NOT GREATER THAN 24" IN HEIGHT
 WILL BE ALLOWED IN THIS MEDIAN AREA, PROVIDED
 THE VERTICAL CURVATURE PERMITS.



2 NOTE:
 When the median width is greater than 30', it
 shall be treated as two intersections.

1

SIGHT DISTANCES FOR INTERSECTIONS	
Speed (MPH)	Distance (Ft.)
30	300
40	400
50	500
55	550

Source - Transportation Engineers Handbook, 1982
 Edition (Table 19-8)

SIGHT DISTANCE REQUIREMENTS AT TYPICAL INTERSECTION

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Sidney J. Babin, Maintenance and Field Operations, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245.

Joseph L. Wax
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Policy for Roadside Vegetation Management**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs are estimated to be approximately \$25 for reproduction, \$30 for mailing and \$100 for personal services.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of these revisions should not have any effect on the collections of revenues for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There should not be any costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment

Joseph L. Wax
Deputy 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 advertises its intent to amend the Joint Louisiana/Texas Toledo Bend and Caddo Lake Sportfishing Reciprocal Agreement that became effective April 1, 1991.

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter I. Freshwater Sport and Commercial Fishing
§110. Toledo Bend Reciprocal Agreement**

The daily creel limit, (daily take), for black bass (*Micropterus spp.*) is set at eight fish and the minimum total length is set at 14 inches in Toledo Bend Reservoir and Caddo Lake.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (c), 326.3, 673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission

LR 14:548 (August 1988), amended LR 17:278 (March 1991), amended LR 17: (1991).

Interested persons may submit written comments on the proposed rule to the following address before August 30, 1991: Bennie J. Fontenot, Jr., Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Sabine River - Daily Take Limits for Black Bass**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Caddo, DeSoto, Sabine and Vernon Parish Enforcement Agents are presently employed to patrol the Sabine River, Toledo Bend Reservoir and Caddo Lake as part of their routine duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule will effect no changes in estimated costs and/or economic benefits to directly affected persons as related to present rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter I. Freshwater Sport and Commercial Fishing
§149. Black Bass Regulations-Daily Take and Size Limits**

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to establish a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

In addition, the commission establishes special size and daily take regulations for black bass on the following waterbodies:

Concordia Lake (Concordia Parish) and False River (Pointe Coupee Parish):

Size Limit: 15 inch - 19 inch slot

Daily Take: 8 fish - of which no more than two fish may exceed 19 inches maximum total length.*

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take

A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Caney Creek Lake (Jackson Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

Size Limit: 14 - 17 inch slot

Daily Take: 8 fish - of which no more than 4 fish may exceed 17 inches maximum total length.

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take

A 14 - 17 inch slot means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

* Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (c), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:489 (May 1991), amended LR 17:

Interested persons may submit written comments on the proposed rule to the following address before August 30, 1991: Bennie J. Fontenot, Jr., Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Statewide & Special Size & Daily Take Limits for Black Bass

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff.

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

The proposed rule will have no impact on revenue collections of state or local governmental units.

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

The proposed rule will effect no changes in estimated

costs and/or economic benefits to directly affected persons as related to present rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Administrative Code Update

**CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1991 through June, 1991**

Vol. Title:Part.Section	Effect	Location LR 17 Month	Page
1 LAC 10			
II.101	Adopted	Jan	34
II.101	Repromulgated	May	476
V.Chapter 1	Adopted	Jan	72
V.Chapters 1 and 2	Amended	May	487
V.Chapter 3	Adopted	May	482
VII.Chapter 1	Adopted	Jun	578
VII.301	Adopted	Jun	588
LAC 35			
I.1739	Amended	Feb	169
I.1742	Adopted	Mar	261
I.1791	Amended	Feb	172
I.1793	Amended	Feb	172
III.5702	Adopted	Mar	258
III.5716	Adopted	Mar	262
III.5717	Amended	Mar	258
III.5731	Amended	Mar	262
III.5742	Adopted	Mar	257
V.6311	Amended	Mar	258
V.6319	Amended	Mar	262
V.6360	Amended	Feb	170
V.7704	Adopted	Mar	261
V.8307	Adopted	Feb	172
IX.9502	Adopted	Mar	260
XIII.103	Amended	Feb	169
XV.12328	Adopted	Feb	170
XV.12329	Amended	Feb	171
XV.12330	Adopted	Feb	170
XV.12331	Amended	Feb	171
XV.12332	Adopted	Feb	173
XV.12341	Amended	Feb	170
XV.12341	Amended	Mar	261
XV.12365	Adopted	Mar	260
XV.Chapter 127	Adopted	Mar	259

Vol. Title:Part.Section	Effect	Location		Vol. Title:Part.Section	Effect	Location	
		LR 17	Page			LR 17	Page
2 LAC 7				VII.149	Repromulgated	May	488
III.Chapter 5	Adopted	Feb	164	VII.151	Adopted	Apr	389
III.541, 542	Adopted	Mar	249	VII.323, 327	Amended	Feb	207
V.Chapter 35	Adopted	Mar	249	VII.339	Adopted	Apr	389
XXI.123	Adopted	Apr	350	6 LAC 22			
XXI.11701	Amended	Jan	29	I.103	Amended	Feb	202
XXI.11709	Amended	Jan	30	I.309	Adopted	Feb	203
XXI.11711	Amended	Jan	30	I.310	Repromulgated	Jun	605
XXI.11731	Amended	Apr	354	I.325	Amended	Jan	68
XXI.11733	Amended	Jan	29	I.341-403	Amended	Jun	605
XXI.11735	Amended	Jan	30	LAC 55			
XXI.11737	Amended	Jan	31	I.Chapter 17	Amended	Apr	383
XXI.11739	Amended	Jan	31	I.1901	Adopted	May	482
XXV.Chapter 141	Amended	Mar	251	V.309	Adopted	Mar	272
XXXIX.20101	Amended	May	476	V.3001-3059	Adopted	Mar	273
XXXIX.20501	Amended	May	476	VII.317	Amended	Jun	607
3 LAC 46				VII.319	Amended	Jun	609
I.1115	Adopted	Jun	575	7 LAC 40			
I.Chapter 13	Amended	Jun	575	I.Chapter 1	Repromulgated	Apr	357
VII.Chapters 1-17	Repromulgated	Apr	356	I.Chapter 9	Amended	Feb	176
XXI.Chapters 1,5,6,9	Amended	Jan	31	I.Chapter 19	Adopted	Apr	359
XXI.Chapters 3,6,9	Amended	Jun	578	III.Chapter 1	Amended	Feb	179
XXV.119	Amended	Apr	370	IV.Chapter 1	Repromulgated	Jan	35
XXXVII.513	Amended	Mar	270	IV.Chapter 3	Repromulgated	Jan	38
XLI.705	Amended	Jun	588	VII.Chapters 1,2,3,5	Repromulgated	Apr	357
XLI.707	Amended	Mar	257	IX.Chapters 1,3,5	Repromulgated	Apr	356
XLI.1904	Adopted	Mar	260	XIII.Chapter 1	Repromulgated	Apr	357
XLV.125	Amended	Jun	603	XV.Chapter 1	Repromulgated	Apr	357
XLV.Chapter 25	Amended	May	479	XVII.Chapters 1-49	Repromulgated	Apr	357
XLV.9903	Amended	May	480	8 LAC 48			
XLVII.3356	Repromulgated	Jan	58	I.Chapter 125	Amended	Jan	61
XLIX.105	Amended	Feb	199	9 LAC 48			
LV.Chapters 1-9	Amended	Jan	49	V.6001	Adopted	Feb	199
LXI.902	Adopted	Mar	273	V.6303	Amended	Apr	378
LXI.1701	Amended	Mar	273	V.11707	Amended	Apr	375
LXI.2103	Amended	Mar	273	VII.Chapter 7	Amended	Jun	603
LXXV.Chapter 5	Adopted	Apr	372	10 LAC 61			
LXXV.Chapter 7	Adopted	Apr	370	V.303	Amended	Jun	610
4 LAC 4				V.3503	Amended	Jun	610
VII.Chapter 11	Amended	Jan	57	11 LAC 33			
VII.1127	Amended	Jun	600	III.Chapter 5	Amended	May	478
VII.1129	Amended	Jun	600	III.Chapter 21	Amended	Apr	360
VII.1131	Amended	Jun	599	III.2127	Repromulgated	May	477
VII.1167	Amended	Jun	602	III.3131	Adopted	Feb	181
VII.1229	Amended	Jun	600	III.3153	Amended	May	478
VII.1737	Amended	May	479	III.3301	Adopted	Mar	263
IX.Chapters 1-23	Repromulgated	Mar	267	III.6103	Amended	May	477
LAC 34				12 LAC 33			
V.Chapter 1	Amended	Mar	264	III.6079	Adopted	Mar	263
VII.901	Amended	Mar	266	13 LAC 33			
5 LAC 76				V.Chapters 1,7,9,11,41,43	Amended	Apr	362
III.320	Adopted	Feb	208	V.Chapters 1,25,44, 49	Amended	Apr	368
V.109	Adopted	Jan	78	V.Chapters 1-49	Amended	May	478
V.111	Adopted	Feb	204	V.10111	Amended	Jun	609
V.113	Adopted	Feb	205	V.Chapter 501	Adopted	Apr	379
VII.110	Amended	Mar	278	14 LAC 33			
VII.123	Repealed	Mar	277	IX.708	Amended	Mar	263
VII.147	Adopted	Jan	78	IX.Chapter 11	Amended	Mar	264
VII.149	Amended	Mar	277				

Vol. Title:Part.Section	Effect	Location LR 17	Month	Page
16 LAC 70				
III.Chapter 5	Adopted		Feb	204
XV.101	Adopted		Mar	274
17 LAC 43				
I.1517	Adopted		Mar	272
I.1515	Amended		Jun	605
XIX.129	Amended		Apr	382
18 LAC 28				
I.903	Amended		Jan	35
I.1523	Amended		Jan	35
I.1523, 1527	Amended		Jun	589

the Title II Comprehensive plan and the organization and delivery of HIV health care and support services.

In addition to this public hearing, all interested persons are invited to submit written comments on the Ryan White Title II funds. Such comments must be received at the HIV Program Office from July 22, 1991 through August 23, 1991. All written comments should be directed to Dr. Ted Wisniewski, Director, HIV Program Office, Louisiana Department of Health and Hospitals, 1542 Tulane Avenue, New Orleans, LA, 70112. Commentors should reference the comments Ryan White Title II Funds.

David L. Ramsey
Secretary

Potpourri

POTPOURRI

Greater Baton Rouge Port Commission

Harbor Fee Notification

Effective July 15, 1991, all self-propelled ocean-going vessels engaged in foreign and coastwise trade shall be assessed a harbor fee of \$250 to assist in defraying the expense of the administration and maintenance of the Port and Harbor, including the supervision of the shipping of the Port, with the view of preventing collisions and fires, and coordinating with the Corps of Engineers and Coast Guard to maintain proper channel depth and navigational aids.

Gary Pruitt
Executive Director

POTPOURRI

Department of Health and Hospitals Office of the Secretary HIV Program Office

Notice is hereby given that the Department of Health and Hospitals will conduct a public hearing in order to solicit public input on the Title II Comprehensive Plan and the organization and delivery of HIV health care and support services. Copies of the plan are available for review by contacting the HIV Program Office at 504-568-7041. The hearing will be conducted on Monday, August 26, 1991 at 10 a.m. to 12 noon in the Auditorium, Secretary of State Archives Building, 3851 Essen Lane, Baton Rouge, LA. Interested persons are invited to attend and submit oral and written comments on

POTPOURRI

Department of Health and Hospitals Office of the Secretary

Notice is hereby given that the Louisiana Health Care Authority (LHCA) Council is seeking nominations for the LHCA Board. The governor must appoint nine at-large members to the board from a list of 36. Eighteen of the 36 nominations must come from legislators, and five of the nine appointments must come from legislative nominees.

Nominations should come from legislators, other elected officials, community-based, labor, civic, business and professional organizations and interested persons.

No more than two members may be appointed from each public service commission district. Members of the board must comply with the Code of Governmental Ethics, and in addition cannot own or have any interest or part in any public or private organization, business, company, or entity conducting business with the Authority or any of its nine medical centers.

Geographic diversity, ethnic diversity and diversity in expertise and perspective must be maintained in making appointments.

Contact Billy Cadwallader at (504) 342-9501 for a copy of the official LHCA nominee application form. Applications must be submitted to Mrs. Cadwallader, LHCA Coordinator, Box 629, Bin 2, Baton Rouge, LA 70821-0629 by August 5, 1991.

David L. Ramsey
Secretary

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 thirty claims in the amount of \$76,411.29 were received in the month of June 1991, six

make comments and/or recommendations concerning Louisiana's final Three Year Low-Income Home Energy Assistance Program Plan and amendments to the plan. Changes in the Three Year Plan will be considered in anticipation of LIHEAP funding reductions. The hearings will be conducted as follows:

August 20, 1991
1 p.m.

August 23, 1991
10 a.m.

Monroe State Office Building
122 St. John Street, Rm. 453
Monroe, LA 71201

Avenue Building
2026 St. Charles Avenue
Magnolia Room-4th Floor
New Orleans, LA 70130

Copies of the Three Year Plan and proposed amendments to the plan will be available for review at the hearings. The Department of Social Services, Office of Community Services will accept recommendations and/or comments concerning administration of the LIHEAP program from the public through September 6, 1991. Copies of the Three Year Plan and proposed amendments are available by writing: Ms. Brenda Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

POTPOURRI

Department of Social Services Office of Community Services

Notice is hereby given that public hearings will be held regarding the use and distribution of FFY 1992 Low-Income Home Energy Assistance Program (LIHEAP) Block Grant funds. The purpose of this grant is to reduce the burden of home heating and cooling expenses for low-income households. The public is invited to attend the public hearings and claims in the amount of \$11,113.35 were paid, and one claim was denied.

Loran C. coordinates of reported underwater obstructions are:

28265	46824
28559	46859
28326	46829
28088	46829
28538	46856
29270	47031
27734	46884
28156	46831
28578	46855
28591	46879
26874	46964

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

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