

CONTENTS

I. EMERGENCY RULES

Economic Development Department:	
Economic Development Corporation—Community Economic Development Loan Assistance Program	328
Racing Commission—Super Six (LAC 35:XIII.109)	329
Education Department:	
Board of Elementary and Secondary Education—Bulletin 746-Practical nursing certification	330
Bulletin 1877-LTIP/LaTEP	330
Nutrition Education and Training Program	340
Governor's Office:	
Division of Administration, State Purchasing—Vendor Subscription Fees	343
Health and Hospitals Department:	
Office of the Secretary—Bureau of Health Services Financing—MAP-Federally-qualified health center Medicaid payments	343
MAP-Inpatient psychiatric recipient	344
MAP-Pregnancy prenatal/risk assessment services	344
MAP-Stepparents Medicaid eligibility criteria	346
Social Services Department:	
Office of Family Support—Aid to Families with Dependent Children (AFDC) Program-Essential persons	346
Wildlife and Fisheries:	
Wildlife and Fisheries Commission—Alligators (LAC 76:V.701)	347
King Mackerel closure	347
Oyster season-Calcasieu Lake	348
Special Pink Shrimp Season Chandeleur Sound	348

II. RULES

Agriculture and Forestry Department:	
Office of Animal Health Services—Pet turtles (LAC 7:XXI.Chapter 123)	350
Livestock Sanitary Board—Admission of cattle into Louisiana (LAC 7:XXI.11731)	354
Education Department:	
Board of Elementary and Secondary Education—Bulletin 741-Nonpublic high school diploma	354
Bulletin 1868—Vo-Tech salary schedule	355
Proprietary School Commission—Student complaint procedure (LAC 28:V)	355
Employment and Training Department:	
Board of Barber Examiners—Repeals and repromulgates existing rules (LAC 46:VII.Chapters 1-17)	356
Office of Labor—Apprenticeship-Repeals and repromulgates existing rules (LAC 40:IX.Chapters 1, 3 and 5)	356
Community Services Block Grant (LAC 40:XVII.Chapters 1-49)	357
JTPA-Repeals and repromulgates existing rules (LAC 40:XIII.Chapter 1)	357
Minor Labor Law-Repeals and repromulgates existing rules (LAC 40:VII.Chapters 1, 2, 3 and 5)	357
Private Employment Services-Repeals and repromulgates existing rules (LAC 40:XV.Chapter 1)	357
Office of Worker's Compensation—Administrative Procedures-Repeals and repromulgates existing rules (LAC 40:I.Chapter 1)	357
Fraud Section—Fraud allegation and investigations (LAC 40:I.Chapter 19)	359
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Control of Emission of Organic Compounds, AQ36 (LAC 33:III.Chapter 21)	360
Office of Solid and Hazardous Waste, Hazardous Waste Division—Manifest requirements, HW25 (LAC 33:V.Chapters 1, 7, 9, 11, 41 and 43)	362
Toxicity Characteristic Leaching Procedure (TCLP), HW20 (LAC 33:V.Chapters 1, 25, 44 and 49)	368
Health and Hospitals Department:	
Board of Board Certified Social Work Examiners—Fees (LAC 46:XXV.119)	370
Board of Examiners for Speech Pathology and Audiology—Code of Ethics (LAC 46:LXXV.Chapter 7)	370
Procedural Rules (LAC 46:LXXV.Chapter 5)	372
Office of Public Health—Birth certificate access by homeless persons (LAC 48:V.11707)	375
Neonatal screening (LAC 48:V.6303)	378
Office of the Secretary, Bureau of Health Services Financing—Increase in SN/TDC add-on per diem	378
Insurance Department:	
Commission of Insurance—Directors and officers liability policies, defense costs	378

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Natural Resources Department:	
Office of Conservation—Hazardous Liquid Pipelines Enforcement (LAC 33:V.Chapter 501)	379
Injection and Mining Division—Statewide Order 29-B (LAC 43:XIX.129)	382
Public Safety and Corrections Department:	
Office of State Police—Charitable bingo, keno and raffle (LAC 55:I.Chapter 17)	383
Social Services Department:	
Office of Community Services—Adoption Assistance Program-nonrecurring expenses	386
Child Custody Permanency Plan	387
Child protective services prioritization	387
Office of Family Support—Child support enforcement tax offset fee	388
JOBS Training Program-Child day care	388
JOBS Training Program-Educational activities/work requirements	388
Rehabilitation Services/Commission for the Deaf—Rules of Operation	388
Sign language interpreter certification	389
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Free freshwater fishing days (LAC 76:VII.151)	389
Free saltwater fishing days (LAC 76:VII.339)	389
III. NOTICES OF INTENT	
Civil Service Department:	
Civil Service Commission—Clarification of continuous state service	390
Economic Development Department:	
Racing Commission—Equine Urine Sample Identification (LAC 35:I.1761)	390
Perjury, Discipline (LAC 35:I.1703)	391
Testing for Dangerous Substance Abuse (LAC 35:I.1791)	391
Real Estate Appraisal Subcommittee—Certification-experience credit (LAC 46:LXVII.10311)	392
Certification-residential certification minimum experience (LAC 46:LXVII.10313)	393
Real Estate Commission—Branch offices (LAC 46:LXVII.Chapter 24)	393
Escrow and trust account (LAC 46:LXVII.Chapter 27)	394
Out-of-State broker cooperation (LAC 46:LXVII.Chapter 63)	396
Real estate continuing education vendors (LAC 46:LXVII.Chapter 66)	396
Transfers and terminations (LAC 46:LXVII.Chapter 15)	397
Education Department:	
Board of Elementary and Secondary Education—Bulletin 741-Elementary Foreign Language Program	398
Bulletin 741-Presidential Election Day	398
Teacher Evaluation Standards (LTIP/LaTEP)	399
Office of Student Financial Assistance, Student Financial Assistance Commission—Acceptance of income tax forms from participating schools	399
Appeal of adverse discretionary decisions	400
Eligibility of schools declaring bankruptcy	401
Guarantee fee refund	402
Employment and Training Department:	
Office of Workers' Compensation—Utilization review process	402
Environmental Quality Department:	
Office of Air Quality and Radiation Protection—Air toxics fees, AQ50 (LAC 33:III.Chapter 65)	403
Capture efficiency, AQ53 (LAC 33:III.Chapter 61)	404
Continuous emission rate monitors, AQ18 (LAC 33:III.6113)	405
Control of emission of organic compounds, AQ51 (LAC 33:III.Chapter 21)	406
Emissions from air oxidation, AQ27 (LAC 33:III.4801)	407
Emissions from distillation operations, AQ28 (LAC 33:III.4841)	407
Flame ionization analyzer, AQ34 (LAC 33:III.6086)	408
Monitoring requirements-emission rates, AQ19 (LAC 33:III.3125)	409
Office of Solid and Hazardous Waste, Hazardous Waste Division—Non-HSWA Cluster II, HW 26 (LAC 3:V.Subpart 1) ..	410
Underground Storage Tank Division—Underground storage tanks UT02 (LAC 33:XI.Chapters 1-13)	411
Governor's Office:	
Commission on Law Enforcement and Administration of Criminal Justice—Inmate housing (LAC 22:III.2901)	412
Division of Administration, Community Development Section—Louisiana Community Development Block Grant (LCDBG) Program-Debarment	412
State Purchasing—Vendor fees (LAC 34:I.3301)	415
Engineers Selection Board—Selection procedure (LAC 4:VII.341)	415
Health and Hospitals Department:	
Board of Board Certified Social Work Examiners—License renewals and cancellations (LAC 46:XXV.117)	416
Board of Electrolysis Examiners—Inspections, sterilizations (LAC 46:XXV.Chapters 1-17)	417
Board of Physical Therapy Examiners—Licensing, education and fees (LAC 46:LIV.Chapters 1-5)	417
Office of Human Services—Alcohol and drug abuse services (LAC 48:VII.119)	418
Drug treatment fund (LAC 48:VII.121)	419

Office of Public Health—Potentially infectious biomedical waste-fees, storage, permits	420
Potentially infectious biomedical waste-transport	420
Safe Drinking Water Program	421
Office of the Secretary, Bureau of Health Services Financing—Drug screening laboratories-urine testing.....	422
Public Safety and Corrections Department:	
Corrections Services—Juvenile institutions-forfeiture of good time for escape (LAC 22:I.333)	422
Juvenile institutions-reporting, documenting escapes (LAC 22:I.320)	424
Office of State Police, Transportation and Environmental Safety Section—Right to Know (LAC 33:V.10111)	425
Social Services Department:	
Office of Community Services—Children’s trust fund-child abuse/neglect prevention	426
Office of Family Support-Aid to Families with Dependent Children (AFDC)	427
Transportation and Development Department:	
Office of the Secretary—Display of American flags within highway right-of-way (LAC 70:III.101)	428
Wildlife and Fisheries Department:	
Office of Fisheries—Tilapia aquaculture (LAC 76:VII.903)	429
Triploid grass carp aquaculture (LAC 76:VII.901)	431
Wildlife and Fisheries Commission—Lifting of Oysters lease moratorium (LAC 76:VII.500).....	433
Netting prohibition-Bartholomew Lake (LAC 76:VII.155)	436
Netting prohibition-False River Lake and Lake Concordia (LAC 76:VII.157)	437
V. ADMINISTRATIVE CODE UPDATE	
January 1991 through March 1991	437
VI. COMMITTEE REPORTS	
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Freshwater Gamefish-head and caudal fin intact (LAC 76:VII.158)	438
VII. POTPOURRI	
Agriculture and Forestry Department:	
Office of Agriculture and Environmental Science—Annual quarantine (LAC 7:XV.9507 and 9509)	439
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Request for construction variances	441
Toxic air pollutants-public hearing notice	441
Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division—New office location	441
Regulatory agenda	441
Natural Resources Department:	
Office of the Secretary, Fishermen’s Gear Compensation Fund—Claims	441
Revenue and Taxation Department:	
Severance Tax Division—Natural gas severance tax rate	442
Social Services Department:	
Office of Community Services—Social Services Block Grant-Intended use report	442

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to promulgate the rules of the Louisiana Community Economic Development Loan Assistance Program effective August 19, 1991. These rules will prescribe procedures for administering the Louisiana Community Economic Development Loan Assistance Program in accordance with Title 51 Chapter 39.

The above described action is necessary as the Louisiana Economic Development Corporation developed this program because of a recognized immediate need for job creating loan assistance to parishes and municipalities. There exists immediate opportunities for local governments to attract business which will employ new and unemployed workers.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 5. Louisiana Community Economic Development Loan Assistance Program

Chapter 1. Community Economic Development Loan Assistance Program

§101. Purpose

To promote the economic development and redevelopment projects of parishes and municipalities by making available loan assistance through joint public and private investment in development projects. Assistance to parishes and municipalities shall be for the support of projects that require increased public and private assistance in addition to the assistance otherwise available under other forms of federal, state, or private assistance.

AUTHORITY NOTE: Chapter 39 Part II section 2312 A.5., B.1., B.3.

§103. General Rules

1. No assistance may be provided for projects intended to facilitate the relocation of industrial, commercial plants, or businesses from one part of the state to another.

2. Assistance will be made in the form of a loan to the parish or municipality. The interest rate will be negotiated between the parish or municipality and the board of directors of LEDC. The loan will be an obligation of the parish or municipality with principal and interest to be repaid to LEDC.

3. No assistance from Louisiana Economic Development Corporation shall be used to pay off present parish or municipal debt.

4. Approval of the loan will be contingent on approval from the Bond Commission and compliance with all other legal requirements.

§105. Loan Regulations

1. The maximum of any loan will be \$350,000.

2. In no case will financial assistance exceed \$2,500 of LEDC funds for each job created or saved overall.

3. Loan participation by LEDC shall not exceed 25 percent of the total project funding. Total project funding is defined as all government, third party private, LEDC, and funding in the form of equity injection of the locating firm.

§107. Eligibility

Eligible borrowers are Louisiana parishes and municipalities presently negotiating with a firm willing to commit to a site. The parish or municipality must have, in the determination of the board of directors, demonstrated efforts in providing other sources of funding from the private sector as well as other government agencies.

§109. Application Procedure

A. Applications will be submitted four weeks prior to the next scheduled meeting of the board of directors of the Louisiana Economic Development Corporation.

B. An application shall contain but not be limited to the following:

1. evidence that seven days notice was given to the general public in the parish or municipality and a public meeting was held on the request to be presented to LEDC;

2. evidence on the number of jobs to actually be created or actually saved by the use of these funds;

3. sufficient information on parish or municipal unemployment in percentage and number;

4. ratio of third party private funds to LEDC funds, ratio of other public funds to LEDC funds, ratio of total funding to LEDC funds, and the ratio of equity injection of firm to LEDC funds;

5. evidence of firm commitments for financial participation in the project by other public or private entities;

6. the terms by which LEDC funds are to be repaid;

7. the source(s) of repayment to be used by the parish or municipality to repay the LEDC loan; and

8. feasibility of accomplishing the development project in a reasonable time frame with the amount of assistance available. The feasibility study should include a fully developed business plan submitted by the project. The business plan should include but not be limited to the following:

a. A Cover Letter which contains:

i. dollar amount requested;

ii. terms and timing of request;

iii. type and price of collateral if applicable;

b. Summary

i. Business description

(a). Name

(b). location and plant description

(c). product

(d). market and competition

(e). management expertise.

ii. Business goals

iii. Summary of financial needs and application of funds

iv. Earnings projections and potential return to investors

c. Market Analysis

i. Description of total market

ii. Industry trends

iii. Target market

iv. Competition

- d. Products or Services
 - i. Description of product line
 - ii. Proprietary position: patents, copyrights and legal and technical considerations
 - iii. Comparison to competitors' products
 - e. Manufacturing Process (if applicable)
 - i. Materials
 - ii. Sources of Supply
 - iii. Production methods
 - f. Marketing Strategy
 - i. Overall strategy
 - ii. Pricing policy
 - iii. Sales Terms
 - iv. Method of selling, distributing and servicing products
 - g. Management Plan
 - i. Form of business organization
 - ii. Board of directors composition
 - iii. Officers: organization chart and responsibilities
 - iv. Resumes of key personnel
 - v. Staffing plan/number of employees
 - vi. Facilities plan/planned capital improvements
 - vii. Operating plan/schedule of upcoming work for next one to two years.
 - h. Financial Data
 - i. Financial history (five years to present) See NOTE 1
 - ii. Three-year financial projections (first year by quarters; remaining years annually)
 - (a). Profit and loss statements
 - (b). Balance sheets
 - (c). Cash flow chart
 - (d). Capital expenditure estimates
 - iii. Explanation of projections
 - iv. Key business ratios
 - v. Explanation of use and effect of new funds
 - vi. Potential return to investors compared to competitors and industry in general.
- NOTE 1: All financial statements must meet Generally Accepted Accounting Principles (GAAP)
- 9. Evidence showing that but for LEDC assistance the project would not take place.
 - C. All complete and eligible applications will be reviewed by the screening committee of the Louisiana Economic Development Corporation at a regularly scheduled meeting. The applying parish or municipality as well as the developer and business owner may have a representative present at the screening committee meeting. The committee's recommendation will be presented to the full board at their next regularly scheduled meeting following the screening committee meeting. Representatives from the parish or municipality as well as the developer and business owner may be present for the board meeting.
 - D. All documentation representing LEDC's assistance, including any and all notes, securities, or other representations made by the parish or municipality shall be reviewed and approved by LEDC legal counsel.

Michael Williams
Interim Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Title 35 HORSE RACING Part XIII. Wagering

Chapter 109. Super Six

§10903. Entries and Fields

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10905. Pool Calculations

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10907. Dead Heats

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10909. Sale of Tickets

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10911. Name and Notice

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10913. Cancellation of Races

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10915. Limitation on Multiple Wagers Does Not Apply

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

§10917. Disclosure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:542 (September 1980).

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Practical Nursing Certification Requirements Amendment to Bulletin 746 - Part B Postsecondary

The Board of Elementary and Secondary Education, at its meeting of March 28, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved recommendations for applying the practical nursing certification requirements set by the Board of Practical Nurse Examiners at its February, 1991 meeting and as stated below. This is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel - Part B Postsecondary.

Emergency adoption is necessary because as many as 20 instructional positions remain vacant in the postsecondary technical institute system because instructors could not be hired under the previous certification standards and BESE approved salary schedule. Effective date of this emergency rule is March 28, 1991.

13. Health Occupations - Practical Nursing Instructor: Part Time and Extension

A. Education:*

(1) A graduate of a three year diploma nursing program, or

(2) A graduate of a baccalaureate nursing program,

and

B. Licensing:

A valid license to practice as a registered nurse in the state of Louisiana, whose license has never been encumbered in any jurisdiction, and

C. Board Approval:

Approval of the State Board of Practical Nurse Examiners prior to certification, and

D. Experience:*

(1) Nurse Coordinator: Four years of experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse coordinator must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment, or complete a six-week refresher course and/or successfully pass a board-approved competency examination, or

(2) Nurse Instructor: Three years of experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment or complete a six-week re-

resher course and/or successfully pass a board-approved competency examination, and

No education degree in nursing or in any other field shall substitute for the medical-surgical component of either of the above.

NOTE: Nutrition Instructors in the practical nursing program may meet certification requirements with a degree in home economics and a minimum of 12 semester hours in foods and/or nutrition.

E. Certificate Terms:

When the applicant has met the requirements of A, B, C, and D, the applicant shall be issued a Temporary Vocational and Technical (V.T.) Certificate. This certificate shall remain valid as long as the applicant teaches a minimum of one course every two years. The professional vocational-technical industrial education (VTIE) courses shall not be required, but the applicant shall complete such teacher training as may be prescribed by the Postsecondary Vocational Education Bureau of the Department of Education to improve competencies.

*1. Associate degree registered nurses who have been employed in med-surg nursing for five or more years, at least one of these years being immediately prior to consideration of appointment to a faculty position.

2. Associate degree registered nurses with prior LPN preparation and experience, with at least two years' experience in med-surg nursing as an associate degree registered nurse, at least one of these years being immediately prior to consideration of appointment to a faculty position.

Additionally: A practical nurse program with 50 percent or higher percentage of faculty with associate degree registered nurse preparation will be placed on provisional accreditation. Programs on provisional accreditation will be reviewed at the end of each class before the next class can be admitted.

The waivers will be effective from February, 1991 through January 1993. At that time the board will review the faculty requirements for further determination.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendments to Bulletin 1877, Implementation Guide for LTIP and LaTEP

The Board of Elementary and Secondary Education, at its meeting of March 28, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and approved amendments to Bulletin 1877, Implementation Guide for LTIP and LaTEP which was adopted as an emergency rule and printed in the July 20, 1990 issue of the *Louisiana Register*. This emergency rule, which consists of pages 8, 10, 12, 15, 24, 27, and 28 includes the recommendations submitted by the Louisiana Association of Educators in their correspondence of October 23, 1990 as altered by judicial mandates, and supersedes the respective pages of Bulletin 1877 which appeared in the February, 1991 issue of the *Louisiana Register* as an emergency rule.

NOTE: Page 28 of Bulletin 1877 which was adopted as an emergency rule, effective February 28, 1991 and printed in the March, 1991 issue of the *Louisiana Register* remains in place for only those teachers whose final assessment conference is scheduled between the February 28, 1991 BESE meeting and the date on which the attorney general's opinion requested by the Board of Elementary and Secondary Edu-

cation regarding LTIP/LaTEP is rendered. The Page 28 which is included with the above revised pages will be a permanent part of the guidelines.

Emergency adoption is necessary because the modifications reflected on the above listed pages will affect teachers currently participating in the Louisiana Teacher Evaluation Program and are effective March 28, 1991.

ATTACHMENT A

Data Recording Form--the form used by each assessor to record observation data for the STAR assessment.

Department--see LDE

Due Process--fair and impartial treatment as guaranteed under the law including, but not limited to, the 1st, 5th and 14th amendments of the Constitution of the United States, Section 1983 of the Civil Rights Act of 1871, Title VII of the Civil Rights Act of 1964, and Title IX of the Educational Amendment of 1972, relative to procedural requirements.

Educational Accountability--reflects the respective shared responsibilities and duties of the following groups:

- 1) local boards, administrators, principals, teachers, and other personnel
- 2) the Louisiana Department of Education
- 3) parents and students
- 4) other governing authorities as specified by the constitution and laws of the state.

Equivalent level supervisor--an administrator other than the school principal (e.g., assistant principal, administrative assistant or central office administrator/supervisor) all of whom have received certification as STAR assessors.

Evaluatee--one who is evaluated.

Evaluation--the process of making considered judgements concerning the professional accomplishments and competencies of a teacher based on a broad knowledge of the area of performance involved and the specific pre-established standards of performance.

Extenuating circumstances--acceptable ground for extension of the assessment process or modification of the process; such grounds refer to circumstances over which the evaluatee has no control and may (but not necessarily) include the following:

- a. Sabbatical leave
- b. Leaves of absence
 1. personal illness
 2. personal leave
 3. military duty
 4. jury duty
 5. maternity leave
- c. Personnel illness or serious injury

Performance Criteria--general and specific standards by which a teacher's performance is assessed and upon which judgements are based.

Performance Dimension--the conceptual focus which guides the criteria for effective teaching practices.

Pre-Assessment Interview--a meeting between the assessment team and the intern teacher to discuss CUP assessment indicators that need clarification prior to the assessors completing the scoring of the CUP independently.

Pre-Observation Discussion--held prior to an assessor's observation of a teacher's classroom performance to identify any changes in the lesson plan for the day of the observation.

Principal--the administrator of the school to which the teacher being assessed is assigned.

Professional Development Plan--based on a teacher's identified areas needing improvement, this plan is developed by the principal with input from the teacher, approved by the assessment team, and supplemented by a teacher's self-directed improvement activities; its implementation is monitored by the principal. A teacher being assessed may receive such a plan at the end of the first assessment period as well as at the end of the assessment year; if a second year of professional development is granted, such a plan will again be developed and also be implemented.

Provisional Certificate--issued to all teachers new to the Louisiana public school system, regardless of experience or certification in other states; valid for two years.

Public School--public elementary and secondary schools governed by parish or city school boards and under the supervision of the SBESE.

Raw Notes--written verification of an occurrence or condition observed by an assessor during a scheduled LTIP or LaTEP observation.

Recording Form--LTIP and LaTEP assessment process form which provides documentation of observations and assessments of the teacher by the assessor.

Regional Service Centers (RSC)--a network of eight LDE centers located throughout the state.

Remediation Year--the school year following the assessment year in which a teacher received a nonsatisfactory rating.

Renewable Professional Certificate--issued to a teacher whose assessment rating is satisfactory or superior. This certificate is valid for five years.

Satisfactory Rating--assessment rating issued to a teacher whose evaluation meets designated satisfactory standards of performance.

piloted and validated before it is implemented statewide. Based on piloting and validation research, the LDE must recommend to the SBESE a proper range of scores for superior, satisfactory, and nonsatisfactory assessments.

Recognizing the need for trained assessors, the legislation assigns responsibility to the LDE to develop, direct and coordinate the implementation of a training program for assessors.

All necessary record keeping and coordination, including scheduling of evaluations necessary to the implementation of the program are to be done by the LDE.

The LDE must also coordinate all efforts with public colleges and universities, the Administrative Leadership Academy and the RSCs; it must coordinate the implementation of LTIP and LaTEP and other programs to avoid unnecessary duplication of effort.

Additionally, the LDE will make recommendations to the SBESE for any rules and policies needed for implementation.

B. The State Board of Elementary and Secondary Education

The SBESE has been directed to establish a Teacher Evaluation Advisory Committee, to review the work of the LDE and provide direction to the LDE regarding proper implementation.

Additionally, the SBESE is directed to adopt and promulgate rules and policies deemed necessary for implementation. For example, the SBESE must set the range of scores for evaluation categories (e.g., superior, satisfactory, nonsatisfactory) based on recommendations from the LDE.

Further, it is the responsibility of the SBESE to create, by rule, a grievance procedure for teachers so that, at a minimum:

- a) the teacher is provided a copy of the assessment performance profile and may request copies of individual assessors' raw notes and Data Recording Form.
- b) the teacher is permitted to file a written response to be permanently attached to the teacher's assessment file.
- c) a post-assessment conference is held to inform the teacher of the results of the evaluation in order that the teacher may respond to the evaluation and have the opportunity to amend, remove or strike any proven inaccurate or invalid information within the performance assessment profile.
- d) the teacher is given the right to receive evidence by documentation of any item contained in the evaluation that the teacher believes to be inaccurate, invalid or misrepresented. If documentation is not presented, such

AN OVERVIEW OF THE PROCESS IS PROVIDED BELOW: (Attachment A)

Fall Semester

1. The teacher to be assessed under LTIP prepares and submits a Comprehensive Unit Plan (CUP) to the assessment team for independent review and scoring. LTIP assessors shall receive information about the CUP in a pre-assessment interview with the intern teacher before completing the scoring of the CUP. The LaTEP teacher prepares daily lesson plans for a seven day period or a CUP.
2. In LTIP, the assessment team will meet to prepare for a CUP interview with the intern teacher. The team will interview the intern teacher, and after the interview, each member will independently score CUP indicators that needed clarification.
3. In LaTEP, the team does not meet with or interview the teacher. The daily lesson plans are not scored by the assessors. If a LaTEP teacher receives a score that is below standard on any STAR component, the teacher is encouraged to prepare a CUP in the spring. It will be reviewed independently by each team member prior to an observation visit but will not be scored.
4. After the CUP or lesson plans are submitted and reviewed, each team member will complete an independent observation. The observations will be conducted during the time frame specified in the CUP or lesson plans and shall coincide with the length of the lesson. A pre-observation discussion and a post-observation discussion must be conducted for the purposes of requesting and receiving clarification relative to the observation.
5. Each assessor will independently score Dimensions II, III, and IV of the assessment instrument and send the completed data recording form to a designated data processing agency, the RSC. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.
6. The RSC will prepare a formative assessment performance profile. Copies of the profile will be sent to the teacher and to each assessment team member.
7. In LTIP, the support team will conduct a post-assessment conference with the intern teacher. A Professional Development Plan will be formulated by the team for any intern whose score falls below the standard on any STAR component.

- (2) The observation must be a scheduled visit within the framework of the seven day period specified in the CUP or daily lesson plans. The teacher will not be informed of the specific dates that each assessor will observe his/her classroom performance. If an assessor fails to observe the teacher during the scheduled seven day period due to extenuating circumstances on the part of the assessor or the teacher, the observation will be rescheduled.
- (3) A pre-observation discussion is required.
- (4) Each assessor must observe standard procedures as set forth in the STAR assessor training; specifically the assessor must:
 - (a) sit in an area where all students can be monitored.
 - (b) remain for entire lesson as outlined in the CUP or daily lesson plans, for a minimum of 30 minutes.
 - (c) take written notes.
 - (d) not bring any documents, materials or equipment into the classroom other than the paper for recording notes.
- (5) Post-observation discussion must be conducted for the purposes of requesting and receiving clarification relative to the observation. General comments may be given to the teacher (e.g., interesting lesson).
- (6) No specific feedback or comments concerning the teacher's performance will be provided to the teacher during the observation or prior to the assessment conference.

4. Procedures for Handling Assessment Data

- a) Between the time of the observation and the assessment conference, the assessors and the teacher must have no personal contact regarding the teacher's performance.
- b) The assessor must make STAR assessment decisions (complete STAR Data Recording Form) within 24 hours of the observation and prior to observing any other teacher.
- c) The assessor must complete the standard STAR Data Recording Form. The original copy of that form must be placed in an envelope provided by the LDE, sealed and submitted to the designated RSC data processing center within five working days. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under

the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.

- d) The assessor must keep a copy of the standard STAR Recording Form and any other data collected during the observation until the data processing center sends notification that the original document has been received and entered into the computer. **Confidentiality laws shall be maintained.** Immediately on such notification, the assessor must shred his/her copy of the STAR Recording Form. Raw notes must be retained by assessors for a minimum of two years.

credit in graduate level courses related to the area(s) needing improvement.

- 4) After a two year period, a teacher who has lost his/her certification and earns appropriate graduate or undergraduate credits can re-enter the LaTEP assessment process. The teacher will be issued a provisional teaching certificate. The teacher's name must be included on the list of teachers to be assessed during his/her re-entry year. The teacher must be assessed within the first 60 working days of the school year. A satisfactory rating at the end of the assessment year will result in the issuance of a renewable professional certificate valid for five years.
- 5) An evaluatee may be assigned new assessment team members during the remediation year.

E. Due Process Components

Teachers will be afforded due process in all aspects of the Louisiana teacher assessment programs. The due process rights include:

1. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.
2. The evaluatee will be provided with a copy of the Assessment Performance Profile after the completion of the assessment process within 15 working days.
3. An assessment conference must be held following the Assessment Performance Process in LTIP and LaTEP and must include a discussion of the assessment profile. The conference must be held prior to the implementation of a Professional Development Plan.
4. The evaluatee may file a written response to the assessment which will be permanently attached to the evaluatee's Assessment Profile. The response will be filed at the RSC.

5. The evaluatee has the right to receive proof, by documentation, of any item contained in the profile that the evaluatee believes to be inaccurate, invalid or misrepresented. If documentation does not exist, the item in question must be amended or removed from the Assessment Performance Profile.
6. Confidentiality of assessment results must be maintained as prescribed by law.
7. A grievance procedure and an appeals procedure that follows the proper lines of authority under LTIP and LaTEP have been established and must be followed.

Louisiana Department of Education Grievance Procedure
for the Louisiana Teaching Internship
and the Louisiana Teacher Evaluation Program

A grievance is a claim by a teacher that the assessment is inaccurate, invalid or misrepresented. Such claim of error shall include evaluator bias, evaluator omission or evaluator error or violation of official procedure related to the actual assessment (i.e., six observations and the evaluation of the teacher). Any other issues are to be handled as administrative complaints (i.e., receipt of implementation guide, STAR, orientation, etc.). The written complaint must be submitted to the LTIP/LaTEP RSC Coordinator.

Step 1

- A. Any teacher who believes that he/she has a grievance may file the grievance at any time during the assessment process, but not later than 20 working days after the final assessment conference. The grievance must be in writing and shall state: (a) the precise factual basis on which it is based and (b) the specific relief requested by the teacher. The grievance shall be presented to the principal or acting administrator. The principal or acting administrator shall acknowledge receipt in writing and keep a record of its filing.
- B. Within seven working days of receipt of the written grievance, the principal or acting administrator shall schedule a conference with the teacher and his/her representative to discuss the specific terms of the grievance. If the conference must be delayed (e.g. illness, prior scheduling, holidays, etc.), the principal shall reschedule the conference within twenty working days of the original conference date with the teacher. Any other extensions would be considered only in the case of documented illness or severe emergency.
- C. Within seven working days of the conference, the principal or acting administrator, must confer with other member(s) of the evaluation team concerning the specifics of the grievance, arrive at a mutually agreeable decision and render a written response specifically addressing each element of the grievance and specifically addressing each area in which relief has been requested. If no mutually agreeable decision can be reached by the evaluation team, then the grievance will be handled as prescribed in Step 2. Within the above stated seven day time limit, the principal or acting administrator shall hand deliver or mail, certified, the evaluation team's written response to the teacher.

Step 2

- A. If a teacher is not satisfied with the decision rendered at Step 1, he/she shall institute a written appeal within ten working days of receipt of the response from the evaluation team by hand delivering or mailing, certified mail, (must be post marked on or before the tenth day) a notice of appeal to the Coordinator of Evaluation at the appropriate Louisiana Department of Education Regional Center. The official Notice of Appeal Form must be completed and submitted by the teacher.

GOAL 2: TO PROVIDE INFORMATION, MATERIALS, AND TRAINING IN FOOD SYSTEMS MANAGEMENT, CHILD NUTRITION PROGRAMS, AND NUTRITION EDUCATION TO FOOD SERVICE PERSONNEL IN SCHOOL SYSTEMS, CHILD CARE INSTITUTIONS, AND PRIVATE SCHOOLS.

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES												
			1990			1991									
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	
a. Coordinate conferences for supervisory staffs of school systems and other agencies participating in child nutrition programs.	a. Copies of correspondence regarding arrangements for conferences; copies of conference programs.	a.1. Handle arrangements for annual School Food Service Spring Conference.	←-----→												
		a.2. Handle arrangements for annual Child Care Food Program Spring Conference.	←-----→												
		a.3. Handle arrangements for annual Family Day Care Home Spring Conference.	←-----→												
		a.4. Handle arrangements for School Food Service Update Conference.													←-----→
		a.5. Handle arrangements for Family Day Care Home Update Conference.													←-----→
b. Furnish Child Care Food Program and School Food Service staffs with both audiovisual and printed materials available through the FNS Library.	b. Documentation of distribution of revised guide; records of use of resource materials.	b.1. Fill requests for resource materials.	←-----→												
		b.2. Assist persons requesting resource materials.	←-----→												
c. Administer the Louisiana School Food Service Manager Certification examinations.	c. Copies of correspondence to School Food Authorities regarding the training program, records of tests administered and graded, records of attendance at classes, test scores.	c.1 Administer the Phases I and II examinations at six sites statewide twice a year, including preparing tests, making arrangements, grading tests, notifying persons of test results, and updating our file.	←-----→												

-ii.-

GOAL 2:--(CONTINUED)
PAGE 2 of 3

OBJECTIVE	EVALUATION	ACTIVITI/ES (MILESTONES)	TIME FRAME AND MILESTONES												
			1990			1991									
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	
(c. Continued)		c.2. Administer Phase III of the training program including registration of trainees, making all arrangements for training (including scheduling of class, instructor assignment, handout materials, etc.), serve as coordinator and as instructor.													
		c.3. Administer Phase III examination for persons who failed it the previous summer at six sites statewide.	←-----→												
		c.4. Notify SFA of results of Phase III exam.													←-----→
		d.1. Work with test consultant.	←-----→												
d. Develop the Phase III Examination for the Louisiana School Food Service Training Program, and maintain a pool of test items for the Phase I and Phase II exams.	d. Copies of correspondence with test development consultant, with State Staff, and with School Food Authorities participating. Test Item Bank.	d.2. Serve as coordinator for all aspects of test development, including blueprint development, item writing, item review, field testing, field test analysis, choosing best items, and score setting procedures.													
		e.1. Prepare for training.	←-----→												
e. Participate in training for sponsoring agencies of the Summer Food Service Program for Children.	e. Meeting agenda, training report, record of materials disseminated.	e.2. Conduct training.													
		e.3. Disseminate materials.													

-iii.-

OBJECTIVE	EVALUATION	ACTIVITI/ES (MILESTONES)	TIME FRAME AND MILESTONES											
			1990			1991								
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
f. Administer the School Food Service Manager Certification Program.	f. Manager Certification Program files which includes copies of correspondence, diplomas, transcripts, and certification number.	f.1. Maintain record of training for all trainees.	←-----→											
		f.2. Review diplomas and college transcripts for all trainees.	←-----→			←-----→								
		f.3. Issue certification numbers to managers.	←-----→			←-----→								
		f.4. Process request for temporary certification.	←-----→			←-----→								
		f.5. Review school system labor budgets to verify manager certification.	←-----→			←-----→								
		f.6. Computerize the recordkeeping system for this program.	←-----→											
		f.7. Work with a computer programmer to switch data from the current programs to the new computer network.	←-----→											
g. Coordinate the reviewing and the updating of the content of the manager training program, especially the safety and sanitation program.	g. Copies of questionnaires and correspondences to SFA and State Staff.	g.1. Coordinate an item review workshop.												
		g.2. Review results of the workshop.												
		g.3. Administer sample test to participating SFAs.												
		g.4. Obtain and review statistics from the sample exams.												
		g.5. Revise content of Phases I & II based upon above for findings & review process.												
		g.6. Contract out typing and AV revisions.												
h. Co-sponsor a safety and sanitation seminar at a pre-convention workshop for LSFSA.	h. Documentation of personal services contract and evaluation forms of the seminar.	h.1. Initiate the personal services contract.												
		h.2. Attend the seminar.												
		h.3. Process payment												

GOAL 3: TO ADMINISTER THE FNS LIBRARY TO ENABLE MORE EFFECTIVE UTILIZATION OF NUTRITION EDUCATION AND TRAINING RESOURCES.

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES											
			1990			1991								
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
a. Facilitate the usage of nutrition education and training resources of the FNS Library by teachers and food service personnel statewide.	a. Records of use of audiovisual materials.	a.1. Fill requests; mail audiovisual materials and check in after use; mail printed materials; maintain records of records disseminated.	←-----→											
		b.1. FNS staff submit training reports to NET.	←-----→											
		b.2. Compile monthly report of bureau activities.	←-----→											
		b.3. Disseminate report.	←-----→											
b. Maintain records of all of Bureau's training activities, including materials disseminated.	b. Documentation of use; monthly training report.	b.4. Adjust inventory of printed material and produce report.	←-----→											
		c.1. Review current materials for content and dispose of out-of-date ones.	←-----→											
		c.2. Preview new materials for possible purchase.	←-----→											
		c.3. Prepare purchase order requisitions and other necessary paperwork.												
c. Review and evaluate present library materials and obtain additional audiovisual and printed materials for library.	c. Copies of purchase orders; records showing addition of materials to library; presence of new materials in library.	c.4. Check in materials upon receipt.												
		c.5. Enter new materials into library system.												
		c.6. Update the listings for the audiovisual Resource Guide, and the staff library.												
		d.1. Review collection files.												
d. Review and reorganize the library circulation procedures.	d. Documentation of usage through collection files.	d.2. Development of new listing and procedures.												

GOAL 4: TO CREATE AN AWARENESS WITHIN BOTH THE PUBLIC AND RELATED PROFESSIONAL GROUPS OF THE IMPORTANCE OF FOOD NUTRITION AND OF THE NUTRITION EDUCATION AND TRAINING PROGRAM, AND OTHER CHILD NUTRITION PROGRAMS.

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES											
			1990			1991								
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
a. Participate in the activities of the Louisiana State Nutrition Council.	a. Records of meetings attended and of activities.	a.1. Attend regular meetings of the Council.	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	
		a.2. Prepare a newsletter quarterly.	<->			<->			<->				<->	
b. Publish at least two articles and/or make presentations about the NET Program.	b. Copies of prepared and published articles.	b.1. Prepare two articles or presentations regarding programs.	----->											
		b.2. Submit articles for publication and/or give presentations.				----->								

IX. Budget	FY91	Contract for Personal Services - Nash LSFA	1,000.00
Reference-- Part 227.37 (b) (18) a budget detailing the use of program funds		NET's share of payment to a computer programmer	1,000.00
Salary (Two full-time Program Managers and one half-time Word Processor II)	\$80,851.00	Indirect Cost	4,259.00
Fringe Benefits	10,403.15	NET's share of Civil Service Expenses	230.00
Travel	4,000.00	Mini-grant to school systems and child care	7,482.39
Printing	4,000.00	Phase I & II Revisions	8,256.61
Library acquisitions	4,000.00		
Supplies	4,859.85		
Postage	4,000.00		
Contract for Test Consultant - Peck	3,000.00		
		Total	\$137,432.00
		Carole Wallin Executive Director	

DECLARATION OF EMERGENCY

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

In accordance with the provisions of R.S. 49:953B of the Administrative Procedure Act, the Division of Administration has adopted emergency revisions to the rules and regulations affecting vendor subscription fees. This declaration of emergency, effective July 1, 1991, for 120 days, is as follows:

A. An annual subscription of \$50 will be charged for 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 Purchasing bid list will only remove your company from automatically receiving bids. State Purchasing will continue to advertise in accordance with required law. The fees cover the fiscal year 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.

Dennis Stine
Commissioner of Administration

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 (BHSF), has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program. The emergency rulemaking provisions were previously exercised effective April 1, 1990 and published in the *Louisiana Register* Vol. 16, Number 4, page 286 on April 20, 1990 relative to this provision, and the emergency rule was readopted effective July 30, 1990 and

published in the *Louisiana Register* Vol. 16, Number 8, page 673 on August 20, 1990. The rule was published as a notice of intent on September 20, 1990 (Volume 16, No. 9, page 795). Subsequently, the emergency rule was readopted effective November 27, 1990 and published in the *Louisiana Register* Vol. 16, Number 12, page 1042 on December 20, 1990.

Under current policies only physician services and prenatal clinic services are reimbursed to federally-qualified health centers (FQHC). Effective April 1, 1990, BHSF will begin implementation of reimbursement based on allowable costs for federally-qualified health center services. This includes "core" services as well as any other services provided by a federally-qualified health center which are otherwise covered as reimbursable Medicaid services in Louisiana. Federally-qualified health centers are defined as those receiving a grant under Section 329, 330, or 340 of the Public Health Service Act or which, based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined by the secretary to meet the requirements for receiving such a grant and have been recognized by the Health Care Financing Administration (HCFA) as eligible for Medicaid reimbursement.

Following implementation of these regulations, health services mandated to be covered when rendered by the federally-qualified health centers shall include the following "core services": physician and physician assistant services, medically necessary services including pneumococcal and influenza vaccines and supplies incident to physician services; nurse practitioners; and clinical psychologist and clinical social worker services. Any other ambulatory services covered by Title XIX in Louisiana may also be reimbursed when rendered by a qualified FQHC provider in accordance with state policy and procedures.

Implementation of this provision is mandated by the Omnibus Reconciliation Act of 1989, Section 6404 (P.L. 101-239). This rule is necessary to ensure compliance with mandated federal regulations and to avoid sanctions from HCFA.

EMERGENCY RULE

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall begin implementation of reimbursement for "core" services and other ambulatory services covered under Medicaid and delivered by federally-qualified health centers as required by Section 6404 of the Omnibus Reconciliation Act of 1989 in accordance with state policy and procedures. Reimbursement for these services shall be based on allowable costs in accordance with Medicare principles of cost reimbursement found at 42 CFR Part 413. Annual cost reporting and full cost settlement shall be required to participate in Title XIX as a federally-qualified health center.

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 exer-

cised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

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 psychiatric hospitals due to a clarification from the Health Care Financing Administration. State Medicaid Manual Transmittal No. 51 (November 1990) clarifies 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. 49:953B to adopt the following rule in the Medical Assistance Program. The emergency rulemaking provisions were previously exercised effective April 1, 1990 and published in the *Louisiana Register* Vol. 16, Number 4, page 291 on April 20, 1990 relative to this provision, and the emergency rule was readopted effective July 30, 1990 and

published in the *Louisiana Register* Vol. 16, Number 8, page 673 on August 20, 1990. The emergency rule was readopted effective November 27, 1990 and published in the *Louisiana Register* Vol. 16, Number 12, page 1042 on December 20, 1990.

The Health Care Financing Administration (HCFA) has established a new focus on the nation's problem of infant mortality and morbidity. The number of low birthweight babies born in the United States continues to be too high, and this is an important factor leading to infant mortality and morbidity, costly intensive care for newborns and extremely expensive long term care for children disabled by this poor beginning. Medicaid, a major source of financing health care for poor women and children, has been shown to improve perinatal outcomes by improving access to health care for indigent pregnant women and children.

In 1986, Louisiana's percentage of low birthweight babies (8.7 percent) was exceeded or equaled in the United States only by that of Washington, D.C. (12.2 percent) and Mississippi (8.7 percent). Louisiana's rate was 28 percent higher than the rate occurring in the U.S. as a whole (6.8 percent). Louisiana's infant mortality rate for 1986 (11.9 per 1000 live births) was 14 percent higher than that for the U.S. as a whole (10.4 per 1000) and Louisiana's rate for 1987 (11.8 per 1000) was 17 percent higher than the U.S. (10.1 per 1000).

The goal of HCFA's Medicaid maternal and infant health initiative is to help states reduce infant mortality and morbidity by maximizing Medicaid coverage and benefits for pregnant women and infants, in part by:

- a. bringing more low income eligible pregnant women into risk-specific prenatal care earlier; and
- b. bringing more infants and toddlers into early and continuing risk-specific health supervision.

P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act, gave Medicaid the ability to provide these enhanced services. These services include risk assessments for pregnant women to determine her level of risk, to determine which services are most needed to protect her health, to improve the birth outcome and to enhance her chances of raising a healthy child. Such a service provided to indigent pregnant women, particularly in combination with case management services, may prevent or ameliorate infant mortality, morbidity, or disability and the enormous costs associated with these problems.

This rule is necessary in order to ensure that Medicaid-eligible pregnant women are able to continue to receive this cost effective, enhanced service.

EMERGENCY RULE

The Medicaid Program shall implement a new prenatal service, risk assessment, to be extended to all Medicaid-eligible pregnant women in the state.

Risk Assessment is defined as the systematic determination of factors which may compromise the health outcome of a pregnant woman or her infant. Such assessments should include, but are not limited to medical, social, and nutritional factors. The assessment may be done by a perinatal provider as defined below.

A risk assessment shall result in a baseline of information regarding the pregnant woman's needs or problems which will be used to guide the development of an interdisciplinary plan of care describing the type and level of intensity of services the recipient will require during her pregnancy. If

the recipient is eligible for or receiving case management services, the risk assessment provider shall cooperate with the case management provider and other appropriate health care professionals in the development of the interdisciplinary plan of care.

A. Standards for Participation

The risk assessment provider shall:

1. enter into a provider agreement with the Bureau of Health Services Financing, including a supplement to the provider agreement which specifies the Bureau of Health Services Financing requirements for the provision of risk assessment services;
2. be licensed in the state as one of the following:
 - a. a physician who has training in perinatal care;
 - b. a physician assistant who has training in perinatal care;
 - c. a certified nurse midwife;
 - d. a licensed/certified pediatric or family nurse practitioner; or
 - e. a registered nurse, who has specialized training in perinatal nursing and a minimum of two years experience providing perinatal nursing services. The registered nurse must be working under the direction of a physician specializing in perinatal care.
3. be certified as having the administrative capability to provide services effectively and efficiently.

B. Standards for Payment

In order to be reimbursed by the state, the provider of risk assessment services must:

1. assure that all risk assessment services are provided only to women whose pregnancy has been verified;
2. insure that the risk assessment instrument used is one approved by the Bureau of Health Services Financing;
3. insure that a second risk assessment is performed only if there is need to reevaluate the types and level of intensity of services the recipient will require during her pregnancy;
4. insure that a recipient agrees voluntarily to receive risk assessment services for which she is eligible;
5. insure that risk assessment services under this provision will not be used to restrict the access of the recipients to other services available under the State Plan;
6. insure that payment for risk assessment services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose;
7. insure that, if the recipient is eligible for or receiving case management services because of the risk level involved in her pregnancy, the provider will cooperate with the recipient's case management provider and other appropriate professionals in developing interdisciplinary service plan;
8. insure that each recipient has freedom of choice with regard to providers of any services necessary for her treatment; and
9. abide by the articles of the provider agreement and the supplement to the provider agreement entered into with the Bureau of Health Services Financing.

C. Service Limits

The maximum units of service covered by this provision per individual per calendar year shall not exceed the limit of two set in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

D. General Provisions

1. Providers of risk assessment services will be reimbursed on a unit of service basis. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

2. Providers of risk assessment services shall maintain adequate documentation of the provision of service in a separate record for each recipient. These records shall include:

- a. the date of service provision;
- b. the name of the perinatal service provider;
- c. a copy of the completed risk assessment instrument on the recipient; and
- d. documentation of the need for a second risk assessment if performed.

These records shall be retained for audit as prescribed by the State Plan Standards for Payment.

3. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the Title XIX State Plan Standards for Payment shall be adhered to by risk assessment providers.

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. 49:953B to adopt the following rule in the Medical Assistance Program.

Eligibility for Medicaid benefits requires that certain non-financial criteria be met, as well as the financial income and resource standards for the applicable household size. To qualify for medical assistance, an individual must meet categorically related criteria (i.e., aged, blind, disabled, or a member of a family with children deprived of the support of at least one parent) as well as being financially eligible.

In households in which a parent and his/her children reside with a stepparent, the stepparent is not eligible for inclusion in the certification under Aid to Families with Dependent Children (AFDC) regulations as a member of a family with children deprived of parental support, unless the stepparent is an "essential person". AFDC policies allow inclusion of an "essential person" in the AFDC household if he/she provides child care which enables the qualified relative (parent) to work full time or receive full-time training or schooling.

However, in some instances the parent may not currently be working or attending school. In those instances the stepparent has been certified for Medicaid benefits in a separate AFDC related Medically Needy Program certification when he/she meets the incapacity requirements.

Clarification of this policy has been received from the Health Care Financing Administration which requires that, if the stepparent cannot be considered a member of a family with deprived children, he/she must instead be categorically

related as an aged, blind, or disabled individual in order to be eligible for Title XIX benefits.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. This rule previously adopted under emergency rulemaking provisions of R.S. 49:953B effective December 1, 1990 and published in the *Louisiana Register*, Vol. 16, No. 12, page 1044 on December 20, 1990.

EMERGENCY RULE

Title XIX eligibility of stepparents who do not meet the criteria to be included as a member of a family with children deprived of the support of at least one parent shall be determined in the appropriate categorically related aged, blind, or disabled classification. SSI budgeting procedures shall be used to determine eligibility for medical assistance.

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 March 1, 1991 in the Aid to Families with Dependent Children (AFDC) Program.

Emergency rulemaking is necessary to provide immediate 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 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

Effective March 1, 1991 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.

May Nelson
Secretary

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 adopted and amended certain portions of the rule (LAC 76:V.701) pertaining to alligators, effective April 4, 1991.

The emergency adoption of the amendments is 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 copy of the sections amended are noted below. 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. 70898-9000.

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

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 collection 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.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of the Secretary

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the Department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m. April 27, 1991 the recreational fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m. July 1, 1991.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on December 20, 1990 that the gulfwide recreational king mackerel quota had been reached and the season closure is necessary to prevent overfishing of this species.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of the Secretary

The Secretary of the Department of Wildlife and Fisheries under the authority vested in him under R.S. 56:435.1

and Wildlife and Fisheries Commission Resolution, October 1990 has extended the oyster season in Calcasieu Lake through and including April 20, 1991. The area within which the extension will apply will be confined to the area approved by the Health Department under the Lower Calcasieu Lake, Cameron Parish special oyster season. This extension was deemed necessary because of the extensive closures to the area because of poor water quality during the heavy rainfall periods of January, February and March and a recent further reduction of the available area for oyster fishing.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

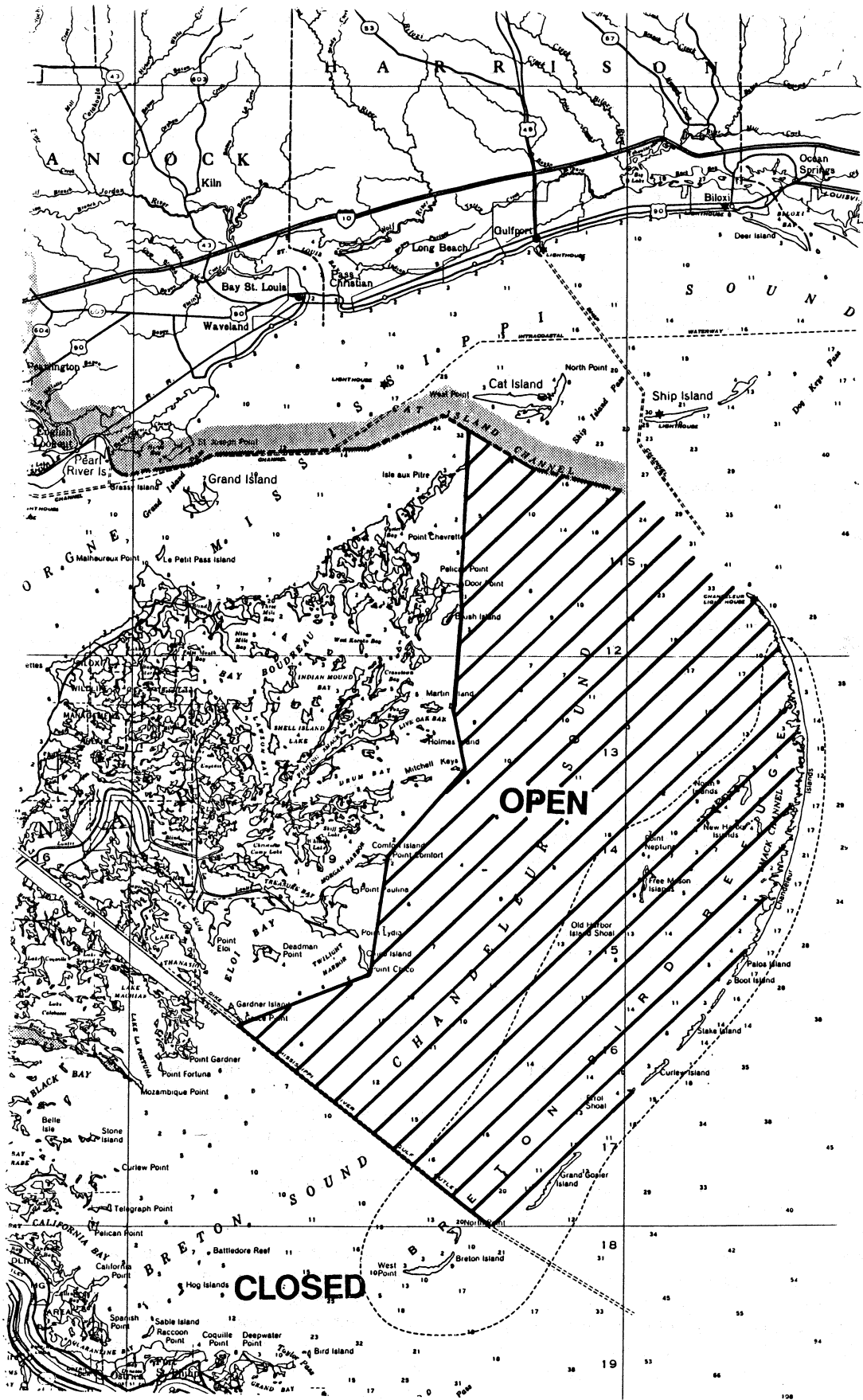
Department of Wildlife and Fisheries Office of the Secretary

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

Special Pink Shrimp Season Chandeleur Sound

A special 1991 pink shrimp season has been set for that portion of Chandeleur Sound bounded on the South by the Mississippi River Gulf Outlet (MRGO) and East of a line running from the North side of the MRGO at 29° 40' 40" N. Lat. and 89° 23' 12" W. Long. and Thence N. 65° 09' E. approx. 43970' to Point Chicot Lat. 29° 43' 36" N. Long. 89° 15' 36" W. Thence N. 09° 34' E. approx. 36380' to Point Comfort Lat. 29° 49' 30" N. Long. 89° 14' 20" W. Thence N. 25° 59' E. approx. 28470' to the East point of Mitchell Island Lat. 29° 53' 41" N. Long. 89° 11' 53" W. Thence N. 07° 20' E. approx. 23480' to the East point of Martin Island Lat. 29° 57' 31" N. Long. 89° 11' 14" W. Thence N. 09° 14' E. approx. 31930' to the East point of Brush Island Lat. 30° 02' 42" N. Long. 89° 10' 09" W. Thence N. 01° 05' W. approx. 6160' to Door Point Lat. 30° 03' 43" N. Long. 89° 10' 09" W. Thence N. 08° 58' W. approx. 35180' to the East point of Isle Au Pitre Lat. 30° 09' 28" N. Long. 89° 11' 04" W. Thence North to the Louisiana-Mississippi Boundary.

The season will begin at sunset Monday, March 18 and end at sunrise on Saturday, April 13. Trawling will only be allowed during the time between official sunset and official sunrise on each day of the special season. Participants in this special pink shrimp season may possess no more than 10 percent by weight, by-catch of other shrimp species. The secretary intends to close the special 1991 pink shrimp season prior to April 13, if there is evidence that the pink season will jeopardize the 1991 spring brown shrimp crop.



A. Kell McInnis, III
Acting Secretary

Rules

RULE

Department of Agriculture and Forestry Office of Animal Health Services

The Department of Agriculture and Forestry has adopted rules regarding the revision of LAC Title 7, Part XXI, Chapter 123. These rules establish the procedures and requirements for the operation and licensing of pet turtle farms in Louisiana.

These rules comply with R.S. 3:2358.1 et seq. and were mandated by the enactment of Act No. 770 of the 1990 regular Legislative session.

Title 7

AGRICULTURE AND ANIMALS Part XXI. Diseases of Animals

Chapter 123. Pet Turtles

§12301. Definitions

In addition to the definitions listed below, the definitions in R.S. 3:2358.3 shall apply to these regulations.

Agent means an authorized representative of the Department of Agriculture and Forestry.

Approved antibiotic means an antibiotic approved by the Department of Agriculture and Forestry for use in the egg immersion method.

Approved antibiotic solution means a dissolved antibiotic at a concentration approved by the Department of Agriculture and Forestry for use in the egg immersion method.

Certified turtle farmer means a Louisiana individual, partnership, corporation or entity engaged in the collection, hatching, sale or distribution of turtles using the egg immersion method and which have been inspected by the Department of Agriculture and Forestry.

Chlorine solution means a solution of chlorine at a concentration approved by the Department of Agriculture and Forestry.

Department means the Department of Agriculture and Forestry.

Department issued guidelines means a document provided periodically by the Department of Agriculture and Forestry setting forth detailed procedures designed to implement these regulations.

Dip solution means an approved antibiotic solution as defined above.

Document means any form or document deemed necessary by the department for the operation of a Louisiana Certified Turtle Farm.

Egg Immersion Method means a sanitization process derived from the Siebeling Method developed by Dr. Ronald J. Siebeling and approved by the department whereby pet turtle eggs are cleaned, disinfected and treated with an approved antibiotic solution in order to render the hatchling free from Salmonella or other bacteria harmful to humans or other pet turtles.

Egg washing machine means a machine intended for the washing of turtle eggs, or modified from a machine intended for the washing of eggs of commercial poultry.

Garasol is an antibiotic (Gentamicin sulfate) dissolved in water to give a concentration of 1,000 ppm or a concentration as approved by the Department of Agriculture and Forestry.

Laboratory means a certified laboratory as defined in R.S. 3:2358.3 and which employs at least one microbiologist.

Pet turtles means turtles with a carapace length of less than four inches.

Quarantined area means any designated area or premises where pet turtle eggs or hatchlings are stored, processed or hatched which has been designated as quarantined by a Louisiana-licensed, accredited and department-approved veterinarian due to a finding of contamination in a group or lot by Salmonella, Arizona or other bacteria harmful to other turtles or humans.

Turtle lot means any amount of pet turtles or eggs up to 20,000 in number, and may be used interchangeably with the term turtle group.

Turtles means any animals commonly known as turtles, tortoises, terrapins and all other animals of the order *Testudinata*, class *Reptilia* except marine species (Families *Dermochelidae* and *Cheloniidae*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture LR 12:224 (April 1986), repealed and re-promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12302. Monitoring of Turtle Farms for Safety and Sanitization

A. State-employed veterinarians shall inspect the premises of certified turtle farmers, including those areas involved in the washing, incubation and hatching of turtles, or other operations. At least one inspection shall be performed prior to the start of each egg laying season. Recommendations shall be made to farmers to ensure compliance with these regulations. At the time of inspection, state-employed veterinarians or their designees may randomly select eggs or turtles for submission to a laboratory for microbiological examination. The inspections shall be made to insure the following.

1. The egg immersion method of egg collection and sanitization is being conducted properly and is in accordance with procedures issued by the department.

2. All equipment used in the egg immersion method shall be clean and in working order.

3. Vacuum tanks used for the egg immersion method shall be airtight and constructed of smooth-finished material to facilitate decontamination.

4. The egg immersion method shall be performed in a designated building. Due care shall be applied to maintaining isolation of this area. Operators shall prevent spillage or transfer of the antibiotic solution used in the egg immersion method to any other area or the environment outside of the building designated for the egg immersion method.

5. Persons implementing the egg immersion method shall wash their hands in disinfectant and remove the garments recommended in department-issued guidelines prior to leaving the isolated area where the method is being performed.

B. State-employed veterinarians shall inspect the premises of turtle farmers to insure that no turtles which have been treated by the egg immersion method or any other

method utilizing antibiotics shall be introduced into the environment.

C. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs which have been treated by the egg immersion method or any other method utilizing antibiotics are used to stock or restock the ponds of a certified turtle farmer or non-certified turtle farmers.

D. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs belonging to different groups are commingled without first receiving health certificates.

E. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that each turtle group is clearly identified and is not improperly commingled with saleable or hatchable eggs of other groups.

F. State-employed veterinarians or their designees shall inspect the records of certified turtle farmers to verify that all documentation required by the department shall be kept current.

G. Samples of water from ponds may be taken by state-employed veterinarians or their designees and shall be transmitted to a laboratory for chemical and microbiological analysis, including, but not limited to pH, antibiotic and pesticide contaminants, and potentially pathogenic bacteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.9.

HISTORICAL NOTE: Promulgated by the Department of Agriculture LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12303. Collection of Egg and Turtle Samples

In order to ensure a representative sample from the turtle group and to prevent cross-contamination the following procedures shall be followed:

A. Certified turtle farmers shall inform the department in a timely manner of their intention to ship turtle hatchlings or eggs to arrange certification procedures.

B. Upon notification by the farmer, a department-employed veterinarian or designee shall inspect the group of turtles or turtle eggs bound for shipment and randomly select turtles or eggs for submission to a certified laboratory for microbiological examination.

C. The department-employed veterinarian shall inspect the premises and turtle group or eggs and shall issue a certificate of inspection subject to compliance with the requirements of these regulations. The certificate of inspection shall verify the species, number of turtles or eggs, destination, turtle group number and compliance with the egg immersion method.

D. All specimens shall be collected using approved methods to prevent contamination.

E. The transportation to department-approved laboratories for microbiological examination and handling of the samples of turtles and eggs shall be performed in such a manner as to maintain identity and integrity.

F. Certified turtle farmers shall have the option of (1) collecting samples under the on-site supervision of the department-employed veterinarian or designee; or (2) allowing the department veterinarian or designee to collect the samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9, 3:2358.10 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12304. Movement of Pet Turtle Eggs and Pet Turtles

The department shall regulate the movement of turtles or turtle eggs by certified pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

A. All turtles or eggs leaving a certified turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana-licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana-certified turtle farm shall accompany all shipments into international commerce. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

B. A health certificate or a laboratory report pursuant to a microbiological examination shall be required for any intrastate movement of pet turtles or pet turtle eggs except for submission to a Louisiana-certified laboratory for microbiological examination.

C. Turtles shipped to certified laboratories for microbiological examination shall be accompanied by appropriate documentation.

D. No pet turtles or their eggs originating outside of Louisiana shall be sold, held for sale, or offered for any other type of commercial or public distribution in Louisiana.

E. No dead turtles or non-viable eggs shall be shipped, transported or distributed.

F. Turtles or turtle eggs shall be shipped, transported or distributed only in packaging approved by the department.

G. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package and shall be accompanied by a health certificate and a certified laboratory report.

H. Official health certificates and appropriate affidavits shall accompany movement of all pet turtles and eggs shipped, transported or distributed for non-commercial purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12305. Identification of Groups of Turtles and Turtle Eggs

A. All groups of turtles or turtle eggs produced by certified turtle farmers in Louisiana shall be assigned an identification number in a department-approved manner.

B. No turtle group shall exceed 20,000 viable hatchlings or eggs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12306. Microbiological Test Procedures

A. Samples of turtles or turtle eggs shall be subjected to microbiological examination using approved procedures and techniques based upon procedures set forth in *Official Methods of Analysis of the Association of Official Analytical Chemists*.

B. Turtle groups identified as contaminated with bacteria of the genus *Salmonella* or *Arizona* or any other microorganisms pathogenic to humans, domestic animals or aquatic species shall be subject to the notification provisions of R.S. 3:2358.11 and this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.11 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12307. Issuance of Health Certificates

A. Accredited Louisiana-licensed and department-approved veterinarians will issue official health certificates.

B. Health certificates shall not be issued on groups of turtles or eggs until they have been inspected by a department-approved veterinarian and shall state that the veterinarian has found them to be free of visible signs of infectious, contagious or communicable diseases, and a certified laboratory has found them to be free of bacteria pathogenic to humans, domestic animals and aquatic species.

C. Official Louisiana health certificates shall be issued only on turtles or turtle eggs produced by Louisiana-certified turtle farmers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12308. Quarantine

In addition to the procedures set forth in R.S. 3:2358.11, upon the identification by laboratory examinations of *Salmonella* or any other species of bacteria harmful to humans or other pet turtles in a group of turtles or turtle eggs, the following procedures for quarantine shall apply.

A. Notification of the test results and quarantine shall be made in person or by telephone, followed by written notification as set forth in R.S. 3:2358.11, by agents of the department, including at least one department veterinarian.

B. The quarantine and its related restrictions shall remain in effect until the farmer is otherwise notified by the department.

C. Immediately upon receipt of the personal notification, the certified turtle farmer producing the quarantined eggs shall identify to the agents of the department all turtles or eggs belonging to the same group as the one which tested positive for the presence of *Salmonella* or other harmful bacteria.

D. Certified turtle farmers wishing to submit a quarantined turtle group for a second laboratory microbiological examination must do so prior to the end of the 21-day period specified in R.S. 3:2358.12, and must follow the same procedure established for an initial collection and submission of samples. Failure to timely obtain a second examination shall result in the implementation of the disposal procedures set forth in R.S. 3:2358.12.

E. Quarantined eggs or turtles shall be subject to inventory and verification by agents of the department. Records, physical examination and photographs may be used to verify the inventory of quarantined eggs or turtles.

F. Quarantined turtles and eggs shall be sealed under supervision of agents of the department to prevent the spread of pathogenic bacteria until the certified turtle farmer receives notice of either (1) the lifting of the quarantine; or (2)

instructions dealing with the disposal of the contaminated turtle or egg group.

G. All turtles and/or eggs belonging to a group which has either received a second notice of contamination with harmful bacteria or otherwise ordered disposed of by the department shall be disposed of in a humane manner approved by the department within 21 days of the receipt of the second notice.

H. Areas where quarantined turtles or eggs have been kept shall be disinfected in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.11 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12309. Form and Content of Records

In addition to those records required under R.S. 3:2358.7, certified turtle farmers, exporters of pet turtles or eggs, certified laboratories and department-approved veterinarians shall be responsible for maintaining and submitting as requested proper records. Records shall include, but not be limited to, purchase and disposal of antibiotics, application of the egg immersion method, volume of eggs treated, laboratory reports and disposition of groups of eggs and turtles. These records must be current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12310. Pet Turtle Farmers; Licensing

In addition to the provisions below, the requirements for licensure set forth in R.S. 2358.5 shall apply.

A. Licenses for pet turtle farming shall be issued only by the Office of Animal Health Services of the Department of Agriculture and Forestry.

B. Upon issuance of an initial license by the department, certified turtle farmers shall be assigned a permanent certified farmer identification code for use on all documents related to pet turtle farming.

C. Prior to the issuance or renewal of a certified turtle farmer license, an inspection of the farm premises shall be made by an accredited, Louisiana-licensed and department-approved veterinarian to ensure that all equipment required for sanitization and other procedures is present and in working order.

D. A map or schematic showing the location of ponds or other breeding habitats, storage, treatment and incubation buildings and facilities shall be included with all applications for a certified turtle farmer license. Each pond or breeding habitat shall be designated by a letter, beginning with "A", and shall be designated in sequential order and properly labeled on the map or schematic.

E. Licenses for turtle farming shall be issued upon the satisfactory completion and acceptance by the department of the application form to be a certified turtle farmer, accompanied by an application fee of \$250 by the person seeking such a license. The application form should specify the following, along with any other information required by the commissioner of Agriculture and Forestry:

1. name of applicant;
2. date of application;

3. address of applicant;
4. telephone number of applicant;
5. whether the applicant is an individual, corporation, subchapter "S" corporation, cooperative or partnership;
6. principal officers of the applicant, if any;
7. location of applicant's principal office and farming premises;
8. location of all offices operated by applicant, along with the name of the manager and phone number of each;
9. the dates upon which the applicant begins and ends its fiscal year;
10. The names, businesses and phone numbers of three persons who can provide references as to the character and business standing of the applicant; and
11. The following phrase, included at the bottom of the application, which must be read by the applicant and which must be signed and dated by the applicant signifying his assent thereto:

"The undersigned, having read Part X of Chapter 16 of Title 3 of the Louisiana Revised Statutes of 1950, Act 770 of 1990 and the rules and regulations written in conformity therewith, and agreeing to abide by and comply therewith, applies for a license to operate as a certified turtle farmer under the provisions of the aforementioned acts of the Legislature, in furtherance whereof, the statements and answers of the above questions, are made and declared to be true under penalty of perjury."

F. In the case of the transfer of ownership of the person or entity that is the certified turtle farmer, that farmer must reapply with the department for licensing and must meet all of the qualifications required for the issuance of an initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.5.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12311. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill Salmonella and other harmful bacteria, certified turtle farmers shall follow approved disposal procedures including but not limited to the following:

1. eggs or turtles that have been found to contain Salmonella, Arizona or other harmful bacteria shall be disposed of in a humane manner approved by the department; and
2. chlorine or antibiotic solutions shall be disposed of in a manner approved by the department.

B. Dead or deformed turtles and also those turtles not sold within 12 months of certification shall be disposed of in a humane manner as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12312. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entry onto any property or premises in the state of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify the turtle farmer before performing any inspections.

B. Agents of the department are authorized to inspect all records and premises maintained by certified turtle farmers in order to enforce the provisions of R.S. 3:2358.1 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. 3:2358.2 and 3:2358.5.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12313. Department Issued Guidelines

Due to the unique nature and rapid development of this evolving program, the department finds it necessary to issue guidelines to delineate certain detailed procedures which require periodic updates. These guidelines will be made available upon request or application for licensure as a certified pet turtle farmer. Prior to any changes in these guidelines, except for emergencies, interested persons will be given a reasonable amount of time for comment and appeal. Certified turtle farmers will be sent copies of these proposed changes by United States mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12314. Penalties

A. For failure to implement the egg immersion method or Siebeling method of treatment in conduction of his business, the offender shall be fined no more than \$1,000 and shall be further enjoined from operation of such business, and no further sales shall be allowed, until this method is implemented. No fine shall be assessed for non-willful deviation from the application of the regulations and guidelines, but the certified turtle farm shall be enjoined, and no further sales shall be allowed, until deficiencies are adequately corrected.

B. Any person found guilty of violating any of the provisions of this Chapter or those of R.S. 3:2358.1 et seq., is subject to the penalties provided for by R.S. 3:2358.14, including fines of up to \$1,000 for each violation. Each day in which a violation occurs shall be considered a separate offense.

C. 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. 3:2358.2.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

§12315. Repeal of Prior Rules and Regulations

All prior rules and regulations in this Chapter adopted and/or promulgated in accordance with R.S. 56:638 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17: (April 1991).

Bob Odom
Commissioner

RULE

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

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board amends LAC Title 7, §11731 as follows.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11731. Admission of Cattle into Louisiana

All cattle entering the state must meet the general requirements of LAC 7:XXI.11705 and the following specific requirements:

A. Tuberculosis Requirements

All cattle over one year of age must show a negative test for tuberculosis within 30 days prior to entry. The date and results of the test and the individual identification of each animal must be recorded on the health certificate. The following are exempt from this requirement:

1. cattle that originate from a tuberculosis free accredited herd; however, they must be individually identified and the accredited herd number furnished on the health certificate;

2. beef cattle that originate from a tuberculosis free state or from a herd, not under quarantine, in a modified-accredited tuberculosis free state or area;

3. cattle consigned to a recognized slaughter establishment or to an approved livestock auction market to be sold directly for immediate slaughter only.

B. Brucellosis

1. In addition to the above requirements, cattle entering Louisiana must meet the brucellosis requirements found in part 78 of the code of federal regulations.

2. No cattle from brucellosis quarantined herds may move into Louisiana except those cattle moving to an approved livestock auction market or to an approved slaughter establishment and accompanied by the required federal form VS 1-27.

In addition to the requirements of Subsection B.1. above, cattle must meet the following requirements:

a. Heifers between the ages of four and 12 months of age must be official brucellosis calfhood vaccinates to be eligible to be brought into Louisiana.

Exceptions to this Subparagraph are:

i. heifers moving from a farm to an approved stockyard or an approved slaughter establishment;

ii. individually identified heifers, less than 12 months of age, entering the state for exhibition purposes and returning to the state of origin.

b. Effective January 1, 1989, all heifers and cows over 12 months of age, entering Louisiana, must be official brucellosis vaccinates or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) entering the state, must accompany the health certificate.

Exceptions to this Subparagraph are:

i. heifers and cows moving directly from a farm to an approved stockyard or an approved slaughter establishment;

ii. individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin;

iii. individually identified heifers and cows originating from a certified brucellosis free herd, a brucellosis Class Free state, or a brucellosis Class A state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:236 (March 1985), repromulgated LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 13:555 (October 1987), LR 17: (April 1991).

Bob Odom
Commissioner

RULE

Board of Elementary and Secondary Education

State High School Diploma - Nonpublic Schools

The Board of Elementary and Secondary Education, pursuant to the notice of intent published in the January 20, 1991 issue of the *Louisiana Register* and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741, Part B, Nonpublic Standards

6.099.04 Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

6.099.05 Any approved nonpublic school which participates in the state Graduation Exit Examination (GEE) shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and successfully passes all components of the examination.

A student who attends a school which opts to administer the test who does not successfully complete the state's minimum graduation requirements and components of the examination shall not be eligible for either a state or a school diploma.

6.099.06 Any state-approved nonpublic school which wishes to award the state diploma to its students shall contact the state department for timelines and other administrative guidelines for administering the state exit testing program.

Any nonpublic school which opts to give the Graduation Exit Examination shall follow rules and regulations set by the Board of Elementary and Secondary Education.

6.099.07 Any approved nonpublic school which does not choose to administer the state Graduation Exit Examination to its students may grant a school diploma which shall carry the same privileges as one issued by a state-approved public school.

6.099.08 The awarding of high school diplomas shall in no way affect the school approval classifications of any school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7

HISTORICAL NOTE: LR 17: (April 1991)

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Salary Schedule for State Technical Institutes

The Board of Elementary and Secondary Education, pursuant to the notice of intent published January 20, 1991 *Louisiana Register* and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 1868, BESE Personnel Manual Chapter D. Employee Compensation
§145. Vocational-Technical System
A. Salary Implementation

5. If a former employee was RIF'd and has been employed in the vocational-technical system under another source of funding and reemployed in a state table of organization position, he or she will be given credit for pay purposes for those years worked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1993.

HISTORICAL NOTE: Amended LR 17: (April 1991).

Carole Wallin
Executive Director

RULE

Department of Education Proprietary School Commission

In accordance with R.S. 49:950 et seq, the Administrative Procedure Act, the Proprietary School Commission, Louisiana Department of Education has adopted a Student Complaint procedure rule to become part of Bulletin 1443.

Title 28 EDUCATION

Part V. Proprietary School Commission

General Policies

A. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints within the Proprietary School Bureau under the jurisdiction of the Department of Education.

B. The Proprietary School Bureau shall prepare and provide a copy of the complaint procedure to each licensed proprietary school.

C. Each proprietary school shall include in either their school catalog or enrollment agreement the following:

Student complaints relative to actions of school officials shall be addressed to the Proprietary School Bureau, Louisiana Department of Education, Box 94064, Baton Rouge, LA 70804-9064, 504/342-3543, only after the student has unsuccessfully attempted to resolve the matter with the school after having first filed a written and signed complaint with that school's officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.E.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 17:

Student Complaint Procedure Conciliation

A. Any student of a proprietary school who is aggrieved by actions of school officials shall complain in writing to the Proprietary School Bureau, Louisiana State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, 504/342-3543, only after the student has unsuccessfully attempted to resolve the matter with the school after having first filed a written and signed complaint with that school's officials.

B. A copy of this initial notice of the complaint will be sent to the school and a copy retained in the bureau files. A copy of the correspondence sent to the school will be sent to the complainant.

C. The notice of complaint will request that the student and the school meet and discuss the complaint in a conciliation effort and/or communicate in writing within 10 days after receipt of the notice.

D. If after 10 days, the complaint has not been satisfactorily resolved, the student may request further assistance from the Proprietary School Bureau.

E. The bureau staff may in its discretion eliminate the conciliation procedure where a student has already contacted the school regarding the problem and may proceed directly to the mediation conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.E.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 17:

Mediation Conference

A. If the student advises the bureau that no satisfactory resolution has been achieved with the school through the conciliation procedure, the bureau shall convene a mediation conference.

B. The following form is to be completed and disseminated to the complainant and the school at least five days prior to the Mediation Conference.

DEPARTMENT OF EDUCATION
PROPRIETARY SCHOOL BUREAU
COMPLAINT MEDIATION CONFERENCE

Student Name: _____ Date: _____
Address: _____
City/State/Zip Code: _____
Social Security Number: Phone Number: _____
Date of Birth: _____
Name of School: _____
Address: _____
City/State/Zip Code: _____
Date of Enrollment: _____ Course of Study: _____
Amount of Tuition Paid _____
Method of Payment: _____
Pell Grant _____
Guaranteed Student Loan _____
Personal Funds _____
Other _____

NATURE OF COMPLAINT
(add pages if necessary)

RELIEF REQUESTED

NOTICE: The Proprietary School Bureau hereby advises that a mediation conference on the above related matter will occur on, (date, time, place).

C. The bureau shall request that parties bring to the mediation conference all documents necessary to assist the bureau in solving the complaint.

D. The mediation conference shall be presided over by the executive secretary of the commission, or by a staff member of the Proprietary School Bureau designated by the executive secretary.

E. The complainant and official representative of the school shall present testimony and evidence relevant to the complaint.

F. At the mediation conference held among the bureau, the student, and the school, all parties will attempt to arrive at an amicable solution.

G. If an amicable solution is reached, the bureau staff will send a notice of the following to the school and the student and will keep a copy in its files:

1. a statement specifying the resolution from the mediation conference; and
2. the time within which actions shall be taken to rectify the problem.

H. If no amicable resolution is achieved in the mediation conference, the bureau staff shall provide notice in writing to the parties of the opportunity to request a hearing. Either party may request a hearing within seven days of the mediation conference. Within five working days following a request for a hearing, the bureau staff shall send written notice to the parties containing the following:

1. an explanation of the hearing procedures; and
2. the date, time and place for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.E.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 17:

Hearing

A. A public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing.

B. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. The commission shall render a decision accompanied by written reasons within 30 days following the conclusion of the hearing. This decision will be transmitted to all parties with a notice of the right to judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.E.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 17:

Judicial Review

Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.E.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 17:

Andrew H. Gasperez
Executive Secretary

RULE

**Department of Employment and Training
Board of Barber Examiners**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Board of Barber Examiners, hereby adopts rules relative to the regulation of barbers, LAC 46:VII.Chapters 1 through 17.

Copies of the rule may be obtained through the Board of Barber Examiners, 1000 Scenic Highway, Baton Rouge, LA or through the office of the State Register, 900 Riverside North, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Office of Labor, hereby adopts rules relative to the Apprenticeship laws and procedures, LAC 40:IX.Chapters 1, 3 and 5.

Copies of the rule are available through the Office of Labor, Box 94094, Baton Rouge, LA 70804-9094 or the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Office of Labor, hereby adopts rules relative to the regulation of Community Services Block Grants, LAC 40:XVII. Chapters 1 through 49 as outlined below:

Title 40

LABOR AND EMPLOYMENT

Part XVII. Community Services Block Grant

Subpart 1. CSBG Policy Manual

- Chapter 1. Allocation of Funds
- Chapter 3. Annual Plan of CAA
- Chapter 5. Application for Discretionary Funds
- Chapter 7. Governing Boards
- Chapter 9. Fiscal Policy
- Chapter 11. Allowable Costs
- Chapter 13. Subcontractors and/or Third Party Agreements
- Chapter 15. Procurement Policies
- Chapter 17. Personnel
- Chapter 19. Travel Policy
- Chapter 21. Reporting
- Chapter 23. Availability and Retention of Records
- Chapter 25. Civil Rights Policy
- Chapter 27. Clarification of Rules
- Chapter 29. Termination of Funding
- Chapter 41. General Provision
- Chapter 43. Funds
- Chapter 45. Contracts
- Chapter 47. Fiscal Documentation
- Chapter 49. Performance Provisions

Copies of the rule may be obtained through the Office of Labor, Community Services Block Grants Division, Box 94094, Baton Rouge, LA or through the Office of State Register, 900 Riverside North, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Office of Labor, hereby adopts rules relative to the Job Training Partnership Act, LAC 40:XIII. Chapter 1.

Copies of the rule may be obtained at the Office of Labor, JTPA Division, 1001 North 23rd Street, Baton Rouge, LA or through the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Office of Labor, hereby adopts rules relative to the Regulations of Conditions Under Which Minor Labor May Be Used, LAC 40:VII. Chapters 1, 2, 3 and 5.

Copies of the rule may be obtained at the Office of Labor, Box 94094, Baton Rouge, LA 70804-9094 or through the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Employment and Training, Office of Labor, hereby adopts rules relative to the regulation of Private Employment Services, LAC 40:XV. Chapter 1.

Copies of the rule may be obtained at the Office of Labor, 1001 North 23rd Street, Baton Rouge, LA or through the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

RULE

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

In accordance with the provisions of R.S. 49:950 et seq., the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1021 et seq. and Act 1083, the Office of Worker's Compensation, through the Department of Employment and Training, hereby re promulgates and readopts a rule to implement administrative procedures outlining the purpose of the Office of Worker's Compensation in the state of Louisiana.

The rules and regulations shall provide and govern the purpose of the Office of Worker's Compensation as well as general provisions defining the parties and role of the office.

Title 40

LABOR AND EMPLOYMENT

Part 1. Worker's Compensation Administration

Chapter 1. General Provisions

§101. Purposes

The purpose of the rules and regulations is to define the responsibilities and rights of the employee, employer and

the carrier in the Administration of Worker's Compensation in Louisiana.

The rules are intended to expedite the receipt of benefits by the injured worker; to insure that the proper rate of compensation is paid, to aid in the rehabilitation of the injured worker; to provide for collection of statistical data; to provide for review of safety plans and where necessary, to facilitate the resolution of disputes regarding benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1021.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:775 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

§103. Definitions

For the purpose of these rules, the following definitions apply.

A. *Office* means the Officer of Worker's Compensation Administration in the Louisiana Department of Employment and Training.

B. *Act* means the Louisiana Worker's Compensation Law, Chapter 10, Revised Statute 23.

C. *Carrier* unless otherwise indicated, includes insurance companies, self-insured employers and group self-insured employers.

D. *Directors* means the assistant secretary of Employment and Training responsible for Worker's Compensation Administration.

E. *Commissioner* means the commissioner of Insurance for the state of Louisiana.

F. *Medical Examiner* means any medical practitioner selected by the director for settling disputes.

G. *Penalty* means the percentage of additional payment required by Section 1201 B of Act 1, 1983 Extraordinary Session.

H. *Form* means the forms required for notification to the office required by the Act.

I. *Rehabilitation* means the program designed to help an injured worker reenter the work force.

J. *Employee Notice* means the notice the employer is required to keep posted in the work place.

K. *Certificate* means the notice the office is required to give after its recommendation is rejected.

L. *Clerk* means the clerks of the District Courts in Louisiana.

M. *Date of Filing*: The date of filing, reporting receipt in the office shall be the date the document is received in the office.

N. *Days*: Days when used to determine a period allowed for filing shall mean the number of calendar days. If the final day of a time period falls on a Saturday, Sunday, holiday, or other day that the office is officially closed, then the period of filing shall be extended to the next day that the office is officially opened.

O. *Document Size*: All filings not on forms approved by the office shall be submitted on 8 1/2" by 11" paper.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1021.

HISTORICAL NOTE: Promulgated by Department of Labor, Officer of Worker's Compensation Administration, LR 11:775 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

§105. Annual Reports

All carriers writing worker's compensation insurance and all self-insured employers shall submit to the office by April 30, of each year an annual report on form LDOL-WC-1000 showing the amount of worker's compensation benefits paid in the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:776 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

§107. Assessments

The annual report will be used by the director in determining an assessment for the administration of worker's compensation. The assessment shall be paid into the Office of Worker's Compensation Administrative Fund within 30 days from the date notice is served upon such carrier. If such amount is not paid within such period there may be assessed, for each 30 days the amount assessed remains unpaid, a civil penalty equal to 20 percent of the amount unpaid, which shall be due and collected at the same time as the unpaid part of the amount assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:776 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

§109. Compliance Penalty

If any carrier fails to pay the amount assessed against it within 60 days from the time such notice is served upon it, the commissioner of Insurance, upon being advised by the director, may suspend or revoke the authorization to insure compensation in accordance with the procedures of the insurance code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.1

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:776 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

§111. Restricted Work Notification

Every employer of more than 10 employees who is subject to record keeping under the provisions of USC Section 655 shall, within 90 days of any occupational death of an employee, any non-fatal occupational illness, or any non-fatal occupational injury involving either loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment other than first aid, report to the statistical data section of the office on form OSHA-200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1292.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:776 (August 1985), repealed and repromulgated by the Department of Employment and Training, LR 17: (April 1991).

Phyllis Coleman Mouton
Secretary

RULE

Department of Employment and Training Office of Worker's Compensation

In accordance with the provisions of R.S. 49:950 et seq., the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1291(1)(5), the Office of Worker's Compensation, through the Department of Employment and Training, hereby promulgates and adopts a rule to govern the Implementation and Administration of Louisiana Worker's Compensation Fraud Section when investigating allegations of fraud.

The rules and regulations shall provide and govern the procedures to be used when investigating allegations of fraud under the state of Louisiana Worker's Compensation Act.

Title 40

LABOR AND EMPLOYMENT

Part 1. Worker's Compensation Administration

Rules of Practice and Regulations Governing the Implementation and Administration of Louisiana Worker's Compensation Fraud Section

Chapter 19. Fraud

§1901. Purpose

The purpose of the rules and regulations is to define the responsibility of the Fraud Section in administering the provisions of R.S. 23:1208 by investigating allegations of Worker's Compensation fraud and transmitting that information to the appropriate prosecutorial official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

§1903. Statutory Authority

Pursuant to R.S. 23:1291(C)(5) the director of the Office of Worker's Compensation is mandated to establish a Fraud Section. These rules are promulgated by authority of R.S. 49:950 et seq., as amended, being the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

§1905. Definitions

For the purpose of these rules, the following definitions apply:

1. *Office* shall mean the Office of Worker's Compensation Administration, Fraud Section, in the Louisiana Department of Employment Training,

2. *Act* shall mean the Louisiana Worker's Compensation Law, Chapter 10, Revised Statute 23.

3. *Hearing* shall mean a hearing called by the office under the Authority of R.S. 23:1291 (B)(5) and (13); to be conducted pursuant to R.S. 40:955 et seq.

4. *Subpoena* shall mean a writ whereby the office is empowered to require a potential witness to appear at a hearing to give testimony or to produce documents, e.g., books, records, or other relevant written materials.

5. *Applicant* shall mean the employer, employee, insurance company or health care provider against whom a

claim of fraud has been lodged with the Office of Worker's Compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

§1907. Disposition of Fraud Claim

The director or a designee may conduct a hearing and take such other actions as s/he finds necessary to make a determination of fraud.

In order to carry out its authority the office shall have the following powers:

A. to conduct a hearing;

B. to compel the attendance of evidence witnesses and the production of books, papers, and other documents;

C. to render a fact finding determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

§1909. Commencement of Hearing

A. Hearing may be instituted by the director or a designated hearing officer on timely request by the applicant or, at any time on the office's own motion.

B. A request by an applicant for a hearing must be in writing.

C. The director or a designee shall notify the applicant at least 15 days before the hearing and such notice shall conform to the requirements of the Act (R.S. 49:950 et seq.).

D. Answer or Appearance. The applicant may file an answer or otherwise make an appearance on the date fixed for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

§1911. Fact Finding Determination

The director or a designee shall render a final report detailing its fact finding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(1)(5).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (April 1991).

Phyllis Coleman Mouton
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.2103, 2107, 2109, 2113, 2119 and 2127 (Log number AQ36).

These regulations will change the exemption criteria for storage tanks and oil/water separators. Additions to testing and recordkeeping requirements will be incorporated. These changes are necessary to assure approval of the State Implementation Plan by EPA.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 21. Control of Emission of Organic Compounds
Subchapter A--General**

* * *

§2103. Storage of Volatile Organic Compounds

* * *

B. No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

* * *

D. Conditions Under Which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

* * *

e. Repealed.

* * *

2. The Seal Closure Devices Required in LAC 33:III.2103.D shall:

* * *

c. Not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the secondary seal and the tank wall, in excess of 1.0 in² per foot of tank diameter (6.5 cm² per 0.3m).

d. Not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the primary seal and the tank wall, in excess of 10.0 in² per foot of tank diameter (65 cm² per 0.3m).

e. The secondary seals shall be visually inspected at least semiannually. The secondary seal gap measurements shall be made annually at any tank level provided the roof is off its legs. The primary seal gap measurements shall be made every five years at any tank level provided the roof is off its legs.

Conditions not in compliance with LAC 33:III.2103.D.2 shall be recorded along with date(s) of non compliance and LDEQ/AQD shall be notified within seven days. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed,

the administrative authority may extend this deadline.

* * *

4. Repealed.

* * *

G. Exemptions. The provisions of this Section (i.e., LAC 33:III.2103) do not apply to existing and new storage tanks located in any parish other than Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge used for crude or condensate and having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, in these attainment parishes, tanks 420,000 gallons (1,589,900 liters) or greater used to store produced crude oil or condensate prior to lease custody transfer are exempt from the provisions of LAC 33:III.2103 unless such tanks are subject to New Source Performance Standards. For the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee and West Baton Rouge the provisions of LAC 33:111.2103 do not apply to existing and new storage tanks that are used for crude or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, the provisions of LAC 33:III.2103 do not apply to JP-4 fuels stored in horizontal underground tanks.

H. Compliance Tests

* * *

3. Vapor Pressure. True vapor pressure shall be determined by ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989.

1. Recordkeeping. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:111.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. The results of inspections required by LAC 33:III.2103.D.2.e shall be recorded.

2. For vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

* * *

c. Results of monitoring outlet VOC concentration of carbon adsorption bed to detect breakthrough.

* * *

4. The results of any testing conducted in accordance with the provisions specified at LAC 33:111.2103.H.

5. Records of the type(s) of VOC stored and the average monthly true vapor pressure of the stored liquid for any storage vessel with an external floating roof that is exempt from the requirements for a secondary seal and is used to store VOCs with a true vapor pressure greater than 1.0 psia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1084.

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 in LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991)

§2107. Volatile Organic Compounds - Loading

* * *

D. Recordkeeping. The owner or operator of any VOC loading facility shall maintain the following information on the

premises for at least two years and shall make such information available to representatives of the Louisiana Department of Environmental Quality upon request.

* * *

3. For vapor disposal systems, the following information shall be recorded:

- a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator;
- b. daily measurements of the inlet and outlet temperature of a chiller or catalytic incinerator; and
- c. breakthrough of VOCs in a carbon adsorption unit.

4. The date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities shall be recorded.

* * *

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991).

§2109. Oil/Water - Separation

A. Oil/Water-Separation. Single or multiple compartment volatile organic compound water separators which receive effluent water from any equipment processing, refining, treating, storing, or handling volatile organic compounds shall be equipped with one of the following vapor loss control devices properly installed, in good working order and in operation.

* * *

B. Exemptions from LAC 33:111.2109.A

* * *

4. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge, any single- or multiple-compartment volatile organic compound water separator emitting 100 tons per year or less of regulated hydrocarbons (uncontrolled) is exempt from the provisions of LAC 33:III.2109.A.

5. Any facility may choose to reduce the flow of volatile organic compounds to the oil/water separator by process or equipment modifications at the source(s) as an alternate to the requirements of LAC 33:III.2109.A. Such alternate means of compliance must be shown to result in a reduction of VOC emissions at least as great as would result from application of the measures specified in LAC 33:III.2109.A.

* * *

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991).

§2111. Pumps and Compressors

All rotary pumps and compressors handling volatile organic compounds having a true vapor pressure of 1.5 psia or greater at handling conditions shall be equipped with mechanical seals or other equivalent equipment or means as may be approved by the administrative authority*.

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991).

§2113. Housekeeping

* * *

A. Good housekeeping shall include but not be limited to the following practices:

* * *

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Air Quality Division as a part of the information package accompanying a permit application for a new facility or major modification or at any other time as requested. A copy shall be kept at the facility, if practical, or at an alternate site approved by the Air Quality Division.

* * *

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991).

§2119. Variances

A. If upon written application of responsible person(s) the administrative authority* finds that by reason of exceptional circumstances strict conformity with any provisions of these regulations would cause undue hardship, would be unreasonable, impractical, or not feasible technologically or economically under the circumstances, the administrative authority* may permit a variance from these regulations upon such conditions and with such time limitations as it may prescribe for prevention, control, or abatement of air pollution in harmony with the intent of the Act.

* * *

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 1991).

Subchapter D--Cutback Paving Asphalt

§2127. Cutback Paving Asphalt

* * *

C. Recordkeeping. The owner/operator of any operation involved with the manufacture, mixing, storage, use, or application of cutback paving asphalts and emulsified asphalts shall maintain records to verify compliance with this Section. The records will be maintained for at least two years and will include but not be limited to the following:

* * *

D. Exemptions

The administrative authority may approve the manufacture, mixing, storage, use, or application of cutback paving asphalt where:

- a. long life (greater than one month) stockpile storage is necessary;

* * *

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17: (April 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 Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Chapters 1, 7, 9, 11, 41, and 43.

These regulations will provide a framework for requiring additional copies of manifest forms in order to enhance the department's tracking ability for hazardous waste. In addition, these amendments will provide for additional manifest requirements for certain hazardous waste derived products. Additional recordkeeping requirements to the regulated community will also be included.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality - Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790-791 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217-218 (March 1990), LR 16:220 (March 1990), LR 16:398-399 (May 1990), LR 16:614 (July 1990), amended LR 17: (April 1991).

§109. Definitions

Manifest--the form used for identifying the quantity, description, and the origin, transporter, and destination of

hazardous waste during its transportation from the point of generation to the point of off-site disposal, treatment, or storage.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Hazardous Waste Division, in 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790-791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), amended LR 17: (April 1991).

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter B. Hearings

§709. Adjudicatory Hearings

A. Adjudicatory or adjudicative hearings shall be conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) as referenced in LAC 33:1.Subpart 1 for the following:

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), LR 16:683 (August 1990), amended LR 17: (April 1991).

Chapter 9. Manifest System for TSD Facilities

§903. Manifest Requirements

A. The manifest must contain all of the following information:

- the generator's name, mailing address, telephone number, and active EPA identification number;
- the name, active EPA identification number, and telephone number of each transporter;
- the name, address, telephone number, and active EPA identification number of the designated facility;
- the description of the waste(s) (e.g., proper shipping name, hazard class, active EPA hazardous waste number, etc.) required by Louisiana Department of Public Safety and Corrections regulations in §§ 172.101, 172.202, and 172.203, the department's designated handling codes for waste described; and
- the total quantity of each hazardous waste by units of weight in tons, cubic yards, pounds, or gallons (liquids only), and the type and number of containers (metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, tanks portable, tank cars, cylinders, wooden boxes, and fiber or plastic boxes) as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight should be provided.

7. The Department's handling codes for use on the manifest (effective January 1, 1992) are as follows:

Handling Codes

Metals recovery (for reuse)

- M011 High temperature metals recovery
- M012 Retorting
- M013 Secondary smelting
- M014 Other metals recovery for reuse; e.g., ion exchange, reverse osmosis, acid leaching, etc. (specify in comments)
- M019 Metals recovery - type unknown

Solvents recovery

- M021 Fractionation/distillation
- M022 Thin film evaporation
- M023 Solvent extraction
- M024 Other solvent recovery (specify in comments)
- M029 Solvents recovery - type unknown

Other recovery

- M031 Acid regeneration
- M032 Other recovery; e.g., waste oil recovery, non-solvent organics recovery, etc. (specify in comments)
- M039 Other recovery - type unknown

Incineration

- M041 Incineration - liquids
- M042 Incineration - sludges
- M043 Incineration - solids
- M044 Incineration - gases
- M049 Incineration - type unknown

Energy recovery (reuse as fuel)

- M051 Energy recovery - liquids
- M052 Energy recovery - sludges
- M053 Energy recovery - solids
- M059 Energy recovery - type unknown

Fuel blending

- M061 Fuel blending

Aqueous inorganic treatment

- M071 Chrome reduction followed by chemical precipitation
- M072 Cyanide destruction followed by chemical precipitation
- M073 Cyanide destruction only
- M074 Chemical oxidation followed by chemical precipitation
- M075 Chemical oxidation only
- M076 Wet air oxidation
- M077 Chemical precipitation
- M078 Other aqueous inorganic treatment; e.g., ion exchange, reverse osmosis, etc. (specify in comments)
- M079 Aqueous inorganic treatment - type unknown

Aqueous organic treatment

- M081 Biological treatment
- M082 Carbon adsorption
- M083 Air/steam stripping
- M084 Wet air oxidation
- M085 Other aqueous organic treatment (specify in comments)
- M089 Aqueous organic treatment - type unknown

Aqueous organic and inorganic treatment

- M091 Chemical precipitation in combination with biological treatment
- M092 Chemical precipitation in combination with carbon adsorption
- M093 Wet air oxidation
- M094 Other organic/inorganic treatment (specify in comments)
- M099 Aqueous organic and inorganic treatment - type unknown

Sludge Treatment

- M101 Sludge dewatering
- M102 Addition of excess lime
- M103 Absorption/adsorption
- M104 Solvent extraction
- M109 Sludge treatment - type unknown

Stabilization

- M111 Stabilization/Chemical fixation using cementitious and/or pozzolanic materials
- M112 Other stabilization (specify in comments)
- M119 Stabilization - type unknown

Other treatment

- M121 Neutralization only
- M122 Evaporation only
- M123 Setting/clarification only
- M124 Phase separation (e.g., emulsion breaking, filtration) only
- M125 Other treatment (specify in comments)
- M129 Other treatment - type unknown

Disposal

- M131 Land treatment/application/farming
- M132 Landfill
- M133 Surface impoundment (to be closed as a landfill)
- M134 Deepwell/underground injection
- M135 Direct discharge to sewer/POTW (no prior treatment)
- M136 Direct discharge to surface water under NPDES (no prior treatment)
- M137 Other disposal (specify in comments)

Transfer facility storage

- M141 Transfer facility storage, waste was shipped off site with no on-site TDR activity

* * *

C. The manifest must consist of at least enough copies to provide the original to the department; one copy each for the generator, each transporter, and the owner or operator

of the designated facility; and remaining copies to be signed and returned to the generator and other appropriate parties.

D. The manifest form must be obtained from the department. A Louisiana manifest shall be used as follows:

1. if the hazardous waste is generated in Louisiana and disposed of in Louisiana;

2. if the hazardous waste is generated out of Louisiana and disposed of in Louisiana; or

3. if the hazardous waste is generated in Louisiana and is disposed of in a state without its own manifest system.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), amended LR 17 (April 1991).

§905. Use of the Manifest System

A. If a facility receives a hazardous waste accompanied by a manifest, the owner or operator, or his or her agent, must:

* * *

4. within seven working days after the delivery, send a signed copy of the manifest to the generator; and

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

§907. Manifest Discrepancies

* * *

B. Upon discovering a discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). The owner or operator must submit to the administrative authority within five working days a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. After the discrepancy is resolved, a corrected copy is to be sent to the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

§909. Unmanifested Waste Report

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, then the owner or operator must prepare and submit a single copy of a report to the administrative authority within 15 days after receiving the waste. Such unmanifested waste storage, treatment, or disposal shall be covered by the facility permit or an emergency permit (LAC 33:V.701), and treatment or disposal shall not occur until approval of the administrative authority is given. The unmanifested waste report must be submitted on the form provided by the administrative authority. Such report must be designated "Unmanifested Waste Report" and include the following information:

* * *

G. a brief explanation of why the waste was unmanifested, if known.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17 (April 1991).

§911. Manifest Forms

* * *

C. The manifest form shall contain a valid and active EPA identification number for the generator, transporter, and disposer, and the valid EPA waste identification number(s).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

§913. Manifest Document Flow

A. The generator initiates the manifest (original and at least seven copies) as required in LAC 33:V.903. After the transporter signs the manifest, the generator retains one copy for his or her files, mails the second copy to the administrative authority of the generator's state (where the waste was generated), and the original and all other copies accompany the hazardous waste shipment.

B. The transporter who delivers the hazardous waste to the facility secures the hazardous waste facility operator's signature upon delivery of waste, retains one copy for his or her files, and gives the original and remaining copies to the hazardous waste facility operator.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), amended LR 17 (April 1991).

* * *

§919. Hazardous Waste Rejections

If any hazardous waste is rejected by the operator of a hazardous waste facility, the operator of that facility is to notify the department immediately (within 24 hours) by telephone and give reasons why the waste was rejected. Within seven days of the refusal to accept the wastes, the operator must provide the administrative authority with a written explanation of why the waste was rejected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

* * *

§923. Special Manifest Provisions

A. Scope

These provisions will apply to material in containers meeting the provisions of lab packs except that the outer container, excluding overpacking, shall not exceed five gallons (20 liters) in total liquid capacity prior to addition of the absorbent. The container and overpacking shall comply with applicable requirements of the Louisiana Department of Pub-

lic Safety and Corrections or its successor agency. Except as otherwise provided herein, the requirements of LAC 33:V.2519 shall be met.

B. Reporting and Recordkeeping

Both the generator and disposer shall maintain copies of the manifests and other records as required elsewhere in LAC 33:V.Subpart 1. The generator and disposer shall include all such wastes in the annual report as provided in LAC 33:V.913.F and 1111.B.

C-D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

Chapter 11. Generators

* * *

§1105. EPA Identification Numbers

A generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received an active EPA identification number.

A. A generator who has not received an active EPA identification number must obtain one by applying to the administrative authority using the form provided within 14 days after first generating any hazardous waste.

* * *

C. A generator must not offer his or her hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an active EPA identification number.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

§1107. The Manifest System

A. General Requirements

1. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a manifest before transporting the waste off-site, with the exclusions of generators exempt pursuant to provisions of LAC 33:V.105.D.

* * *

9. The manifest form used must be obtained from the department.

B. Required Information

1. The manifest must contain all of the following information prior to leaving the generator site:

* * *

b. the generator's name, mailing address, telephone number, and active EPA identification number;

c. the name, active EPA identification number, and telephone number of each transporter;

d. the name, address, telephone number, and active EPA identification number of the designated facility;

e. The description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101, and the department's designated handling codes for waste listed; and

f. the total quantity of each hazardous waste by units

of weight in tons, cubic yards, pounds, or gallons (liquids only), and the type and number of containers (metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, tanks portable, tank cars, cylinders, wooden boxes, and fiber or plastic boxes) as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight should be provided.

2. The certification that appears on the manifest must be read, signed, and dated by the generator as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me that minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

C. Number of Copies

The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and remaining copies to be returned to the generator and other appropriate parties.

D. Use of the Manifest

1. The generator must:

a. sign and date the manifest certification by hand when the initial transporter accepts the shipment;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), amended LR 17: (April 1991).

* * *

§1111. Recordkeeping and Reporting

* * *

B. Annual Report

* * *

2. Generators who also dispose, treat, or store hazardous waste on-site shall also submit annual reports to the department, reporting total quantity, by type of waste handled, and how that waste was disposed, treated, or stored. Generators must maintain on site a copy of each report submitted to the department for a period of at least three years from the date of the report. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth in LAC 33:V.1113.G.

* * *

E. Quarterly Reports

Generators who dispose of hazardous waste on-site shall submit a quarterly report (form approved by the administrative authority) no later than 15 days after the beginning of the quarter to the department reporting total quantities

(calculated on a daily basis), by type of waste handled, and how that waste was disposed of during the previous calendar quarter, and shall retain on-site a copy of the report for at least three years from the date of disposal.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), amended LR 17: (April 1991).

* * *

Chapter 41. Recyclable Materials

* * *

§4105. Requirements for Recyclable Material

* * *

C. The following recyclable materials (Group III) are only subject to the requirements of Subchapter C of this Chapter and all applicable provisions as provided in Subchapter C of this Chapter.

* * *

D. The recyclable materials listed in Paragraph D.1 of this Section are subject to all requirements and provisions of Paragraph D.2 of this Section:

1. Any hazardous waste-derived product produced by any commercial hazardous waste incineration facility that accepts hazardous waste or hazardous waste products for a fee, or any commercial recycling or resource recovery facility that recycles hazardous waste to produce aggregates and that accepts hazardous wastes or hazardous waste products for a fee, provided that such derived product is:

- a. inherently waste-like,
- b. accumulated speculatively,
- c. used as a fuel, or
- d. used in a manner constituting disposal.

2. Recycling facilities and other entities receiving, handling, shipping, or selling the derived product from the point of production to the ultimate use of the product shall maintain for a period of three years from the date of transaction such records as needed to furnish the following information to the department upon request:

a. The name and location of each entity receiving the hazardous waste-derived product. This is to include the names, business addresses, telephone numbers, and functions of all brokers, wholesalers, middlemen, interim purchasers, and all other parties involved in any and all transactions relating to the derived product from the point of production by the recycler to the product's ultimate use.

b. The date of each shipment, the physical state and description of the hazardous waste-derived product shipped, and the total quantity of the product shipped by units of weight. If the weight is unknown, the volume and estimated weight should be provided.

c. Copies of analytical results.

d. All financial documents necessary to verify all transactions and/or transfers involving the derived product, including:

- i. individual sales invoices to verify the sales price of each financial transaction;
- ii. state or federal tax documents or other official receipts to verify total quarterly sales of the derived product by the recycler; and
- iii. all other documents necessary to verify any type of

financial transaction involving transfer of the product, including such arrangements as donations, tax credits, producer paying shipping charges, or producer paying another party to receive the product.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219-220 (March 1990), amended LR 17: (April 1991).

* * *

§4109. Violations

A. No person shall accept any recyclable material unless it is delivered with a properly completed manifest as required by Subchapters A and C of this Chapter or under an Emergency Action Authorization pursuant to LAC 33:V.701.

* * *

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 11:988 (October 1985), amended LR 11:1139 (December 1985), amended LR 17: (April 1991).

* * *

Subchapter B. Special Requirements for Group II Recyclable Materials

* * *

§4121. Manifest Forms

A. Manifest forms containing the information required by this Chapter shall be used for all off-site shipments, except by pipeline, of recyclable material described in LAC 33:V.4117. The manifest form used must be obtained from the department.

* * *

C. Failure to utilize a manifest form for shipments of recyclable materials shall be a violation of LAC 33:V.Subpart 1.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), amended LR 17: (April 1991).

§4123. Manifest Document Flow

A. The generator initiates the manifest by filling out his or her portion and providing the name, address, telephone number, and active EPA identification number of each transporter, and the name, address, telephone number, and active EPA identification number of the recycling facility that will receive the recyclable material. After the initial transporter signs and dates the manifest accepting the recyclable material, the generator retains one copy for his or her files, mails a copy to the administrative authority of the state where the waste was generated, and the original and remaining copies accompany the recyclable material shipment.

B. The transporter secures the signature of the operator of the facility that will receive the recyclable material upon delivery of the recyclable material. The transporter retains

one copy for his or her files and gives the original and remaining copies to the facility operator.

C. The facility operator fills out his or her portion, retains a copy for his or her files, submits the original to the department no later than seven days thereafter, and sends all remaining copies to the generator and other appropriate parties no later than seven days after delivery of the recyclable material.

* * *

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 11:988 (October 1985), amended LR 11:1139 (December 1985), amended LR 17: (April 1991).

§4125. Procedures Governing the Generator's Portion of the Manifest System

A. Generators of recyclable material shall use a manifest form as required by LAC 33:V.4121.

* * *

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 11:988 (October 1985), amended LR 11:1139 (December 1985), amended LR 17: (April 1991).

* * *

§4131. Recordkeeping

A. Generators, transporters, storers, and recyclers that handle recyclable materials shall maintain the required manifests, annual reports, and exception reports for a period of three years.

* * *

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), amended LR 17: (April 1991).

§4139. Recyclable Materials Used in a Manner Constituting Disposal

A. Applicability

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2. Except for the requirements of LAC 33:V.4105.D, products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if:

* * *

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), amended LR 17: (April 1991).

Chapter 43. Interim Status

§4301. Purpose and Applicability

* * *

E. Interim status facilities must comply with LAC 33:V. Chapters 1, 3, 5, 9, 39, 41, 43, and 49. The requirements of

this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), amended LR 17: (April 1991).

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Subchapter D. Manifest System, Recordkeeping, and Reporting

* * *

§4353. Use of the Manifest System

Interim status facilities must comply with LAC 33:V. Chapter 9.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

§4355. Manifest Discrepancies

Interim status facilities must comply with LAC 33:V. Chapter 9.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

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Subchapter F. Closure and Post-closure

* * *

§4381. Closure Plan; Amendment of Plan

* * *

B. Content of plan--The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

* * *

3. the maximum inventory of hazardous wastes ever on-site over the active life of the facility for a final closure, and/or an estimate of the maximum inventory for a partial closure, and a detailed description of the methods to be used during the partial and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous waste, and identification of and type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:614 (July 1990), amended LR 17: (April 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 Louisiana Environmental Quality Act, La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La.R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33.V.105, 2503, 4462, 4481, 4901, 4903, and Table 5.

The Toxicity Characteristic Leaching Procedure (TCLP) expands the present Extraction Procedure (EP) leach test with the addition of 25 organic compounds and utilizes a more reproducible, easier to use, extraction procedure. See *Federal Registers* published March 29, 1990, 55 FR 11798, number 61 and June 29, 1990, 55 FR 26986, number 126.

Title 33

ENVIRONMENTAL QUALITY

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

Chapter 1. General Provisions and Definitions

* * *

§105. Program Scope

* * *

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

* * *

15. Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in LAC 33.V.Chapter 49 because of the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent and which do not fail the test for any other characteristic, are exempt from these regulations if it is shown by a waste generator or waste generators that:

* * *

16. The following specific wastes which meet the standard in LAC 33.V.105.D.15 (so long as they do not fail the test for the Toxicity Characteristic and do not fail the test for any other characteristic) are exempt from these regulations:

* * *

19. Solid waste that consists of discarded wood or wood products which fails the test for the Toxicity Characteristic solely for arsenic and which is not a hazardous waste for any other reason or reasons, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use, is exempt from these regulations.

* * *

39. Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic (Hazardous Waste Numbers D016 through D043 only) and are subject to the corrective action regulations under Underground Storage Tank Rules and Regulations (LAC 33:XI) are exempt from these regulations.

40. PCB wastes regulated under Toxic Substance Control Act: PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency

that are hazardous only because they fail the test for the Toxicity Characteristic (Hazardous Waste Numbers D018 through D043 only) are exempt from regulation under LAC 33:V. Subpart 1.

* * *

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of equivalent testing or analytical method may petition for a regulatory amendment under LAC 33:V.105.H and I. To be successful, the person must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in Method 1311, in 40 CFR Part 268 Appendix 1, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. In addition to the information required by LAC 33:V.105.H.2, each petition must include:

* * *

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), latest edition, as amended;

* * *

4. Repealed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790-791 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217-218 (March 1990), LR 16:220 (March 1990), LR 16:398-399 (May 1990), LR 16:614 (July 1990), LR 17: (April 1991).

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Chapter 25. Landfills

* * *

§2503. Design and Operating Requirements

* * *

M. The double liner requirements set forth in LAC 33:V.2503.K may be waived by the administrative authority for any monofill under the following circumstances:

1. The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in LAC 33:V.4903.E (Hazardous Waste Numbers D004 through D017 only); and

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17: (April 1991).

* * *

Chapter 43. Interim Status

§4462. Design Requirements

D. The double liner requirement set forth in LAC 33:V.4462.A may be waived by the administrative authority for any monofill, if:

1. The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in LAC 33:V.4903.E (Hazardous Waste Numbers D004 through D017 only); and

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 16:220 (March 1990), LR 17: (April 1991).

§4481. Waste Analysis

In addition to the waste analyses required by LAC 33:V.1519, before placing a hazardous waste in or on a land treatment facility, the owner or operator must:

A. determine the concentration in the waste of any substances which equal or exceed the maximum concentrations listed in Table 5 of LAC 33:V.4903 that cause a waste to exhibit the Toxicity Characteristic;

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17: (April 1991).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. Category I hazardous wastes are chemicals and process streams whose hazardous nature has been prescribed by prior determination.

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F & K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes which are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903)]. Hazard codes are defined as follows for the listed hazardous wastes.

- Ignitable waste (I)
- Corrosive waste (C)
- Reactive waste (R)
- Toxicity Characteristic waste (E)
- Acute hazardous waste or Acutely hazardous waste (H)
- Toxic waste (T)

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

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

amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January, 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17: (April 1991).

§4903. Category II Hazardous Wastes

E. Toxicity Characteristic

1. A solid waste exhibits the characteristic of toxicity if, using the test methods described in Method 1311, in 40 CFR Part 268 Appendix 1, or equivalent methods approved by the administrative authority under the procedures set forth in LAC 33:V.105.H and I, the extract from a representative sample of the waste contains any of the contaminants listed in Table 5 at a concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), latest edition, is considered to be the extract for the purposes of this Section.

2. A solid waste that exhibits the characteristic of toxicity, but is not listed as a hazardous waste in LAC 33:V.4901, has the Hazardous Waste Number specified in Table 5 that corresponds to the toxic contaminant causing it to be hazardous.

Table 5. Maximum Concentration of Contaminants for the Toxicity Characteristic

EPA HW No. ¹	Contaminant	CAS NO. ²	Regulatory Level (mg/L)
D004	Arsenic	7440-38-2	5.0
D005	Barium	7440-39-3	100.0
D018	Benzene	71-43-2	0.5
D006	Cadmium	7440-43-9	1.0
D019	Carbon tetrachloride	56-23-5	0.5
D020	Chlordane	57-74-9	0.03
D021	Chlorobenzene	108-90-7	100.0
D022	Chloroform	67-66-3	6.0
D007	Chromium	7440-47-3	5.0
D023	o-Cresol	95-48-7	*200.0
D024	m-Cresol	108-39-4	*200.0
D025	p-Cresol	106-44-5	*200.0
D026	Cresol	-----	*200.0
D016	2,4-D	94-75-7	10.0
D027	1,4-Dichlorobenzene	106-46-7	7.5
D028	1,2-Dichloroethane	107-06-2	0.5
D029	1,1-Dichloroethylene	75-35-4	0.7
D030 ³	2,4-Dinitrotoluene	121-14-2	0.13
D012	Endrin	72-20-8	0.02

EPA HW No. ¹	Contaminant	CAS NO. ²	Regulatory Level (mg/L)
D031	Heptachlor (and its epoxide)	76-44-8	0.008
D032 ³	Hexachlorobenzene	118-74-1	0.13
D033	Hexachloro- 1,3-butadiene	87-68-3	0.5
D034	Hexachloroethane	67-72-1	3.0
D008	Lead	7439-92-1	5.0
D013	Lindane	58-89-9	0.4
D009	Mercury	7439-97-6	0.2
D014	Methoxychlor	2-43-5	10.0
D035	Methyl ethyl ketone	78-93-3	200.0
D036	Nitrobenzene	98-95-3	2.0
D037	Pentachlorophenol	87-86-5	100.0
D038	Pyridine	110-86-1	35.0
D010	Selenium	7782-49-2	1.0
D011	Silver	7440-22-4	5.0
D039	Tetrachloroethylene	7127-18-4	0.7
D015	Toxaphene	8001-35-2	0.5
D040	Trichloroethylene	79-01-6	0.5
D041	2,4,5-Trichlorophenol	95-95-4	400.0
D042	2,4,6-Trichlorophenol	99-06-2	2.0
D017	2,4,5-TP (silvex)	93-72-1	1.0
D043	Vinyl chloride	75-01-4	0.2 ⁴

* * *

¹Hazardous Waste Number.

²Chemical Abstracts Service Number.

³Quantitation limit is greater than the calculated regulatory level. The quantitation limit therefore becomes the regulatory level.

⁴If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used. The regulatory level of total cresol is 200 mg/l.

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, in LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 17: (April 1991).

J. Terry Ryder
Assistant Secretary

RULE

Department of Health and Hospitals Board of Board Certified Social Work Examiners

The State Board of Board Certified Social Work Examiners hereby adopts the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXV. Certified Social Workers

Chapter I. General Provisions

§119. Fees

The fees charged in connection with a board certified social work license shall be as follows:

A. Examination Fee	\$90
B. Registration Fee	50
C. Registration Fee for Examination Retakes	25
D. Re-Examination Fee	90
E. Renewal Fee	40
F. Fee for Returned Checks	15
G. Fee for Mailing List of Licensees	2½¢ per label plus postage and handling
H. Directory Fee	10
I. Reissuance of lost or destroyed certificate	15
J. Copy Fee for documents	25¢ per page plus postage and handling
K. Fee for board's publications (Social Work Practice Act, Rules and Regulations, Guide for Supervision)	\$2 plus postage and handling
L. Brochure Fee (BCSW Brochure)	10¢ per copy plus postage and handling
M. Fax Transmissions	\$2 for first page, \$1 per additional page

All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2712.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Certified Social Work Examiners, LR 10:204 (March 1984), repromulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 14:865 (December 1988), amended LR 17: (April 1991).

Victoria L. Hippard
Chairperson

RULE

Department of Health and Hospitals Board of Examiners for Speech Pathology and Audiology

The Louisiana Board of Examiners for Speech Pathology and Audiology hereby adopts the following Code of Ethics.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXXV. Speech Pathology and Audiology

Chapter 7. Code of Ethics

§701. Preamble

A. The preservation of the highest standards of integrity and ethical principles is vital to the successful discharge

of the professional responsibilities of all speech-language pathologists and audiologists. This Code of Ethics has been promulgated by L.B.E.S.P.A. in an effort to stress the fundamental rules considered essential to this basic purpose. Any action that is in violation of the spirit and purpose of this code shall be considered unethical. Failure to specify any particular responsibility or practice in this Code of Ethics should not be construed as denial of the existence of other responsibilities or practices.

B. The fundamental rules of ethical conduct are described in three categories: Principles of Ethics, Ethical Proscriptions, Matters of Professional Propriety.

C. Principles of Ethics. Five principles serve as a basis for the ethical evaluation of professional conduct and form the underlying moral basis for the Code of Ethics. Individuals subscribing to this code shall observe these principles as affirmative obligations under all conditions of professional activity.

D. Ethical Proscriptions. Ethical proscriptions are formal statements of prohibitions that are derived from the principles of ethics.

E. Matters of Professional Propriety. Matters of professional propriety represent guidelines of conduct designed to promote the public interest and thereby better inform the public and particularly the persons in need of speech-language pathology and audiology services as to the availability and the rules regarding the delivery of those services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§703. Principle of Ethics I

A. Individuals shall hold paramount the welfare of persons served professionally.

B. Individuals shall use every resource available, including referral to other specialists as needed, to provide the best service possible.

C. Individuals shall fully inform persons served of the nature and possible effects of these services.

D. Individuals shall fully inform subjects participating in research or teaching activities of the nature and possible effects of these activities.

E. Individuals' fees shall be commensurate with services rendered.

F. Individuals shall provide appropriate access to records of persons served professionally.

G. Individuals shall take all reasonable precautions to avoid injuring persons in the delivery of professional services.

H. Individuals shall evaluate services rendered and products dispensed to determine effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§705. Ethical Proscriptions

A. Individuals must not exploit persons in the delivery of professional services, including accepting persons for treatment when benefit cannot reasonably be expected or continuing treatment unnecessarily.

B. Individuals must not guarantee the results of any

therapeutic procedures, directly or by implication. A reasonable statement of prognosis may be made, but caution must be exercised not to mislead persons served professionally to expect results that cannot be predicted from sound evidence.

C. Individuals must not use persons for teaching or research in a manner that constitutes invasion of privacy or fails to afford informed free choice to participate.

D. Individuals must not evaluate or treat speech, language or hearing disorders except in a professional relationship. They must not evaluate or treat solely by correspondence. This does not preclude follow-up correspondence with persons previously seen, nor providing them with general information of an educational nature.

E. Individuals must not reveal to unauthorized persons any professional or personal information obtained from the person served professionally, unless required by law or unless necessary to protect the welfare of the person or the community.

F. Individuals must not discriminate in the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for and potential benefit from such services, such as race, sex, age, religion, national origin, sexual orientation, or handicapping condition.

G. Individuals must not charge for services not rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§707. Principle of Ethics II

Individuals shall maintain high standards of professional competence.

A. Individuals engaging in clinical practice or supervision thereof shall hold the appropriate qualifications for the area(s) in which they are providing or supervising professional services.

B. Individuals shall continue their professional development throughout their careers.

C. Individuals shall identify competent, dependable referral sources for persons served professionally.

D. Individuals shall maintain adequate records of professional services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§709. Ethical Proscriptions

A. Individuals must neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by any of their staff who are not properly prepared.

B. Individuals must not delegate any service requiring the professional competence of a qualified clinician to anyone unqualified.

C. Individuals must not offer clinical services by supportive personnel for whom they do not provide appropriate supervision and assume full responsibility.

D. Individuals must not require anyone under their supervision to engage in any practice that is a violation of the Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§711. Principle of Ethics III

A. Individuals' statements to persons served professionally and to the public shall provide accurate information about the nature and management of communicative disorders, and about the profession and services rendered by its practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§713. Ethical Proscriptions

A. Individuals must not misrepresent their training or competence.

B. Individuals' public statements providing information about professional services and products must not contain representations or claims that are false, deceptive or misleading.

C. Individuals must not use professional or commercial affiliations in any way that would mislead or limit services to persons served professionally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§715. Matters of Professional Propriety

A. Individuals should announce services in a manner consonant with highest professional standards in the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§717. Principle of Ethics IV

A. Individuals shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of allied professions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§719. Matters of Professional Propriety

A. Individuals should seek to provide and expand services to persons with speech, language and hearing handicaps as well as to assist in establishing high professional standards for such programs.

B. Individuals should educate the public about speech, language and hearing processes, speech, language and hearing problems, and matters related to professional competence.

C. Individuals should strive to increase knowledge within the profession and share research with colleagues.

D. Individuals should establish harmonious relations with colleagues and members of other professions, and endeavor to inform members of related professions of services provided by speech-language pathologists and audiologists,

as well as seek information from them.

E. Individuals should assign credit to those who have contributed to a publication in proportion to their contribution.

F. Individuals should not accept compensation for supervision or sponsorship from the clinical fellow being supervised or sponsored beyond reasonable reimbursement for direct expenses.

G. Individuals should present products they have developed to their colleagues in a manner consonant with highest professional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§721. Ethical Proscriptions

A. Individuals must not participate in activities that constitute a conflict of professional or personal interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§723. Principle of Ethics V

A. Individuals shall uphold the dignity of the profession and freely accept the profession's self-imposed standards.

B. Individuals shall inform the Board of Examiners for Speech Pathology and Audiology of any violations to this Code of Ethics.

C. Individuals shall cooperate fully with the Board of Examiners for Speech Pathology and Audiology on matters of professional conduct relative to this Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§725. Ethical Proscriptions

A. Individuals shall not engage in violations of the Principles of Ethics or in any attempt to circumvent any of them.

B. Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, or other forms of illegal conduct that adversely reflect on the profession or the individuals' fitness for membership in the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

Gay Vekovius
Chairperson

RULE

**Department of Health and Hospitals
Board of Examiners for Speech Pathology and Audiology**

The Louisiana Board of Examiners for Speech Pathology and Audiology hereby adopts the following disciplinary and procedural rules for matters concerning any licensee.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 5. Procedural Rules

§501. Authority

A. Consistent with the legislative purpose enumerated in LSA-R.S. 37:2651-2665, and to protect the safety and welfare of the people of this state against unauthorized, unqualified, and improper practice of speech pathology and audiology, the following rules of procedure are established under this board's rulemaking authority, LSA-R.S. 37:2656A(3), 37:2662, and 49:952 et seq.

B. This board may suspend or revoke a license which it has issued upon proof of any of the causes set out in R.S. 37:2662 or 2664.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§503. Investigation of Complaints

A. The board is authorized to receive complaints against licensees or applicants from any person.

B. Any complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice or violation of the state law or ethical standards where applicable to the practice of speech pathology or audiology should be submitted to the board.

C. Complaints must be in writing, and signed by the complainant.

D. Once a written complaint is received, the board will initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a consent order agreeable to both parties. If the licensee stipulates to the complaint and waives his/her right to formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint will be forwarded to the board's designated investigator for an investigation.

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference and correspondence directed to those parties or witnesses involved. The board or its designated investigator shall send the involved licensee notice of the investigation containing a short summary of the complaint and any questions the board or the designated investigator may direct to the licensee relative to the complaint. All letters to the involved licensee, the complainant, or any other witness, shall be sent by certified mail, return receipt requested, with the designation "personal and confidential" clearly marked on the outside of the envelope.

F. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 30 days of the date that the designated investigator first receives his/her assignment from the board.

G. The designated investigator shall report to the

board and make a recommendation for proceeding to an informal hearing, a formal hearing, or for a dismissal of the complaint. When the designated investigator's recommended action might lead to denial, suspension or revocation of a license, the board shall immediately convene a formal adjudication hearing, pursuant to LSA-R.S. 37:2662. The designated investigator may recommend that the licensee's explanation satisfactorily answers the complaint, and that the matter be dismissed. The recommended remedial action or dismissal of the complaint shall be forwarded promptly to the complainant and to the licensee.

H. The designated investigator may also recommend the complaint to be resolved by a consent order entered into by the licensee and the complainant. If the order contains any agreement by the licensee to some remedial course of action, the agreement must be signed by the complainant, the licensee, and the board, and must be notarized. The designated investigator will make note of any agreement arrived at between the complainant and the licensee, but such an agreement does not necessarily preclude further disciplinary action by the board against the licensee.

I. If the designated investigator's recommendation for an informal hearing or a formal hearing is accepted by the board, the designated investigator shall notify the licensee of the time and place of the conference, and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no lawyers will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing may not be used or introduced at a formal hearing, unless all parties consent. If the licensee notifies the designated investigator or the board that he/she does not wish an informal hearing, or if the licensee fails or refuses to attend an informal hearing called by the board, the informal hearing shall not be held. In that event, the board may initiate a formal disciplinary hearing.

J. If the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee fails to respond to correspondence by the designated investigator or by the board concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action; in any of these events, the board shall initiate a formal disciplinary hearing.

K. Any recommended action submitted to the board by the designated investigator should be submitted in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

L. The board shall also have authority to delegate to the designated investigator any alleged violations of LSA-R.S. 37:2662 prior to board action on those alleged violations. In that event, the designated investigator shall submit to the board the complete details of the investigation, including all facts, and the complete investigation file, if requested by the board. Final authority for appropriate action rests solely with the board.

M. At no time shall the designated investigator investigate any case as authorized by this board or this Section

where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or friendly with the complainant, the licensee, or any of the witnesses involved. In any such event, the designated investigator shall immediately contact the board, which shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

§505. Conduct of Hearing

The board shall be authorized to conduct two types of hearings: compliance hearings and formal disciplinary hearings.

A. Compliance Hearing

1. The board will provide a compliance hearing to a rejected applicant for licensure, provided the rejected applicant requests a compliance hearing, in writing, within 30 days of the receipt of the notice of his/her rejection. In his/her request, the rejected applicant shall state with specificity the reason why his/her application should be accepted.

2. A licensee whose certificate has lapsed for nonpayment of license renewal fees shall be entitled to a compliance hearing, provided he/she requests one in writing within 10 days after his/her receipt of the notice of the lapsed license.

3. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that he/she does, in fact, meet the lawful requirements for issuance of a license or for the retention of his/her license. The board shall have the authority to administer oaths, hear the testimony and conduct the hearing. No transcript of the hearing is required. The applicant or licensee may be represented by counsel, or may represent him/herself, at his/her option.

4. In any compliance hearing, the burden shall be on the applicant or licensee to establish that he/she meets the criteria for licensure, or that his/her license was timely renewed.

5. Within 15 days after the compliance hearing, the board shall forward its final decision, including specific reasons therefor, by certified mail, return receipt requested, to the applicant or licensee.

6. Thereafter, the applicant or licensee may appeal the decision of the board to the district court for the parish in which the hearing was held, within 30 days of the decision, pursuant to LSA-R.S. 37:2663, 49:964, and 49:965.

B. Formal Disciplinary Hearings

1. The board shall also be authorized to conduct formal disciplinary hearings pursuant to LSA-R.S. 37:2662 and 2663. In the event the board determines that a formal disciplinary hearing is necessary, it shall promptly notify the attorney general, who is authorized and directed to appear on behalf of the state.

2. The hearing shall be held before the board only after the involved licensee charged is given at least 30 days notice by certified mail, return receipt requested. The content of the notice, as well as the conduct of the hearing, shall be governed by LSA-R.S. 49:955, including advising the li-

ensee of his/her right to be represented by legal counsel. The board shall arrange for a certified shorthand reporter to make an accurate recording of all testimony presented at the hearing. By bringing a complaint, the complainant waives the privilege of confidentiality for the purposes of the formal disciplinary hearing.

3. The rules of evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and control confidential or privileged information will apply to the formal disciplinary in the form specified by LSA-R.S. 39:4956.

4. It is the licensee's continuing obligation to keep the board informed of his/her whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee's change of address, and the new address is not provided to the board, the board may hold the hearing in the licensee's absence, after making reasonable efforts to obtain the licensee's new address.

5. When the licensee receives notice, he/she may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense he/she deems applicable.

6. For good cause shown, the board has discretion to extend or continue the time set for the hearing, for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matter deemed by the board in its sole discretion to present good cause.

C. 1. The board shall elect from its membership a person to act as presiding officer of the hearing, to make rulings on objections, admissibility of evidence, and to ensure that the conduct of the hearing proceeds without delay and pursuant to law. The other board members may not delegate their decision-making and fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process than any other board member. The board's findings of fact and conclusions of law shall be signed by the majority of the board finding those facts and conclusions of law. Any board member disagreeing with those findings and conclusions may also file a dissent in the record, with his/her reasons therefor.

2. Any board member having reason to believe that he/she is biased against one of the parties to the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Similarly, any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of his/her bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board must pass upon any requests for disqualification. The concerned board member shall not participate in the deliberations of the board on the issue of disqualification, and shall not vote on the issue, either. If the board is quite certain that there is no merit to the requests for disqualification, the board will proceed with the hearing. However, any doubt should be resolved in favor of disqualification. In the event disqualification occurs, the board should immediately contact the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

3. The parties to the hearing are urged but not required to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board will honor any stipulations

arrived at between the parties as proven facts at the hearing. The purpose of the pre-hearing conference is to ensure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the licensee and the complainant.

4. The board shall have discretion to consolidate one or more cases for hearing involving the same or related parties, or substantially the same questions of fact or law. The board may also grant separate hearings if such a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

5. The presiding officer shall consider a motion to modify or quash any subpoena issued in connection with the hearing, provided that such motion is filed by certified mail, return receipt requested, with the board at its registered office not later than three days prior to the hearing date, or the date scheduled for the deposition, if the subpoena was issued in connection with a deposition. Possible grounds to quash or limit the subpoena include, but are not limited to testimony on material protected by privilege or state regulation or other law; burdensomeness that would not be justified in light of the evidence's importance to the case; undue hardship on a witness; vagueness; immateriality.

6. The procedures to be followed in conducting the hearing governing the order of the proceedings, rulings on evidence, and the board's decision, are contained in Chapters 11 through 14, respectively, of the *Disciplinary Action Manual for Occupational Licensing Boards* prepared by the Louisiana Department of Justice, 1979, through the Office of the Attorney General. A copy of these pertinent chapters will be provided to any interested party involved with a hearing when the board receives a written request therefor.

7. The burden of proof at a formal disciplinary hearing rests upon the attorney general or the designated investigator who is bringing the charge before the board. No sanctions shall be imposed or order issued, except upon consideration of the entire record, as supported by and in accordance with reliable, probative and substantial evidence. While proof beyond all reasonable doubt is not required to establish a given fact as true, the burden must be carried by a clear preponderance of the evidence. This standard of proof shall obtain, in all hearings before the board, and for any review or examination of evidence provided by LSA-R.S. 49:957 or 958, or any rehearing requested, pursuant to LSA-R.S. 49:959.

8. Any party or person deemed to be governed by or under the jurisdiction of LSA-R.S. 37:2651-2665 may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision, rule of this board, or ethical consideration of this board, to said party or person. The board shall issue the declaratory order or ruling in connection with the request by a majority vote of the board, signed and mailed to the requesting party, as soon as possible after the request, except that the board may seek an opinion of legal counsel or the attorney general in connection with the request.

9. Judicial review and appeal of any decision or order of the board shall be governed by LSA-R.S. 37:2663 and 49:96-965.

AUTHORITY NOTE: Promulgated in accordance with R.S 37:2651-2665.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 17: (April 1991).

Gay Vekovius
Chairperson

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health hereby amends Title 48, Part V., Subpart 45., Chapter 117, Section 11707, Subsection B, of the Louisiana Administrative Code governing the issuance of copies of certified records. The amendment provides a procedure whereby a displaced person without the requisite identification may obtain a certified copy of his/her birth certificate upon the submission of an affidavit of identity, a confirmation of identity statement, and the payment of the appropriate fee to the Vital Records Registry. The promulgation of rules is authorized by R.S. 40:33C.

Title 48

PUBLIC HEALTH - GENERAL Part V. Preventive Health Services Subpart 45. Vital Records

Chapter 117. Availability of Records

§11707. Copies of Certified Records

A. ...

B. Certified Records at the Service Counter

Certified copies may be purchased by the requestor appearing in person at Room 103, 325 Loyola Avenue, New Orleans, Louisiana between the hours of 8:15 a.m. and 4 p.m. Mondays through Fridays (excluding holidays). The requestor must complete a form supplying the pertinent information enumerated in §11707 A.2., sign the application form, supply identification in accordance with posted identification requirements and pay the collectible fee as set forth in the Louisiana Revised Statutes. The requestor may purchase a certified copy of his/her birth certificate at the service counter by submitting a completed affidavit of identity, a confirmation of identity statement, and payment of the collectible fee as set forth in the Louisiana Revised Statutes. Payment must be made by cash, check or money order.

1. Definitions

As used in this Section, the following terms shall have the meanings ascribed to them in this Paragraph unless otherwise provided for or unless the context otherwise indicates:

a. *Affidavit of Identity* means a notarized affidavit executed by the requestor of a certified copy of that person's birth certificate.

b. *Confirmation of Identity Statement* means a signed and dated written statement executed by an authorized individual of a qualifying organization on behalf of the requestor of a certified copy of the requestor's birth certificate.

c. *Displaced Person* means a person who is experiencing disruptive life circumstances, such as homelessness, that may have caused the person to be without the documents or resources necessary to obtain identification.

d. Registrar means the state registrar of vital records.
e. Requestor means the person requesting a certified copy of his or her birth certificate.

f. Qualifying Organization means any organization, association, corporation, coalition, confederation, company, business, alliance, establishment, enterprise, firm, club, league, lodge, order, fellowship, fraternity, brotherhood, union, society, group, governmental entity, or other similar body that has met the requirements set forth in this rule for proper registration with the Vital Records Registry.

2. Issuance of Birth Certificates

The registrar of vital records shall issue a certified copy of a birth certificate to a displaced person pursuant to this rule upon receiving an affidavit of identity from the displaced person accompanied by a confirmation of identity statement from a qualifying organization and upon payment of the required fees.

3. Affidavit of Identity

- a. The affidavit shall be executed by the requestor before a notary public.
- b. The affidavit shall include the following information insofar as known to the requestor:
 - i. the requestor's full legal name.
 - ii. the requestor's date of birth including the year, the month, and the day.
 - iii. the requestor's sex.
 - iv. the requestor's race.
 - v. the requestor's parish and/or city of birth.
 - vi. the father's name, his parish, and/or city of birth, if known.
 - vii. the mother's maiden name, her parish, and/or city of birth, if known.
 - viii. an attestation to the truth of the information contained in the affidavit.
- c. The affidavit of identity should be in substantially the following form or in conformance therewith:

AFFIDAVIT OF IDENTITY

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned notary, duly qualified, personally came and appeared _____ who, being by me first duly sworn, deposed and said that:

My full legal name is _____.
I was born on the _____ day of _____, 19 ____, in _____ Parish/City. I am a _____ (race) / _____ (sex). My father's name is _____ and he was born in _____ Parish/City. My mother's maiden name was _____ and she was born in _____ Parish/City. The information contained within this affidavit is truthful and accurate to the best of my knowledge and belief.

SIGNATURE OF AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME, this _____ day of _____, 19 ____.

NOTARY PUBLIC

d. The Vital Records Registry will produce and maintain a supply of blank affidavit of identity forms. They will be made available upon request to requestors of certified copies of birth certificates and qualifying organizations free of charge.

e. Improperly executed, defective, or suspect affidavits may be rejected by the registrar.

f. The affidavit of identity must be accompanied by a confirmation of identity statement from a qualifying organization.

4. Confirmation of Identity Statement

a. The confirmation of identity statement must be a written, dated, and signed statement from a qualifying organization completed on behalf of a displaced person and must sufficiently identify the displaced person.

b. The confirmation of identity statement shall include the following information:

- i. the name of the qualifying organization.
- ii. the name of the agent or individual of the qualifying organization, or his designee, executing the confirmation of identity statement and the agent's capacity with the organization.
- iii. the location of the qualifying organization and the mailing address, if different.
- iv. the telephone number of the qualifying organization.
- v. the name and sex of the requestor on whose behalf the confirmation of identity statement is being written.
- vi. a statement attesting to the fact that the qualifying organization is properly registered with the Vital Records Registry.
- vii. a statement attesting to the fact that the qualifying organization has had a sufficient on-going relationship with the requestor to establish that person's identity with the qualifying organization.
- viii. any other relevant information that would tend to establish the reliability of the requestor's identity such as the nature, duration, and extent of the requestor's relationship with the qualifying organization.

c. The confirmation of identity statement should be in substantially the following form or in conformance therewith:

CONFIRMATION OF IDENTITY STATEMENT

TO: Registrar of Vital Records
FROM: (Name of qualifying organization)
DATE: (Date of execution of statement)

I have been designated by _____ (QUALIFYING

ORGANIZATION)

_____, Louisiana,
(STREET ADDRESS) (CITY)
(ZIP CODE) (TELEPHONE NUMBER), to execute

this statement on behalf of _____ (REQUESTOR'S NAME)

Mr./Mrs./Ms. _____ (REQUESTOR'S NAME), has had a

sufficient on-going relationship with the _____ (QUALIFYING

ORGANIZATION) _____ to establish identity.

(Additional relevant information may be included.)

(AGENT'S SIGNATURE)

(POSITION WITH QUALIFYING ORGANIZATION)

d. If the confirmation of identity statement is written on the qualifying organization's letterhead or stationery, the required information contained on the letterhead or stationery need not be duplicated within the text of the statement.

e. The individual executing the confirmation of identity statement must have a signature on file with the Vital Records Registry.

f. Improperly executed, defective, or suspect confirmation of identity statements may be rejected by the registrar.

g. A confirmation of identity statement executed in good faith by a qualifying organization shall not subject the qualifying organization to any sanction or liability.

5. Qualifying Organization - Criteria

a. To be recognized as a qualifying organization by the Vital Records Registry an organization must:

- i. provide some type of service, assistance, aid, help, or support to displaced persons.
ii. submit a completed qualifying organization registration application to the office of vital records.
iii. be approved by the registrar of vital records.

6. Registration Requirements

An organization seeking qualification shall provide the Vital Records Registry with the following information.

a. Documents that prove its existence, such as articles of incorporation, articles of partnership, articles of association, bylaws, federal or state income tax returns, tax exempt status, bank accounts, letterhead or stationery, or any other such documentation that the registrar deems acceptable.

b. The street address of the organization and its mailing address, if different.

c. The telephone number of the organization.

d. The name and position of any designees authorized to execute confirmation of identity statements on behalf of the qualifying organization.

e. Signatures of the designees.

f. A concise statement of the goals or purposes of the organization and how they relate to the needs of displaced persons.

7. Registration Procedure

a. Upon receipt of a properly completed application the registrar shall have up to 20 days to approve or disapprove the application.

b. If incomplete, the application shall be returned with a list of deficiencies and notice that the organization may resubmit the application for further consideration.

c. An organization shall be notified in writing of the registrar's decision. If disapproved, the registrar shall state the reasons for disapproval.

d. The registrar, at his discretion, may reconsider a disapproved application upon the submission of additional information by the organization.

e. An organization may not submit more than one additional application within 180 days from the date of the disapproved application.

f. The Vital Records Registry shall produce and maintain a supply of qualifying organization application forms. These forms shall be made available upon request free of charge to any organization seeking to become a qualifying organization.

g. The qualifying organization application shall be in substantially the following form or in conformance therewith:

APPLICATION FOR REGISTRATION AS A QUALIFYING ORGANIZATION

(DATE) _____, 19 ____

Org. Name _____
Org. Address _____

Mailing Address _____
if Different _____

Org. Phone # _____
Documentation of Existence 1. _____
(List Type & Attach Copies) 2. _____
3. _____

Name, Signature, and Position of Person(s) Authorized to Execute Confirmation of Identity Statements

NAME: _____ POSITION: _____
SIGNATURE: _____
NAME: _____ POSITION: _____
SIGNATURE: _____
NAME: _____ POSITION: _____
SIGNATURE: _____

Concise Description of Org. Goals/Purposes: _____

Signature of Person Completing Form for Qualifying Organization: _____

DO NOT WRITE BELOW THIS LINE

() Approved () Disapproved
Date: _____, 19 ____

Signature of Registrar: _____

h. The Vital Records Registry shall maintain a registry of qualifying organizations whose applications for registration have been accepted pursuant to this rule.

i. The qualifying organization shall keep its application current by submitting to the registrar any changes of information.

8. Penalties

a. Any improper action, misuse, fraud, misrepresentation, or deceit on the part of a qualified organization may result in the revocation of its registration. A revoked application shall be so noted and placed in the disapproved file.

b. Any suspected unlawful activity shall be reported to the appropriate police agency or district attorney's office for investigation and possible prosecution.

9. Payment of Fees

a. The Vital Records Registry shall accept the checks of qualified organizations for the payment of fees provided that the qualifying organization has supplied documentation of a checking account with an in-state bank.

b. A returned check may subject the qualifying organization to revocation of its check payment privileges, revocation of its registration as a qualifying organization, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33C.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, LR 15:473 (June 1989), LR 17: (April 1991).

David L. Ramsey
Secretary

RULE

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

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the Neonatal Screening R.S. 40:1299 et seq., the Genetics Program of the Office of Public Health adopts the amended and added rules and regulations as follows.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. R.S. 40:1299 requires physicians to test Louisiana neonates for phenylketonuria, congenital hypothyroidism and sickle cell disease all known to be deleterious to affected infants when not treated. All hospitals that have maternity units shall institute and maintain a policy of screening all neonates before discharge regardless of their length of stay in the hospital. Infants discharged before 24 hours should be rescreened, because cases may be missed by a screening test so soon after delivery. The repeat screening test should be completed no later than the third week of life as recommended by the American Academy of Pediatrics. OPH maintains a laboratory for screening test for hyperphenylalaninemia manifest in phenylketonuria (PKU), for thyroxine (T4) and thyriod stimulating hormone (TSH) for congenital hypothyroidism, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive.

D. For a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the Genetics Program, the following must be provided:

1. receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic;
2. submit blood samples as requested by the medical specialist under contract with the program;
3. include dietary records with the submission of each blood specimen;
4. sign and submit all insurance forms relative to charges for special formula;
5. inform the program office immediately of any changes in insurance coverage.

E. If a patient fails to comply with these requirements, he/she will not be able to receive formula.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by Department of Health and Hospitals, Office of Public Health, LR 17: (April 1991).

David L. Ramsey
Secretary

RULE

**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, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on November 20, 1990 (Volume 16, No.11, page 1012).

RULE

Skilled Nursing/Technology Dependent Children (SN/TDC) services shall be capped at \$140 per diem, subject to the established SN payment limitations, standards for participation, and standards for payment with the additional requirements for this Title XIX provider type. At the end of the facility's cost reporting period, the facility shall file a separate long-term care facility cost report or segregate such costs from other nursing services provided, which cost report shall be subject to audit. When audited cost is below the per diem limit, the bureau shall charge back the calculated overpayment amount. No additional payment shall be made for audited cost which exceeds the per diem cap. All participating facilities will be expected to work closely with the bureau to insure that services are provided at the most cost-effective rate.

David L. Ramsey
Secretary

RULE

**Department of Insurance
Commissioner of Insurance**

Regulation 38

Defense Costs Within Limits

Directors and Officers Liability Only

Based on Attorney General's Opinion Number 88-193 as modified June 4, 1990.

The regulation will apply ONLY to directors and officers liability insurance policies issued in the state of Louisiana.

Policy provisions must state the following items:

1. There is an absence of a duty to defend by the insurer.
2. The insured hires and pays its own attorneys and is then indemnified under the insurance policy.
3. A disclosure statement, printed in a prominent type face, is signed by the insurer and insured, indicating:
 - a. that insured has been offered an insurance policy which does not include defense costs within the limits of liability, and
 - b. that policy limits could be reduced and/or completely exhausted by legal costs without further liability of the insurer.

The disclosure must be made a part of the policy.

Insurers, who issue policies which have provisions for defense costs within the policy limits, shall also offer a policy which does not include defense costs within the limits of liability. Rates and forms for the two products must be approved as required by Louisiana Insurance Law.

Any insurer who markets a directors and officers liability policy which DOES include defense costs within limits, without giving the insured an opportunity to purchase an insurance policy which does not include defense costs within limits, shall be in violation of the Unfair Trade Practices provisions of the Louisiana Insurance Code.

Hunter O. Wagner, Jr.
Commissioner

RULE

Department of Natural Resources Office of Conservation Docket No. 90-181

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation has adopted Hazardous Liquids Pipelines Enforcement regulations.

Title 33 ENVIRONMENTAL QUALITY Part V. Hazardous Waste and Hazardous Materials Subpart 3. Natural Resources Chapter 501. Hazardous Liquid Pipelines Enforcement §50101. Scope

This regulation prescribes the authority of the assistant secretary of the Office of Conservation and procedures to be utilized by him in carrying out his duties regarding administration and enforcement of La. R.S. 30:701, et seq., and the rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50103. Service

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by any officer authorized to serve process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50105. Subpoenas

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and ade-

quate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Department of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of a subpoena may be made by handing it to the person, leaving it at his office with persons in charge thereof, leaving it at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.

E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be effected by handing it to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to La. R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which he may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50107. Inspection, Field Inspection Reports

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and

properties of persons to the extent that such records and properties are relevant to determining compliance of such person with La. R.S. 30:701, et seq. or any rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within 10 days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issue to the operator a letter of non-compliance or initiate one or more enforcement proceedings prescribed by §50111 through §50119.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50109. Letter of Non-compliance; Relief Therefrom

A. Upon determination that a probable violation of La. R.S. 30:701, et seq., or any rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the hazardous liquid pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §50111 through §50119. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to §50115, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be in compliance with the applicable statute and the rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request a conference before the assistant secretary or his designated agent. The operator's request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or

his agent shall be informal without strict adherence to rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief, the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50111. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of non-compliance or modified letter of non-compliance for correcting said probable violation, the operator's facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. re-issue citation to the operator in the form of a letter of non-compliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the compliant and the operator's efforts in resolving or correcting the violation and at the conclusion of said conference the assistant secretary may re-issue a modified letter of non-compliance containing such modifications or extensions of time as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §50113 through §50119.

C. The show cause conference shall be conducted informally without strict adherence to the rules of evidence. The operator may submit any relevant information, call witnesses on his behalf, and examine the evidence and witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50113. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and show cause at said hearing why he should not be compelled to comply with applicable statutes and the rules and regulations promulgated thereunder.

B. The operator shall be given at least 10 days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witnesses and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administrative Procedure Act (La. R.S. 49:950 et seq.).

D. The record of the case shall include those items required by La. R.S. 49:955E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of non-compliance, materials submitted by the operator pursuant to §50109 and §50111, all correspondence and orders directed to the operator by the assistant secretary, all correspondence received by the assistant secretary from the operator, and evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedure Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by La. R.S. 30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50115. Emergency

Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the rules, regulations or orders issued pursuant thereto or due to leakage or other hazard which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §50113 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as any situation where

there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50117. Hazardous Facility Orders

Notwithstanding any self-imposed regulatory limitations, if the assistant secretary finds, after reasonable notice and an opportunity to be heard in accordance with §50113, a particular pipeline facility subject to La. R.S. 30:701 to be hazardous to life or property, he may issue an order requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, inspection, testing, repair, replacement, or other action as appropriate. The provisions of §50115 shall also be applicable for issuance of hazardous facility orders on an emergency basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50119. Civil Enforcement, Injunction

Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of La. R.S. 30:701 et seq., or any rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with the applicable law or any rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50121. Violation, Penalties

A. After notice and opportunity to be heard, in accordance with §50113, the assistant secretary may, after determining that a person has violated any provision of La. R.S. 30:701 et seq., or any rule, regulation or order issued pursuant thereto, assess a civil penalty upon or against said person not to exceed the amounts fixed by statute, particularly, but not exclusively, La. R.S. 30:705. The amount of the penalty shall be assessed by the assistant secretary through written notice. In determining the amount of penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The assistant secretary may transmit such evidence as may be available concerning any act or practice in violation of La. R.S. 30:701 et seq. or any rule, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the fines and impose the penalties provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

§50123. Waiver of Compliance with Standards

Upon application by any person engaged in the transportation of hazardous liquids or the operation of intrastate pipeline facilities, the assistant secretary shall, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as the assistant secretary may deem reasonable and proper, waive in whole or in part compliance with any standard established under La. R.S. 30:701 et seq., if he determines that compliance with such standard works a substantial hardship on an owner or operator of pipeline facilities or is not in the public interest and a waiver of compliance with such standard is not inconsistent with pipeline safety, provided that such waiver shall not be effective until the requirements of 49 U.S.C.A. Section 2001 et seq. relative to such a waiver have first been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 17: (April 1991).

J. Patrick Batchelor
Commissioner

RULE

**Department of Natural Resources
Office of Conservation**

The Department of Natural Resources, Office of Conservation is hereby amending LAC 43:XIX.129.B.8-9 pursuant to the Notice of Intent published in the *Louisiana Register* May 20, 1990.

**Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation -
General Operations
Subpart 1. Statewide Order No. 29-B**

**Chapter 1. General Provisions
§129. Pollution Control**

B. Onsite Storage, Treatment and Disposal of Nonhazardous Oilfield Waste (NOW) Generated from the Drilling and Production of Oil and Gas Wells

1. - 7.

8. Disposal of Reserve Pit Fluids by Subsurface Injection

a. General Provisions

i. The disposal (subsurface injection) of drilling and workover waste fluids (including reserve pit fluids) into (1) a newly drilled well which is to be plugged and abandoned or (2) into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over is prohibited, except when such injection is conducted in accordance with the requirements of this Subparagraph.

ii. Injection of drilling and workover waste fluids shall not commence until approval has been granted by the Office of Conservation. Operators may apply for approval when applying for a drilling permit. Approval for injection into a well will remain valid for subsequent workovers provided the criteria in §129.B.8.c below continue to be met.

iii. Injection of drilling and workover waste fluids (including reserve pit fluids) shall be limited to injection of only those fluids generated in the drilling, stimulation or workover of the specific well for which authorization is requested. Reserve pit fluids may not be transported from one well location to another for injection purposes.

iv. Injection of drilling and workover waste pit fluids into zones that have been tested for hydrocarbons or are capable of hydrocarbon production is prohibited, except as otherwise provided by the commissioner.

v. Pump pressure shall be limited so that vertical fractures will not extend to the base of the USDW and/or groundwater aquifer.

vi. A drilling and workover waste fluids injection site may be inspected by a duly authorized representative of the commissioner prior to approval.

vii. Drilling and workover waste fluids to be injected pursuant to the provisions of this Subparagraph are exempt from the testing requirements of §129.B.6.c.

b. Application Requirements

i. Prior to the onsite injection of reserve pit fluids, an application shall be filed by the well operator on the appropriate form. The original and one copy of the application (with attachments) shall be submitted to the Office of Conservation for review and approval.

ii. An application for approval of reserve pit fluid injection shall include:

- (a). Schematic diagram of well showing:
 - (i). total depth of well,
 - (ii). depths of top and bottom of all casing strings and the calculated top of cement on each,
 - (iii). size of casing, and
 - (iv). depth of the deepest USDW.
- (b). Operating data:
 - (i). Maximum pressure anticipated, and
 - (ii). Estimated volume of fluids to be injected.
- (c). A copy of the electric log of the well (if run) or a copy of the electric log of a nearby well;
- (d). Additional information as the commissioner may require.

c. Criteria for Approval

i. Casing string injection may be authorized if the following conditions are met and injection will not endanger underground sources of drinking water:

- (a). Surface casing annular injection may be authorized provided the surface casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner; or
- (b). Injection through perforations in the intermediate

or production casing may be authorized provided that intermediate or production casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner.

ii. Surface casing open hole injection may be approved provided the surface casing is set and cemented at least 200 feet below the lowermost USDW and a cement plug of at least 100 feet has been placed across the uppermost potential hydrocarbon bearing zone.

9. Requirements for Community Saltwater Disposal Wells and Systems

a. The use of a legally permitted saltwater disposal well and system for community saltwater disposal purposes is prohibited unless the disposal well system operator submits a statement of noncommercial operation and the information requested in §129.B.9.b below to the Office of Conservation. Such statement must indicate that the operators using the community saltwater disposal system share only in the cost of operating and maintaining the well and related storage tanks and equipment (system).

b. The operator of an existing or proposed community saltwater disposal well and system must submit the following information to the Office of Conservation:

i. The name of the community saltwater disposal system including the disposal well name(s) and number(s), serial number(s), field, and section, township, and range.

ii. A list of the operators using the community saltwater disposal system.

iii. A list of the producing wells (well name, number, and serial number) from which saltwater going into the community saltwater system is generated.

iv. The approximate number of barrels per month of saltwater received from each producing well.

v. The method of transportation of the saltwater to the community system (i.e., truck, pipeline, etc.).

c. Within six months of the effective date of this amendment and annually thereafter, the operator of an existing community saltwater disposal system shall report the information required in §129.B.9.b above to the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 17: (April 1991).

This amendment shall be effective on and after April 20, 1991.

J. Patrick Batchelor
Commissioner

RULE

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

The Department of Public Safety, Office of State Police, in accordance with R.S. 36:408, R.S. 40:1485.4, and

R.S. 49:950 et seq., hereby amends LAC 55:1.1701 and 1703 and to add LAC 55:1.1742, 1743 and 1744 to read as follows:

The public's health, safety and welfare are the primary considerations in the restatement, repeal, amendment and adoption of these rules. Further, it shall be the policy of the Division of Charitable Gaming to decrease the potential for fraud in the charitable games of chance and to insure that the net proceeds are contributed to bona fide charitable causes and further to prevent the infiltration of elements of organized crime or professional gambling into charitable gaming.

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

**Chapter 17. Charitable Bingo, Keno and Raffle
Subchapter A. General Requirements**

§1701. Statement of Department Policy

The public's health, safety and welfare are the primary considerations in the restatement, repeal, amendment and adoption of these rules. Further, it shall be the policy of the Division of Charitable Gaming to decrease the potential for fraud in the charitable games of chance and to insure that the net proceeds are contributed to bona fide charitable causes and further to prevent the infiltration of elements of organized crime or professional gambling into charitable gaming.

AUTHORITY NOTE: Adopted in accordance with R.S. 40:1485.4, R.S. 33:4861.13 C., R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17: (April 1991).

§1703. Definitions

A. As used throughout this Chapter, the following definitions apply:

1. *Act* means the Charitable Raffles, Bingo and Keno Licensing Law enacted as R.S. 33:4861.1 et seq., together with R.S. 40:1485.1 et seq., on regulation of charitable gaming including all amendments thereto that may hereafter be enacted.

2. *Applicant* means the organization, its members, officers, agents, or employees who have applied for any license from the division.

3. *Bona fide, active, or volunteer member* means a person accepted for membership in an organization eligible to be licensed under this Part upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization. The member functions shall not be limited to gaming-related activities.

4. *Certain related offenses* include the following offenses committed contrary to the laws of this state, local jurisdictions, other states, the federal government, or other countries:

a. any felony offense;

b. any offense directly or indirectly related to gambling or gaming laws;

c. the misdemeanor offense of any theft or related offense, any attempted theft or related offense, issuing worthless checks, illegal possession of stolen things, or false swearing or related offense.

5. *Charitable gaming* is the conducting or assisting in

the conducting of any game of chance authorized by R.S. 33:4861.1 et seq., and R.S. 40:1485.1 et seq.

6. *Charitable gaming supplies* means any supplies (except raffle tickets), equipment, device, goods or wares intended for use in the conducting of any charitable gaming provided by law. It includes, but is not limited to, the receptacle and numbered objects to be drawn from it, the master board upon which the objects drawn are placed, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the number or designation as they are drawn, and all other articles essential to the operation, conducting and playing of bingo, keno, pull tabs or raffles. It also includes any computer system, software or cash register designed for the primary purpose of accounting for and reporting the transactions involved in the selling of share or shares to participate in charitable gaming. Bingo game sets commonly manufactured and sold as children's games for a retail price of twenty dollars or less shall be presumed not to be bingo equipment for these purposes unless used by a licensee in the licensee's gaming activity.

7. *Department* means the Louisiana Department of Public Safety and Corrections and shall include the Division of Charitable Gaming Control of the Office of State Police, Louisiana Department of Public Safety and Corrections.

8. *Division* means the Division of Charitable Gaming Control, Office of State Police, Louisiana Department of Public Safety and Corrections.

9. *Director* means the commissioned state trooper of sufficient rank, consistent with civil service regulations, designated by the deputy secretary to head the division.

10. *Expenses* means ordinary, necessary and reasonable costs incurred in preparation for or in the conduct of the gaming activity.

11. *Ideal Net Proceeds* means the projected gross amount to be collected upon sale of all pull tabs in a set or deal minus (1) the actual cost of the pull tabs to the organization, and (2) the projected total amount of prizes or winnings in the set or deal.

12. *Licensee* means any organization licensed to conduct charitable gaming activity pursuant to R.S. 33:4861.1 et seq., and R.S. 40:1485.1 et seq., or licensed as a manufacturer or distributor of charitable gaming supplies, manufacturer or distributor of electronic video bingo machines, commercial lessors, or licensed as a private contractor for cable television bingo.

13. *Immediate family* means the subject individual's spouse, children, parents, brothers and sisters, spouses of children, and spouses of brother and sisters.

14. *Non-Commercial Lessor* means a bona fide non-profit organization licensed by the division to conduct games of chance which leases any building or structure used for charitable gaming to other organizations licensed by the division.

15. *Private Contractor* means a firm or person possessing demonstrated skills in the conduct and administration of charitable games of chance, and licensed by the division to provide for the operation and management of cable television bingo and any employee or agent of such firm or person.

16. *Promotional Game* means any game, contest, or arrangement used by any entity in order to stimulate sales or

attendance, where absolutely no purchase or fee is necessary in order to participate in or win the game, contest or event.

17. *Pull tab or Charity Game Ticket* means a single or banded ticket or card with its face covered to conceal one or more numbers or symbols where one or more cards or tickets in each set has been designated in advance as a winner.

18. *Pull tab set or deal* means any form, series or group of pull tabs having the same serial number.

19. *Raffle* means a type of lottery in which several persons pay, in shares, the value of something put up as a stake, and then determine by chance which one of them shall become the sole possessor of it and any portion or share is retained by the person(s) conducting the raffle.

20. *Reasonable Market Rental Rate* is that rate at which similar facilities or equipment available for similar purposes, in the community may be leased or rented.

21. *Session* represents authorized games of chance played within a time limit of four consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions. The four-hour session limit shall not apply to sessions held in conjunction with a bona fide fair or festival on property where no rent is paid for the session and payout of prizes is determined by the number of persons playing. Sessions are limited to not more than one session per day per licensee. In no instance, shall the total prize amounts exceed \$4,500 per session without a special license. A session of keno or bingo, when the licensee possesses a special license is limited to six consecutive hours.

22. *Special License* means a license to conduct one bingo session where the total prize amount shall not exceed \$25,000 in cash or things of equal value. No organization shall be issued more than two special licenses a year.

23. *Patriotic* means in addition to any other commonly accepted meaning, an organization whose membership is composed of veterans of the United States of America Military to include without limitation, United States Army, United States Air Force, United States Marines, United States Navy, and United States Coast Guard, and said organization has acquired an appropriate non-profit designation issued by the Federal Internal Revenue Service with its registered office and/or place of domicile in the state of Louisiana, or an auxiliary organization to such a veterans' organization.

B. The division shall establish the following fee schedule:

1. Customized organization list per request, \$1 per name (maximum fee \$500).
2. Manufacturer's license, \$200.
3. Distributor's license, \$100.
4. Organization license, \$50.
5. License modification per organization request, \$25, after first free modification.
6. Copy of public record, \$.25 per page.
7. Super bingo license (limit two), \$100.
8. Private Contractors Cable TV Bingo, \$1,000.
9. Organization application for Cable TV Bingo, \$50.
10. Retail Sale Outlet, \$200.
11. Paid Volunteer Personnel History Disclosure/Identification Card, \$15.
12. Personnel History Disclosure Form/Identification Card/Cable TV Bingo, \$15.
13. Commercial lessor's license, \$200.

AUTHORITY NOTE: Adopted in accordance with R.S.

40:1485.4, R.S. 33:4861.13 C., R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17: (April 1991).

§1742. Minimum Internal Accounting Controls

A. Effective July 1, 1991, all licensees whose gaming activities grossed over \$25,000 in the prior license year or any new licensee who the division projects to gross over \$25,000 in a year, must establish and maintain an internal accounting control system which meets minimum standards established by the Division of Charitable Gaming Control. The system must provide reasonable assurance that all transactions are properly and accurately recorded, that gaming proceeds are disbursed in accordance with established policy of the licensed organization and that assets are protected against loss or theft. The director may waive this requirement for organizations whose gaming activities gross over \$25,000 but less than \$100,000 provided that the organization demonstrates competency and proficiency in utilizing an accounting system acceptable to the director.

B. The following are minimum internal accounting controls which must be implemented by all licensees:

1. the results of each gaming session must be fully and accurately documented. The "Division's Model Accounting System" will be used in its entirety by all licensed organizations with an anticipated annual gross of \$25,000 or more in order to ensure strict accountability for the handling of cash and inventory by all participating members; provide a sound audit trail; and allow for the systematic accumulation of data needed for preparation of the division's quarterly report;

2. a specific member must be designated as session manager for each gaming session. This person will be held responsible for the overall control of cash, inventory, and accounting at the session. A record of such designees must be maintained; and,

3. the organization must maintain a single separate charitable gaming checking account. All checks on this account must be prenumbered. Checks made payable to cash are prohibited; and,

4. all proceeds from each gaming session, other than that amount paid out as cash prizes and that amount retained as a cash bank, must be deposited into the separate gaming account no later than the next banking day following the close of the session; and,

5. gaming session reports and deposits must be reviewed quarterly by a designated organization member who is not associated with gaming operations; and,

6. the separate gaming account must be reconciled monthly by someone other than a person who is authorized to sign checks on that account; and,

7. all disbursements from the separate gaming account must be in strict compliance with established written policy of the organization; must be fully supported by permanently filed receipts, invoices, or other sufficient documentation; and must be properly and accurately recorded; and,

8. detailed inventory records must be maintained on all gaming supplies. These records must be verified by means of a physical count made at least semi-annually by an organization member who is not associated with gaming operations. A record of these physical counts must be maintained; and,

9. all forms, bank records, and other documentation described herein must be maintained for a period of three years.

C. Accounting for Sale of Bingo Hard Cards

Every organization, with an anticipated annual gross of \$25,000 or more, which uses reusable bingo cards (slide, shutter or hard cards) must employ the receipting and recordkeeping procedures described by this rule, or submit to the division for preapproval an accounting system of their own design which similarly accounts for the sale of each card and provides a sound audit trail.

The following procedures are required unless advance approval is obtained from the division for use of an alternative system:

1. Each hard card must be assigned a distinct card control number. This number, along with the name of the card owner, or hall location, must be permanently and conspicuously printed or stamped on the card.

2. Duplicate preprinted serially-numbered receipts must be used to account for all hard card sales. A receipt must be prepared and issued upon each individual sale of one or more cards, with the licensee retaining the duplicate copy of the receipt. Each receipt must be initialed by the issuer (worker) and show the date of the session, the control number(s) of the card(s) issued, and the dollar amount of the sale. A line should be drawn under the last card number listed on the sheet so as to preclude anyone from adding extra card numbers to the list of paid cards.

3. All voided receipts must be initialed by the issuer, and retained by the organization.

4. Upon redemption of a winning card, the player must present his or her receipt showing purchase of the card. The checker must verify that the winning card number is listed on the receipt, and that the date of the receipt is current. In addition, should the receipt bear any apparent alterations, scratch-throughs, suspect initials, or other suspect markings, then the authenticity of the receipt must be verified by comparison to the licensee's duplicate.

5. At the end of each session, all receipts must be accounted for, and the licensee must reconcile total sales per duplicate copies of issued receipts with actual dollar amount collected from the sale of hard cards. A written record of this reconciliation must be prepared and retained by the organization.

6. The licensee shall be held strictly accountable for all receipt forms or booklets purchased and for all receipts issued. All receipt numbers must be fully accounted for, and all duplicate copies of issued receipts and voided receipts must be retained for a period of three years.

In addition to the above procedures, each organization using hard cards must attach a statement to each of their Charitable Gaming Quarterly Reports which shows the total amount collected during the quarter from the sale of hard cards.

D. Failure of an organization to establish and maintain an acceptable internal accounting control system will subject that organization to restriction, suspension or revocation of its gaming license.

E. Training sessions and accounting forms are available from the division to assist licensees in complying with this requirement.

AUTHORITY NOTE: Adopted in accordance with R.S. 40:1485.4, R.S. 33:4861.13 C., R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17: (April 1991).

§1743. Expenses

A. All expenses incurred in connection with the conduct of charitable gaming must be paid from the separate charitable gaming bank account.

B. All expenses paid must be bona fide, reasonable in amount, and ordinary and necessary to the conduct of the gaming activity. In connection with this rule, the following definitions shall apply:

1. *Bona fide* - an expense that is genuine and authentic.

2. *Reasonable* - an expense that is moderate or fair in amount.

3. *Ordinary* - an expense that is commonly incurred in the conduct of charitable gaming.

4. *Necessary* - an expense that is appropriate and justifiably required to conduct the games.

C. Incurring or paying, whether directly or indirectly, of expense for the following goods and services is specifically prohibited:

1. transportation of game players;
2. child care or baby sitting service;
3. rentals in excess of reasonable market rental rate;
4. promotional items given to game players during a bingo or keno session.

D. All expenses paid must be fully supported by receipt or other written evidence.

E. Payments for door prizes are not deductible as an expense, but rather are deductible as gaming prize payouts subject to the \$4,500 per session limitation [\$25,000 per special session].

F. Deductions on quarterly reports for non-sufficient fund (NSF) checks exceeding \$500 or one percent of gross proceeds must be accompanied by a written explanation of collections efforts undertaken and evidence of changes in check cashing policies which will ensure future amounts do not exceed one percent of gross proceeds.

G. Pull tabs: A licensee is prohibited from selling a pull tab for an amount different from the pull tab's face value. Under no circumstances may a licensee give away free pull tabs or sell pull tabs at discounted prices.

AUTHORITY NOTE: Adopted in accordance with R.S. 40:1485.4, R.S. 33:4861.13 C., R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17: (April 1991).

§1744. Assigned Fixed Value Required on Disposable and Non-disposable Bingo/Keno Cards, and Bonanza Sheets

A. For the purpose of this rule, a disposable bingo/keno card is a card made of paper or other suitable material which is designed or intended for use at a single bingo/keno occasion. A non-disposable bingo/keno card is a reusable card such as a hard card, or one that contains a slide or shutter.

B. Each organization will assign a fixed value, the amount it intends to charge, for individual non-disposable bingo/keno cards, if used; and/or for each cut and collation of disposable bingo/keno card, and bonanza sheet it intends

to use, sell, or otherwise furnish in the conduct of its gaming sessions.

C. Each organization will submit a list to the division with the assigned fixed values it intends to charge for each disposable or non-disposable bingo/keno card, and bonanza sheet that it intends to sell. This list will be resubmitted with each license application submitted by the organization.

D. All sales of disposable and non-disposable bingo/keno cards, and bonanza sheets must be in accordance with the fixed assigned values as reported to the division.

E. Neither the fixed assigned values nor the cuts and collations of disposable bingo/keno cards can be changed without prior written approval from the division.

F. Organizations may not (1) issue or otherwise furnish any free disposable or non-disposable bingo/keno cards, or bonanza sheets, or (2) discount the price of any disposable or non-disposable bingo/keno card, or bonanza sheet.

AUTHORITY NOTE: Adopted in accordance with R.S. 40:1485.4, R.S. 33:4861.13 C., R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17: (April 1991).

Marlin A. Flores
Deputy Secretary

RULE

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

The Department of Social Services, Office of Community Services, has adopted the following rule in the Title IV-E Adoption Subsidy Program as it relates to nonrecurring expenses in adoption.

In accordance with federal regulations, 45 CFR Part 1356, as published in the *Federal Register* on December 14, 1988, the Office of Community Services has implemented changes related to nonrecurring expenses of adoptions mandated by Section 1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E. As mandated in the regulation, changes were made to the applicable state statutes by Act 345 of the 1990 Legislative Session.

The Office of Community Services sets forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs.

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the Office of Community Services. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree of adoption.

3. There must be no income eligibility requirement (means test) for adopting parents in determining whether payments for nonrecurring expenses of adoption shall be made. However, parents cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. To be eligible, the child must meet the criteria previously established by the Office of Community Services to be designated as a "child with special needs." Furthermore, the child must have been placed for adoption in accordance with applicable state laws.

5. The rate of reimbursement for nonrecurring expenses has been set at \$1,000 per adoption.

6. In cases where siblings are placed and adopted, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Office of Community Services.

8. When the adoption of the child involves interstate placement, the state that enters into an adoption subsidy agreement will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other federal or state adoption assistance (subsidy), the state in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the definition of a "child with special needs."

9. The term *nonrecurring adoption expenses* means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. *Other expenses which are directly related to the legal adoption of a child with special needs* means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption home study, including health and psychological examinations, supervision of the placement prior to finalization of the adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

May Nelson
Secretary

RULE

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services, has adopted the following rule in the Foster Care Program.

Act 348 of the 1990 Legislative Session mandates that the Department of Social Services, Office of Community Services, file a case permanency plan with the court when a child enters into custody of the Department of Social Services or into foster care and that this be done within the time limits required by federal laws, rules, or regulations.

RULE

Effective April, 1991, the Department of Social Services, Office of Community Services, shall file a case perma-

nency plan with the court when a child enters into custody of the department or into foster care, pursuant to or pending a child in need of care proceeding. The case permanency plan shall be filed no later than 60 days after the child comes into care.

May Nelson
Secretary

RULE

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services (OCS), has adopted changes in the policy of its Child Protection Investigation program. These changes are in accordance with amendments to R.S. 14:403 enacted in the 1990 Regular Session of the Louisiana Legislature.

RULE

I. Prioritization and Acceptance of Reports of Child Abuse and Neglect

The Office of Community Services will accept reports alleging the abuse and/or neglect of children by their responsible caretakers as defined in R.S. 14:403, up to the limits of its available staff resources. Reports will be prioritized as high, medium, or low priority based upon the relative severity and immediacy of the maltreatment and other circumstances as described by the reporter. All three priorities will be accepted for investigation unless established maximum workloads have been attained in the Child Protection Investigation program in the parish in which the report is to be investigated. When maximum workloads are attained, the regional manager shall have the authority to direct the parish office to cease acceptance of lower priority reports. Regional managers will be required to notify the Director, OCS Division of Field Services, who will in turn convey this information to the assistant secretary, when they direct staff in any local office to cease acceptance of reports of lower priority. Reporters of such situations shall be advised that their report is in a lower priority category and cannot be accepted due to lack of sufficient staff.

The maximum workload for child protection investigation staff is considered to be 12 new investigations per month. The authority to screen out reports shall be invoked only when workloads have been exceeded by two to three cases per worker for all available investigative workers for two consecutive months, or by four or more cases per worker in any one month. Staff in other OCS programs or in contiguous parishes may be assigned responsibility for child protection investigations only if their caseloads are consistently and substantially below the standard for their programs.

II. Time Limits on Acceptance of Reports

Reports will not be accepted when the time period from the alleged abuse or neglect occurrence to the date of the report exceeds the following limits:

A. Physical Abuse

1. Severe abuse (i.e., high priority) - 12 months
2. Less severe (i.e., medium - low priority) - three months unless documentation of the injury such as scars or medical records, continues to be available.

B. Neglect

One month unless the report includes several incidents which would indicate a continuing pattern of neglect.

C. Sexual Abuse

No time limit if the alleged victim remains a minor to whom the alleged perpetrator continues to have access. Reports over 12 months post-occurrence will not be accepted if the perpetrator no longer has access. Reports in which the victim is no longer a minor will not be accepted regardless of time elapsed.

May Nelson
Secretary

RULE

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

The Department of Social Services, Office of Family Support adopts the following rule in the Child Support Enforcement Services Program.

The enactment of Act 191 of the 1989 Louisiana Legislature provides that the Department of Revenue and Taxation shall charge \$2.75 for each state tax refund offset. This rule is required for the Department of Social Services to pass on this fee to non-AFDC custodial parents whose absent parents' state tax refunds are offset in order to pay for delinquent child support. Federal regulation 45 CFR 303.102 permits this fee for non-AFDC Payees but not for AFDC or IV-E payees. Therefore the agency will continue to absorb the cost of the \$2.75 fee for all AFDC and IV-E cases.

RULE

Effective April 20, 1991, Support Enforcement Services will charge a \$2.75 fee to non-AFDC custodial parents for each successful state tax refund offset of \$4 or more intercepted from the absent parent for delinquent support. This fee will reimburse Support Enforcement Services for intercept fees paid to the Department of Revenue and Taxation.

The fee charged to non-AFDC custodial parents for the state tax offset will be deducted from the child support checks issued by Support Enforcement Services. The absent parent will be given credit for the amount of the check before the fee deduction.

May Nelson
Secretary

RULE

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

The Department of Social Services, Office of Family Support, hereby adopts the following rule in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

This rule is necessary to expand and clarify the registration procedures for family child day care homes as they apply to Project Independence participants.

RULE

Participants in Louisiana's Project Independence Program shall be eligible for reimbursement of child care expenses, required as a result of program participation, that are incurred for child(ren) in family child day care homes. Eligibility for such reimbursement is contingent upon compliance with established registration procedures for family child day care homes. Participants with child(ren) in family child day care homes who care for only related child(ren) shall be eligible for reimbursement of child care expenses upon receipt of the initial application form for registration. However, if such application is subsequently disapproved following inspection by the Office of the State Fire Marshal, the participant is not eligible for further reimbursement until such time that notification of registration approval is received.

May Nelson
Secretary

RULE

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

The Department of Social Services, Office of Family Support, adopts the following rule in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

This rule is mandated because an amendment to the Louisiana State Plan for JOBS is being proposed.

RULE

Louisiana elects to exercise the state option, as specified at 45CFR250.33(b) of the federal regulations, allowing any parent under the age of 25 in an Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, to meet the 16 hour per week work requirement by participating in educational activities as defined at 45CFR250.44(a). Additionally, the second parent in any AFDC-UP case, regardless of the age of that parent, may be placed in an educational component provided the first parent is participating 16 hours per week in a work activity or, if under 25 without a high school or equivalent education, in educational activities.

May Nelson
Secretary

RULE

**Department of Social Services
Rehabilitation Services/Commission for the Deaf**

The Department of Social Services, Rehabilitation Services/Commission for the Deaf has adopted the following

rule in the Commission for the Deaf Program.

These are revisions required for the continued implementation of the Louisiana Commission for the Deaf Program. These revisions: 1) re-organize existing material, 2) eliminate redundant language, 3) clarify existing language, 4) make minor editorial changes, 5) revise the Interpreter Certification Board, formerly State Certification Administrative Committee, 6) establish a standing committee of the Government Relations Committee, and 7) incorporate "people first" language wherever possible. The proposed rule was published in the *Louisiana Register*, Volume 17, No. 1, January 20, 1991.

Effective July 1, 1991, the Louisiana Commission for the Deaf proposes to adopt a rule specifically related to the revision of the Rules of Operation. A complete copy of the Rules of Operation for the Louisiana Commission for the Deaf is available for review at the Louisiana Rehabilitation Services Office located at 1755 Florida Boulevard in Baton Rouge and at the Office of the State Register, 900 Riverside N., Baton Rouge, LA.

May Nelson
Secretary

RULE

Department of Social Services Rehabilitation Services/Commission for the Deaf

The Department of Social Services, Rehabilitation Services Commission for the Deaf has adopted the following rule in the Commission for the Deaf Program.

These are standards required to assure acceptable sign language interpreter services for the deaf. This rule has been developed in accordance with LRS 46:2351-2354, enacted by Act 629 of the 1980 Regular Session of the Legislature, as amended by Act 660 of the 1988 Regular Session of the Legislature, as amended by Act 529 of the 1989 Regular Session of the Legislature LRS 46:2352 (7); and LRS 46:2361-2374 enacted by Act 135 of the 1982 Regular Session of the Legislature, known as the Louisiana Interpreter Law.

The proposed rule was published in the *Louisiana Register*, Volume 17, No. 1, January 20, 1991.

On July 1, 1991, standards to assure acceptable sign language interpreter services for the deaf will become effective. A complete copy of the proposed standards for state sign language interpreter certification is available for review at the Louisiana Rehabilitation Services Office located at 1755 Florida Boulevard in Baton Rouge and at the Office of the State Register, 900 Riverside N., Baton Rouge, LA.

May Nelson
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§151. Free Recreational Fishing Days

In accordance with Act 301 of the 1987 Louisiana Legislature, the Louisiana Wildlife and Fisheries Commission has declared the weekend of the first full week of June each year as Free Recreational Fishing Days in Louisiana to coincide with National Fishing Week each year. On the two above mentioned free fishing days, residents and non-residents may exercise the privilege of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:302.7.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17: (April 1991).

Jimmy Jenkins
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§339. Free Recreational Fishing Days

In accordance with Act 301 of the 1987 Louisiana Legislature, the Louisiana Wildlife and Fisheries Commission has declared the weekend of the first full week of June each year as Free Recreational Fishing Days in Louisiana to coincide with National Fishing Week each year. On the two above mentioned free fishing days, residents and non-residents may exercise the privilege of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:302.7.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17: (April 1991).

Jimmy Jenkins
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on Wednesday, May 8, 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.

The following is a proposed amendment to be considered at the meeting:

PROPOSAL TO AMEND RULE 1.10

1.10 'Continuous State Service' means uninterrupted status of a permanent or probationary classified employee caused by authorized leave of absence, lay off of not more than one year when reemployment is from a department preferred reemployment list, or military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service.

EXPLANATION

The purpose of this amendment is to eliminate benefits of the rule based on temporary appointments and separations of 30 working days or less and to make the wording more specific as to what the intent of the rule was as determined by historical review and application. It should be noted that continuous state service is not synonymous with continuous employment as used elsewhere in these rules.

We feel the primary utility of the rule at this time is to assist in the application of federal Medicare regulations as they apply to employees who have left and return to state service and to establish state service for determining leave accrual rates. Other matters, such as determining status, eligibility dates for merit increases and adjusted service dates are covered specifically in other rules.

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 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 §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 1976), re-promulgated LR 3:46 (January 1977), LR 4:288 (August 1978), amended by Department of Economic Development, Racing Commission LR 17: (1991).

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, May 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: Equine Urine Sample Identification

- 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 is primarily a benefit to LSRC personnel in the detention barn, track office and domicile office, for procedural purposes. There is also a benefit to trainers, as absolute insurer of a horse, by assuring a very strict chain of custody for equine samples.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana 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

§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 the 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: (1991).

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, May 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: Perjury Discipline**

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 is technical in nature, so it benefits horsemen by correctly defining perjury in racing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana 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

§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. 4:141 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:

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, May 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: Testing for Dangerous Substance Abuse

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule. Split sample testing will be paid for by the person requesting the split.
- 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 participants in the commission's human drug testing program by allowing them to request a split sample be sent to an alternate laboratory for confirmation of the presence of substances reported by the primary laboratory.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Appraisal Subcommittee

Notice is hereby given that the Real Estate Appraisal Subcommittee intends to adopt the following rules and regulations which previously appeared as an emergency rule in the March 20, 1991 issue of the *Louisiana Register*, LAC 46:LXVII, 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:

Interested parties may direct inquiries and present their views in writing to the subcommittee through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LAC 46:LXVII.10311, Certification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on costs (savings) through adoption of the amendments. Implementation allows the state regulations to more accurately track the provisions of impending federal guidelines.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the amendments will not impact revenue collections in any measurable way.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Applicants may incur the cost of a specific appraisal education course; however, said course will serve to qualify applicant for state certification, a benefit which far outweighs the cost of an appraisal education course in that state certified appraisers are eligible to participate in federally related transactions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no way to measure future effects on competition and employment. The provisions of the state certification law are presently voluntary; however, all appraisers will fall under the jurisdiction of federal requirements effective July 1, 1991, and may participate in federally related transactions if state certified.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Real Estate Appraisal Subcommittee intends to amend 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:

Interested parties may direct inquiries and present their views in writing to the Louisiana Real Estate Appraisal Subcommittee, % Stephanie C. Fagan, Office Coordinator, Box 14785, Baton Rouge, LA 70898 through the close of business, May 20, 1991.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Residential Certification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on costs to the agency through adoption of the amendments. Implementation corrects an inconsistency in the experience criteria required for certification as a state real estate appraiser.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the amendments will not impact revenue collections in any measurable way.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Proposed amendments provide an equal opportunity to appraisers of similar properties in meeting the mandatory experience requirement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no way to measure future effects on competition and employment. The provisions of the state certification law are presently voluntary, however, all appraisers will fall under the jurisdiction of federal requirements effective July 1, 1991.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider the adoption of 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: (December 1989), amended LR 17:

§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:

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. Interested parties may direct inquiries and present their views in writing to the commission through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Branch Offices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on costs (savings) to the agency through adoption of these amendments. Amendments serve to further define the characteristics of a branch office and to continue requirements relative to supervision and submission of written designations to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no measurable impact on revenue collections through adoption of these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups through adoption of these amendments.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider the adoption of the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 27, Escrow and Trust Account.

Title 46

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

Chapter 27. Escrow and Trust Account

§2703. Rental Trust Accounts

Each broker engaged in the collection of rental pay-

ments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental payments from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2704. Rental Deposit Account

Effective January 1, 1992, each broker engaged in the collection of rental security deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental security deposits from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:

§2705. Account Affidavit

Upon the opening of any sales escrow checking account, rental trust checking account, or security deposit trust checking account a broker shall execute and submit to the commission an affidavit attesting to the existence, location, type and account number of such account, and authorizing and empowering the commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the commission within 10 days following the opening of any such accounts.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2707. Branch Office Accounts

If a broker opens a branch office in a parish other than the parish in which his main office is located, the broker may open an additional sales escrow account, rental trust account, or rental deposit account in the parish in which the branch office is located.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317

(May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2711. Non-Interest Bearing Checking Accounts

Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2713. Personal Funds in Escrow and Trust Accounts

A. A broker may deposit and keep a sum not to exceed \$500 in each sales escrow account, rental trust account, and security deposit trust account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, deposit personal funds in excess of \$500 into a rental trust account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2715. Withdrawal

1. - 8. ...

9. To comply with the provisions of LSA-R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

§2719. Account Closing

No sales escrow checking account, rental trust checking account, or security deposit account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the commission in writing of the closing of any sales escrow account, rental trust account or security deposit account within 10 days following the date the account is closed.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), LR 10:874 (November 1984), amended by the Department of Economic Development, Real Estate Commission,

LR 15: (December 1989), amended LR 17:

§2725. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the commission of the acquisition will specify the account numbers of the sales escrow accounts, rental trust accounts, or rental deposit accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the commission in accordance with Section 2715.8 of this Chapter.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15: (December 1989), amended LR 17:

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. Interested parties may direct inquiries and present their views in writing to the commission through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Escrow and Rental Trust Accounts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated costs (savings) to the agency through adoption of these amendments. Amendments serve to further define procedure for opening and maintaining accounts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections through adoption of these amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Real estate licensees may incur the normal costs associated with banking transactions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission will consider the adoption of the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 63, Out-of-State Broker Cooperation (deleted).

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:

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. Interested parties may direct inquiries and present their views in writing to the commission through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Out-of-State Broker Cooperation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated costs (savings) to the agency through the repeal of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no way to estimate the effect of revenue collection through the repeal of this rule although it may serve to increase revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Real estate license applicants will incur an application/testing fee; however, the cost is in keeping with that established by the original language. There is an economic benefit in that applicants who previously did not qualify for licensing for reasons of residency are no longer ineligible for licensing.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The repeal of this rule may serve to increase competition and employment opportunities.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission will consider the adoption of 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:

§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:

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. Interested parties may direct inquiries and present their views in writing to the commission through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Real Estate Continuing Education Vendors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated costs (savings) to the agency through implementation of these amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no measurable effect on revenue collections through implementation of these amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendments serve to broaden the areas of qualification for continuing education vendors and instructors thereby increasing the number of eligible applicants. Costs are in keeping with those specified in original language.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments may serve to increase competition and employment; however, there is no measurable effect.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider the adoption of 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 LXVIII. 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 licenses 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: (December 1989), amended LR 17:

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. Interested parties may direct inquiries and present their views in writing to the commission through May 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Transfers and Terminations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on costs (savings) to the agency through adoption of these amendments. The amendments modify and further define previously existing language.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no measurable impact on revenue collections through adoption of these amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Acquiring real estate agencies will be required to remit a transfer fee(s); however, said fee(s) will not be greater than those prescribed by law (R.S. 37:1443).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no way to measure the effect on competition and employment through adoption of these amendments.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

p.m., June 8, 1991 to 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: Elementary Foreign Language Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost to reprint and distribute page of Bulletin 741 will be approximately \$100.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule will have no effect on the revenue collection of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no effect on 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 741
Elementary Foreign Language Program (Grades 7 and 8)**

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 intends to amend Bulletin 741, Elementary Foreign Language Program, in grades 7 and 8 to allow greater flexibility in scheduling at the local level as noted below:

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.

Interested persons may direct comments on the proposed policy change and/or additions in writing, until 4:30

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741 - Presidential Election Day

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 intends to rescind its present policy which declares presidential election day a holiday and grants the school systems the option of dismissing school for presidential election day.

This will amend Bulletin 741, Standard 1.009.16 to delete the following:

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

Interested persons may direct comments on the proposed policy change in writing until 4:30 p.m., June 8, 1991 to the 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: Presidential Election Day Amendment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost to reprint and distribute page 10 of Bulletin 741 will be approximately \$100.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The rule will have no effect on the revenue collection of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No cost will directly affect non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will have no effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent for
Management and Finance

John R. Rombach
Legislative Fiscal Officer

The costs for FY 91-92 will be to place the standards in the LTIP/LaTEP Implementation Guide. The cost for printing of the LTIP/LaTEP guide would be approximately \$1.75 per guide or \$21,000 for 12,000 guides.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no cost and/or economic benefit to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The revisions to the LTIP/LaTEP do not affect competition.

Graig A. Luscombe
Deputy Superintendent for
Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revisions to LTIP/LaTEP "Benchmarks" and Standards for Teacher Evaluation

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 proposes to modify the standards for satisfactory and superior rating for LTIP/LaTEP "Benchmarks" and Standards for Teacher Evaluation by converting from percentage scores to whole number scores as recommended by the Department of Education. This proposed revision was also adopted as an emergency rule, effective February 28, 1991. See the March, 1991 issue of the *Louisiana Register* for complete text of revisions.

Interested persons may direct comments on the proposed policy change in writing until 4:30 p.m., June 8, 1991 to the 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: Standards for Teacher Evaluation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated costs for FY 90-91 are for printing of the standards (\$280 at the state level and indeterminable at the local level).

NOTICE OF INTENT

**Department of Education
Office of Student Financial Assistance
Student Financial Assistance Commission**

Acceptance of Income Tax Forms in Lieu of Audited Financial Statement from Schools

The Louisiana Student Financial Assistance Commission advertises its intent to amend its rules to 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.

A number of schools have complained that audited financial statements present an economic burden due to the high cost of contracting with an auditing firm for completion of the report. We have received confirmation from the Department of Education that we may accept signed income tax forms in lieu of such a statement. In the case of a for-profit institution, this shall be the tax statement submitted by the school. If the school is an S-type corporation, tax forms of the school and shareholders shall be required. On a biennial basis, the school shall present either the audited financial statement or annual tax returns to demonstrate that the school is annually profitable and operating at a favorable asset-to-liability ratio.

There is no cost to the commission associated with adoption of this proposal. By accepting the tax forms, we are creating less of a financial burden on the educational institution.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., June 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Acceptance of Income Tax Forms in Lieu of
Audited Financial Statement from Schools**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs are estimated to result from the implementation of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections will result from the implementation of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
By accepting tax forms, LASFAC will create less of a financial burden on the educational institution wishing to participate in the guaranteed student loan program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment will result from the implementation of this proposed rule.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Office of Student Financial Assistance
Student Financial Assistance Commission**

**Procedure for Appeal of Adverse
Discretionary Decisions of OSFA**

The Louisiana Student Financial Assistance Commission advertises its intent to establish rules providing a procedure for the appeal of adverse discretionary decisions of the Office of Student Financial Assistance.

To implement agency specific procedures and to comply with the Administrative Procedure Act, the agency proposes establishment of a formal appeal process by which aggrieved parties may appeal an agency adverse discretionary decision. The staff has devised an appeal procedure that is consistent with the Administrative Procedure Act. The appeal procedure allows for an initial review or hearing to be held by a hearing officer or an appeal committee appointed by the commission, depending upon the level of review requested. If after the decision of the appeal committee or hearing officer the appellant is not satisfied, then he/she will have the right to seek review of the decision by the full commission. This review is necessary since it is ultimately the commission's decision that will become final and binding. If the commission refuses to review the decision of the hearing officer or the appeal committee, then the aggrieved has the right to seek a rehearing on the matter by the full commission. If the application for a rehearing is denied, then the aggrieved party has the right to seek judicial review.

It is expected that the appeal process will eliminate the need for the commission to hear every appeal by an ag-

grieved party. A fair and impartial hearing at a level below the commission provides an opportunity to have all concerns raised and adjudicated in a trial-like environment.

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 R.S. 49:959. An application for rehearing does not stay any action taken by the 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.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., June 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Procedure for Appeal of Adverse
Discretionary Decisions of OSFA**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs or savings are anticipated from implementation of this proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated from implementation of this proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No additional costs are anticipated from implementation of this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition and employment are foreseen from implementation of this proposed action.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Office of Student Financial Assistance
Student Financial Assistance Commission**

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

The Louisiana Student Financial Assistance Commission advertises its intention to establish rules denying a

school's eligibility to participate in the agency's guaranteed student loan programs while seeking or operating under the provisions of Chapter XI of the Bankruptcy Code.

The recent Student Loan Default Prevention Act of 1990 has amended the Bankruptcy Code to provide that (1) action by an accrediting agency, (2) action by a state licensing body, or (3) action by a guarantee agency or the secretary relating to institutional eligibility to participate in HEA programs shall not be deemed to be an offensive action against a debtor in a Chapter 11 proceeding which is subject to a stay in Bankruptcy Court.

Similarly, when a Chapter 11 petition is filed, (1) eligibility to participate in HEA programs, (2) accreditation status, or (3) State licensure shall not be considered to be "property" of the debtor to be protected by the Bankruptcy Court for the benefit of the creditors.

In recent months, a number of schools have declared bankruptcy but have remained open and continued to process loans guaranteed by the agency. Instead of improving their financial condition, they seem to incur more refund obligations and eventually close. This leaves students liable for money the school failed to refund or without the education they have paid to receive and LASFAC with a higher than necessary default rate.

It is not in LASFAC's best interest, or that of the student population it serves, to permit schools in bankruptcy to continue participation in this program unless the school is likely to recover financially. Students become victims and the commission should act to protect their interests. Poor financial management of schools poses a significant threat to students and this commission, and businesses requiring protection of the Bankruptcy Courts should only be permitted to continue their participation in the student loan program under strict criteria, closely supervised.

There is no cost to implement this policy. Students and this agency may incur additional expenses if we fail to adopt this policy due to the increased likelihood of financial failure of schools seeking protection under the Bankruptcy Code.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., June 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Denying School's Eligibility While Seeking or
Operating Under Chapter XI of Bankruptcy Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this proposed policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No increased revenue collections are anticipated from implementation of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Students and this agency may incur additional expenses if we fail to adopt this policy due to the increased likelihood of financial failure of schools seeking protection under the Bankruptcy Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated from the implementation of this proposed action.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Office of Student Financial Assistance
Student Financial Assistance Commission**

Guarantee Fee Refund Termination After 180 Days

The Louisiana Student Financial Assistance Commission advertises its intention to adopt the following rule: "Guarantee fees on loans that are canceled more than 180 days after the certified date of first disbursement shall be retained by the agency."

Current LASFAC policy dictates that the agency fully refund guarantee fees to the originating lender if the loan is canceled at any point in time. However, most cancellations submitted after 180 days outstanding are due either to late return of the original uncashed check, late refund of loan proceeds by the school, or early payment-in-full by the borrower. In all cases, the guaranty agency is entitled to retain the guarantee fee after 120 days according to federal regulations. In the case of late return/refund by the school, the agency should assist the lender in collecting the fee from the school as penalty for failing to follow federal regulations. In the case of a borrower who pays-in-full early, the agency is still entitled to the insurance premium for the risk incurred while the loan was outstanding.

From what we can ascertain, LASFAC is the only agency which fully refunds the insurance premium regardless of the cancellation date. Lenders have considerable difficulty in accounting for refunded premiums. It is to our advantage as well as the lender to cease the refunding of fees after 180 days outstanding.

The implementation of this proposal will not incur any cost to the commission. It may actually increase revenue by as much as \$200,000 per year.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., June 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Guarantee Fee Refund
Termination after 180 Days**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs are estimated for this proposed change in procedure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed change in procedure could increase revenue by as much as \$200,000 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Lenders have considerable difficulty in accounting for late refunded premiums. LASFAC has been the only agency which fully refunds the insurance premium regardless of the cancellation date. It is to LASFAC's advantage as well as the lender's to cease refunding fees after 180 days outstanding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment from this proposed procedure change.

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 R.S. 49:950, et seq., of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1291(10)(12) and (13) of Act 938 of the 1988 Regular Louisiana Legislative Session, the Office of Workers' Compensation gives notice of its intent to promulgate a rule to implement a utilization review process to resolve 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 Workers' Compensation Act, with the authority to audit specific medical records of a patient to determine whether an inappropriate reimbursement has been made.

Comments should be forwarded to Stephen Cavanaugh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through the close of business on May 28, 1991.

Oral comments will be accepted at a public hearing on Wednesday, May 29, 1991, from 10 a.m. to 12 p.m. The hearing will be held at the Louisiana Department of Employment and Training, 1001 N. 23rd Street, Baton Rouge, LA, Room 486 of the Administrative Building.

A copy of this rule may be obtained by contacting
Judy Albarado at 342-7587.

Stephen Cavanaugh
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Utilization Review Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost to the Office of Workers' Compensation to reproduce one copy of the repromulgated utilization review procedure is \$8.75 with 2,000 copies being printed. The total cost for the Office of Workers' Compensation Administration for the implementation of these rules is \$17,500.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This will have no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
None, the amendment involves the repromulgation of already implemented rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No, there is no effect on competition and employment. The Utilization Review Procedures is designed to provide guidance to health care providers when rendering services to injured employees. The impact is not directly felt on employment or competition.

Stephen W. Cavanaugh
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054 and 2060, 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 Air Quality Regulations, LAC 33:III.6511 and 6523 (Log Number AQ50).

This amendment will provide for air toxics emission fees and air toxics application fees. These fees will be collected upon promulgation in order to provide funding for the Toxic Air Pollutant Control Program.

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 65. Rules and Regulations for the Fee System of the Air Quality Control Programs

* * *

§6511. Methodology

A. Formula to Apportion Fees:

Air toxics application fee (based on type of facility and on rated production capacity/throughput) Surcharge of 10% of the application fee

Air toxics annual emission fee (based on air toxic pollutants emitted) Variable

* * *

B. Fee Methodology

* * *

15. Air toxics annual emission fees shall be assessed on actual annual emissions which occurred during the previous calendar year.

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, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, LR 17:

§6523. Fee Schedule Listing

* * *

Fee Number	Fee Description	Amount	Minimum Fee
2200 ¹	Air toxics annual fee per ton emitted on an annual basis		
	Class I pollutants	\$100	\$100
	Class II pollutants	\$ 50	\$ 50
	Class III pollutants	\$ 25	\$ 25

¹ Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51, Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility.

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, LR 13:741 (December 1987), amended LR 15:735 (September 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection LR 17:

A public hearing will be held on May 28, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ50.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: LAC 33:III.Chapter 65, Rules and Regulations
for the Fee System of the Air Quality Control Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no increase in state costs other than administrative costs of assessing and collecting fees. Since these expenses are covered under the proposed Air Toxics Fees, net costs of implementation are zero, with an increase in revenue of \$1.7 to 1.9 million for the first two years. Local governments could incur a cost of up to \$200 per unit for such sources as wastewater treatment facilities if toxic air pollutant emission rates exceed the minimum rates allowed in the program. It is likely that emissions of most toxic air pollutants from such sources will not exceed one ton per year, the minimum quantity for which fees are assessed.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Fee-generated revenues are estimated to be \$1.9 million for FY 1991-92 and \$1.7 million for FY 1992-93. Revenue estimates are based on the Air Quality Division's 1987 Baseline Emissions Inventory, with an anticipated 10 percent decrease in emissions by the 1992 reporting year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The proposed rule change will result in costs ranging from \$25 to \$1,000 for minor sources of toxic air pollutants. It is expected that the majority of minor sources will either emit at a rate lower than the Minimum Emission Rate, and thus be exempt from the program, or will reside in the lower end of the \$25 to \$1,000 fee range. Major sources will generally pay between \$250 and \$50,000 annually in emission fees. Large facilities such as Exxon Chemical Americas in East Baton Rouge Parish would pay approximately \$50,000 annually, based upon 1989 emission estimates. Emission fees will vary widely, depending upon the quantity and type of toxic air pollutant emitted. Emission fees are expected to decrease to near 50 percent of 1991 levels by the end of 1994, as controls are installed and emissions of toxic air pollutants are decreased. It is expected that similar industries, whether major or minor sources, will incur similar emission fees.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No significant impact to competition and employment in public or private sectors is expected as a consequence of these regulations. Since all similar industries will be paying approximately the same in emission fees, effects

on competition will be minimized. These regulations will tend to reward those industries which have implemented the most effective emission controls, although the cost of installing controls is expected to exceed the resultant savings in emission fees.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.6121, 6123, 6125, 6127, 6129 & 6131 (Log Number AQ53).

These regulations will add the VOC Capture Efficiency Test Method, required 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.

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 30, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ53. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512, 900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 33:III. Chapter 61, Capture Efficiency

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no significant implementation costs or savings to state or local governments.
- 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)
The economic impact on non-governmental groups should be limited to an increase in the one-time cost of compliance testing for large, new or modified facilities in the surface coating, printing, or polymer industries.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
All states are adopting the rule. There is no anticipated effect on competition or employment.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.6113, (Log Number AQ18).

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

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 61. Division's Source Test Manual**

* * *

§6113. Performance Specification—Six-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 determination 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

1. 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:III.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:

A public hearing will be held on May 29, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ18.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Performance Specification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected change in cost or savings to state or local government units caused by the promulgation of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected impact on revenue collections of state or local government units caused by the promulgation of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no economic benefit or cost to directly affected persons or non-governmental groups caused by the promulgation of the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment caused by the promulgation of the proposed rule.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.2115, 2121, 2123, 2131, 2135, 2139 & 2141 (Log Number 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.

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 30, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ51. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512, 900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Revisions to LAC 33:III. Chapter 21, Control of Emission of Organic Components

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None anticipated.
- 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)

Only minor additions to recordkeeping costs are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant impact is expected.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, 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 New Source Performance Standards Regulations, LAC 33:III.4801, (Log Number AQ27).

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

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 29, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ27. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512,
900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Standards of Performance for Volatile Organic Compound

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected change in cost or savings to state or local governmental units caused by the promulgation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected change in revenue collections of state or local governmental units caused by the promulgation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is an anticipated annualized cost increase of 3% caused by the promulgation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment because the anticipated annualized cost increase is insignificant relative to existing operating expenses.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.4841, (Log Number AQ28).

The proposed 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).

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 29, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and sub-

mit 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, May 31, 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 AQ28. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512, 900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Standards of Performance for Volatile Organic Compound Emissions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected change in cost or savings to state or local governmental units caused by the promulgation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected change in revenue collections of state or local governmental units caused by the promulgation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is an anticipated annualized cost increase of less than 5 percent to impacted products caused by the promulgation of the proposed rule. Product cost increases would be approximately 2 percent for 87 percent of impacted products and less than 3 percent for 95 percent of the products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment because the anticipated annualized cost increase is insignificant relative to existing operating expenses.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.6086, (Log Number AQ34).

These proposed 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.

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 29, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ34. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Office of the State Register, 900 Riverside North, Room 512, Capitol Annex, Baton Rouge, LA 70804

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Method 25A - Determination of Total Gaseous Organic Concentration Using Flame Ionization Analyzer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact to costs, or savings, from the promulgation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact to revenue, or collections, from the promulgation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The benefit to the regulated community of a defined and enforceable method has been documented. Without a defined method any method that was suggested could be invalidated, or results reported by a method could be claimed to be inappropriate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected impact on competition, or employment, from the promulgation of the proposed rule.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, 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 Air Quality Regulations, LAC 33:III.3125, (Log Number AQ19).

These proposed 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).

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

**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 Two 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 Two and

substitute the procedures in Section J of Performance Specification Two 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 Two 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 Two (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 Two.

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:

A public hearing will be held on May 29, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 AQ19.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Standards of Performance Standards - General Provisions - Monitoring Requirement AQ19 (LAC 33:III.3125.J)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Solid and Hazardous Waste

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart I, (Log Number HW26).

The proposed 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 proposed 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, Number 130); September 23, 1987 (52 FR 35894, Number 184); October 27, 1987 (52 FR 41295, Number 207); December 1, 1987 (52 FR 45788, Number 230); July 19, 1988 (53 FR 27162 and 27164, Number 138); August 17, 1988 (53 FR 31138, Number 159); September 2, 1988 (53 FR 34079, Number 171); January 27, 1989 (54 FR 4021, Number 117); February 27, 1989 (54 FR 8264, Number 37); May 2, 1989 (54 FR 18836, Number 83); June 23, 1989 (54 FR 26594, Number 120); June 27, 1989 (54 FR 27114, Number 122); September 6, 1989 (54 FR 36967, Number 171); October 6, 1989 (54 FR 41402, Number 193); December 11, 1989 (54 FR 50968, Number 236).

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 30, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 HW26. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512, 900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Non-HSWA Cluster II

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant implementation costs or savings to state or local government, as the proposed regulations will allow state regulations to conform to existing federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no significant cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste/Underground
Storage Tanks**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Underground Storage Tanks Regulations, LAC 33:XI.Chapters 1-13 (Log Number 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 are proposed to clarify language in order to meet the original intent of the Department of Environmental Quality. The method 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."

These proposed regulations are to become effective on July 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on May 30, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 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, May 31, 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 pro-

posed regulation by the Log Number UT02. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

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

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

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

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

Office of the State Register, Capitol Annex, Room 512, 900 Riverside North, Baton Rouge, LA 70804.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 33:XI. Chapter 1-13,
Louisiana Underground Storage Tank Rules
and Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendments to the Underground Storage Tank (UST) Rules and Regulations pertaining to the elimination of a contractor company license will result in no costs or savings to the state or local government.

The proposed amendments to the UST annual monitoring and maintenance fee provide that a flat fee of \$30 per UST be assessed for petroleum USTs not eligible for the Underground Motor Fuel Storage Tank Trusts (tanks containing new or used oil, USTs at federal facilities, etc.). This amendment will result in no more than a \$20 increase per UST to local governments who own tanks with a capacity of less than 2,000 gallons, and a \$20 decrease to local governments who own USTs with a capacity of 10,000 gallons and greater. The proposed amendments to the UST annual monitoring fee will result in an overall net increase of \$380 in the fees assessed to local government (only 40 USTs will be affected).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Underground Storage Tank Regulations, as adopted on July 20, 1990, required the licensing of contracting companies engaged in the installation, repair or closure of USTs. It has since been determined that this is already being conducted by the Louisiana State Licensing Board for Contractors. In order to avoid a duplication of effort, DEQ is proposing to eliminate this requirement. The projected revenues of \$7,500 for the FY 91-92 and \$500 for FY 92-93 will not be collected as a result of this rule change.

The proposed amendments to the UST annual monitoring and maintenance fee will result in an increase in revenue collections of approximately \$18,700 for FY 91-

92 and for each fiscal year thereafter. The assessment of fees as provided in the current regulations is insufficient to defray the costs associated with the administration of the collection program. The current method of assessing a lower fee for smaller USTs has no basis since tank capacity has no impact on the cost to state government to regulate USTs. The intent of this modification is to assess a flat fee per UST.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The elimination of the licensing of contracting companies by DEQ will decrease business costs for contracting companies. Contracting companies will not be subject to a \$250 initial license fee and a biennial renewal fee of \$150.

The proposed amendments to the fee system will result in no more than a \$20 increase in the annual fee for any person who owns a tank with a capacity of less than 2,000 gallons, and \$20 decrease to any person or non-governmental group who owns a tank with a capacity of \$10,000 gallons and greater. The net effect of this rule will be a \$18,320 fee increase to directly affected persons and non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have minimal impact on competition and employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Louisiana 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., notice is hereby given that the Commission on Law Enforcement and Administration of Criminal Justice intends to adopt 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 hous-

ing 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:

Comments on the proposed amendments may be submitted in writing through May 15, 1991, to the Louisiana Commission on Law Enforcement, 1885 Woodale Boulevard, Room 708, Baton Rouge, LA 70806-1442.

Michael A. Ranatza
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 22:III.2901, State of Louisiana
Jail Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs will be negligible as the proposed changes only reflect state law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on any revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This change will simplify all planning phases connected with jail construction or renovation since it will clarify physical space requirements for incarcerated individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Michael A. Ranatza
Executive Director

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

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 participate 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 determina-

tion 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.

These regulations are to become effective on July 20, 1991, and are to remain in force until they are amended or rescinded. Anyone having any comments should submit them in writing by June 28, 1991, to Susan Elkins, Policy and Program Manager, Community Development Section, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Dennis Stine
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: State LCDBG Debarment Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs will not be required of the state or local governmental units as a result of this proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed action would not have any effect on revenue collections by the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Contractors and other participants would be directly affected if suspended or debarred according to this proposed rule. Any contractor or other participant that has been suspended or debarred may not participate in the LCDBG program. They will be ineligible to enter into an LCDBG-assisted contract.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Contractors or other participants that are suspended or debarred from the Louisiana Community Development Block Grant (LCDBG) Program are excluded from receiving LCDBG-related contracts for an indefinite period of time commensurate with the seriousness of the cause(s).

Dennis Stine
Commissioner
of Administration

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**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:

Persons interested in making comments relative to these changes may do so in writing to Virgie O. LeBlanc, C.P.P.O., State Purchasing, Box 94095, Baton Rouge, LA 70804-9095, by June 21, 1991.

Dennis Stine
Commissioner of Administration

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Vendor Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to any state or local governments. The only increase is to out-of-state vendors in the amount of \$50.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed increase in vendor subscription fees will generate an estimated \$50,000 annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Costs to affected persons will be increased by approximately \$50,000 annually. The rule change will allow the administering agency flexibility to adjust to variations in program budget.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Virgie O. LeBlanc
C.P.P.O.

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Engineers Selection Board**

Pursuant to the provisions of R.S. 38:2310 et seq., as amended, the Louisiana 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. User agency will give scope of project.
- B. Call for discussion of applications.
- C. Board will take weighted vote (each member may vote for as many as three (or two) or as few as one of the firms under consideration).
- 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. If there is a tie, revote with discussion. If after voting a second time, there is still a tie, the board may have additional votes and discussion or may postpone the selection until the next meeting.

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:

Persons interested in making comments relative to this rule change may do so in writing until the close of business May 20, 1991 to the director of Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095.

Roger Magendie
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Selection Procedure**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings. This rule change is to change voting procedure.
- 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)
There will be no costs or economic benefits associated with this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule change is to change voting procedure and will not affect competition and employment.

Roger Magendie
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Board Certified Social Work Examiners**

The Louisiana State Board of Board Certified Social Work Examiners hereby announces its intent to adopt the following rule.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXV. Certified Social Workers**

Chapter I. General Provisions

§117. License Renewals and Cancellations

A. Renewal notices are mailed on June 20 of each year. The renewal fee is due between June 20 and November 30 of each year. Board certified social workers must list those social workers under their supervision on their renewal form.

B. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to each renewal date.

C. Approved learning situations for continuing education:

1. Workshops and activities sponsored by individual professional practitioners and/or professional organizations, such as: Louisiana Council for Social Work Education, National Association of Social Workers (NASW), The National Federation of Clinical Social Work Society, Council on Social Work Education, American Medical Association (AMA), American Psychiatric Association, American Psychological Association, American Hospital Association (AHA), American Association of State Social Work Boards (AASSWB) or other affiliated professional organizations.

2. Continuing education workshops and activities provided by accredited graduate schools of social work. Academic course work (graduate level) counts per class hour.

3. Presentations having social work content count one and one-half times the actual time of the presentation to give

credit for the preparation time. (Example: You prepare a presentation on holiday stress that takes one hour. You may count one and one-half hours as continuing education credit.)

4. Participation in staff development presentations with a social work focus.

5. Attendance at professional social work meetings (NASW, AHA, item writing workshops (AASSWB), symposiums, panel discussions, conferences.

6. Study groups of three or more with peer supervision. Provide names and work addresses, including telephone numbers of group members. Include meeting dates, time, topics of discussion and bibliography if applicable.

7. Contracted consultation received by the licensee.

8. Self-study programs; must be in a rural area or licensee must be incapacitated. Must receive pre-approval from the board.

D. The following learning situations will not be accepted:

1. banquet speeches;

2. non-social work; non-clinical content courses. Example: computer, financial or business management;

3. staff orientation, administrative staff meetings and case staffing/reporting;

4. book reports.

E. A lapsed license fee may be paid between December 1 and February 28 of each year and certificate will be renewed. (The lapsed license fee equals twice the amount of the renewal fee.)

F. Without payment of the lapsed license fee, the license is cancelled after February 28, and a certified notice of cancellation is mailed.

G. When a license is allowed to lapse after February 28, the applicant will be required to pay the registration and examination fees and pass the examination.

H. It is the board certified social worker's responsibility to keep the board informed of his/her current mailing address.

I. A licensee who allows his or her certificate to lapse for a period of six months or longer without renewal, or who is unsuccessful at a compliance hearing concerning this matter, shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the two years of social work supervision or proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee.

J. Retired or inactive licensees may retain their license by payment of annual renewal fee.

AUTHORITY NOTE, Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 17:

Interested persons may submit written comments or objections until 4:30 p.m. on May 31, 1991, to Victoria L. Hippard, Chairperson, Louisiana State Board of Board Certified Social Work Examiners, Box 345, Prairieville, LA 70769. The board will hold a public meeting to discuss the rule at 11 a.m. on Friday, May 24, 1991 at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA.

Victoria L. Hippard
Chairperson

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Continuing Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana State Board of Board Certified Social Work Examiners estimates that the cost for implementing the proposed rule in 1990-91 will be \$3,445 and that to maintain the continuing education requirement in 1991-92 and 1992-93 it will cost \$2,996 and \$3,028 respectively.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana State Board of Board Certified Social Work Examiners anticipates no effect on state or local governmental units resulting from the proposed rule. Licensure is the personal responsibility of professional social workers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Board Certified Social Work Examiners estimates that there may be minimal cost to individual Board Certified Social Workers (BCSWs) if they chose to attend structured, marketed workshops to fulfill the proposed requirements, however, the board has allowed for a broad range of activities that require no fee to meet the continuing education requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Louisiana State Board of Board Certified Social Work Examiners anticipates that there will be no effect on competition and employment resulting from the proposed rule.

Suzanne L. Pevey
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
State Board of Electrolysis Examiners**

The Department of Health and Hospitals, State Board of Electrolysis Examiners, proposes to amend the operating rules and regulations, LAC 46:XXV. Chapters 1 through 17. These amendments are being proposed in accordance with R.S. 37:3051-3077.

Interested persons may submit written comments on the proposed rule to Christine Benoit, Chairperson, State Board of Electrolysis Examiners, Box 1468, Baton Rouge, LA 70821-1468.

Copies of the proposed rule can be obtained through the State Board of Electrolysis Examiners at the above address or through the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804-9095.

Christine Benoit
Chairperson

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Inspections/Sterilizations Amendments,
LAC 46:XXV.Chapters 1 through 17**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to the board. However, previously, board members performed inspections and were not reimbursed by the board. This proposed rule will allow board members who perform inspections to be reimbursed up to a maximum of \$200 per year, per person. There are four board members who perform inspections. The maximum costs to the board would be 4 times \$200 or \$800 per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of the board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Board members who will now be reimbursed will be affected in that they will be authorized to collect up to \$200 per year more than current authorization allows.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Christine Benoit
Chairperson

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedure Act, intends to amend its existing rules, LAC 46:LIV.Chapters 1 through 5, covering licensing, education and fees.

Copies of the proposed rules may be obtained through the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

There will be a public hearing on these rules on Thursday, May 30, 1991, at 9:30 a.m. at the office of the State Board of Physical Therapy Examiners, 120 Representative Row, Lafayette, LA 70508.

Comments concerning the proposed rules may be directed to the above address and made to the attention of Paul A. Lamothe, Jr., chairman. Such comments should be submitted no later than Friday, May 10, 1991, at 4 p.m.

Paul A. Lamothe, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Amend LAC 46:LIV.Chapters 1 through 5,
Licensing, Education and Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on implementation costs to the state or local government units as a result of the rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections to the state or local government units as a result of the rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Rules and regulations being proposed to implement the continuing education requirements in the law will add a nominal cost to physical therapist. This is reflected in fees paid to attend approved continuing education programs. Revenues may be generated by non-government groups who might sponsor these educational programs.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

There will be no effect on competition or employment as a result of these rule changes.

Paul A. Lamothe, Jr.
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**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 giving notice of its intent to establish rules for the solicitation of proposal for the provision of alcohol and drug abuse services and for the distribution of non-allocated funds for these services.

Interested persons may submit written comments on the proposed rule to the following address: Dr. Robert A. Perkins, Sr., Division Director, Office of Human Services, Division of Alcohol and Drug Abuse, Box 38688, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

**Title 48
PUBLIC HEALTH**

Part VII. Alcohol and Drug Abuse Services

Chapter 1. Program Authorization

§119. Solicitation of Proposals 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 *Fed-*

eral 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 person 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 head-

quarters 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 of- fice shall review all proposal and accompanying recommen- dations from the regional offices and all proposals which are not geographically specific and shall make a final determina- tion on approval of proposal in accordance the Division of Alcohol and Drug Abuse state plan and with criteria con- tained 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/appli- cant 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 Hospitals' *Contracts Manual*.

2. Categorical Grant Funds. Funds becoming availa- ble 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:

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Division of Alcohol and Drug Abuse for
Solicitation of Proposals and distribution of
non-allocated funds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule sets forth an administrative procedure and should not result in either costs or savings to state or local government units.

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 individ- uals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)

This rule should result in increased competition among potential vendors for non-allocated funds of the Division of Alcohol and Drug Abuse, as it will provide for greater public awareness of the availability of these funds and planned services. There should be no impact on em- ployment.

Jerry J. Vincent, Ph.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of Hu- man Services, Division of Alcohol and Drug Abuse proposes to adopt rules and regulations pursuant to Act 90 of the 1990 Regular Legislative Session, designated as R.S. 47:2601 re- garding disposition of monies in the Drug Treatment Fund.

Interested persons may submit written comments on the proposed rule to the following address: Dr. Robert A. Perkins, Sr., Division Director, Office of Human Services, Di- vision of Alcohol and Drug Abuse, Box 3868, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries.

**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 notice of intent in this *Louisiana Register*. The solicitation of proposals will be for the provision of treatment, care and rehabilitation services for persons abusing controlled dangerous sub- stances. 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 annu- ally 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 Divi- sion of Alcohol and Drug Abuse from the Drug Treatment Fund shall be in accordance with accepted standard ac- counting procedures for governmental agencies and contrac- tors.

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:

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Drug Treatment Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule. Act 90 of the 1990 Regular Legislative Session established a tax upon dealers of marijuana and certain controlled danger- ous substances with the proceeds to be paid into a spe- cial fund designated as the Drug Treatment Fund.

Although the full fiscal impact of this tax is not known, 95 percent of the proceeds collected will be distributed annually by the Division of Alcohol and Drug Abuse to state funded drug treatment and rehabilitation programs. This rule sets forth the procedures to be followed by the Division of Alcohol and Drug Abuse for the solicitation of proposals and for the distribution of funds allocated to the agency from the Drug Treatment Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is 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)

There is no estimated costs and/or economic benefits to individuals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule should result in increased competition among potential providers for the Drug Treatment Fund monies appropriated to the Division of Alcohol and Drug Abuse as it will provide for greater awareness of the availability of the monies. This rule should have no impact on employment.

Jerry J. Vincent, Ph.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with R.S. 40:4 (A)(2)(b), the Department of Health and Hospitals, Office of the Secretary proposes to adopt 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.

Persons interested in commenting on the notice of intent may submit written comments until 4:30 P.M., May 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: Fees for Infectious Waste**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the program will cost \$15,438 in FY 90-91, \$16,056 in FY 91-92, and \$16,698 in FY 92-93. The annual fee collection of \$14,500 should remain constant during these years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase of state revenue collection of approximately \$14,500 in FY 91-92 and subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The total cost to hospitals and medical waste disposal services statewide will be \$14,500 as a result of the described proposed permit fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of Public Health hereby gives notice in accordance with law that it intends to amend 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 or other similar container of a type approved by the state health officer. 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.

Persons interested in commenting on the notice of intent may submit written comments until 4:30 p.m., May 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 to Chapter XXVII of the State
Sanitary Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to the state.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections for the state.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Directly affected persons will be diabetics and others who use hypodermic needles at home, doctors, dentists

and veterinarians and commercial medical waste transporters. It is estimated the average hypodermic user will spend \$12 - \$25 per year for disposal containers, but they will have the option to use salvaged containers which would incur no cost. The average practitioner should spend \$25 - \$100 per year. There should be no additional cost to transporters; the rule simply specifies the minimum standards for vehicles presently in use.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**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 proposes to adopt the Total Coliform Rule effective July 20, 1991. The proposed rule once adopted will allow 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 notice of intent and the proposed rule are available for review at Office of Public Health Regional Offices located in Thibodaux, New Orleans, Baton Rouge, Lafayette, Lake Charles, Alexandria, Shreveport, Monroe and the Office of the Louisiana Register in Baton Rouge, until June 20, 1991.

Interested persons may submit written comments on the proposed rule changes to the following: William J. Hughes, Acting Chief Engineer, Office of Public Health, Box 60630, New Orleans, LA 70160. Comments must be submitted by June 20, 1991.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Total Coliform Rule
(Safe Drinking Water Program)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated costs to the state for implementation of the total coliform rule are \$530,000 in FY 90-91; \$549,200 in FY 91-92; and \$569,168 in FY 92-93.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No increase or decrease in revenues is projected to occur as a result of the proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed action will provide bacteriological surveillance over the public water supplies (municipalities, subdivisions, mobile home parks, schools, camps, industries, and etc.) to make sure the drinking waters are safe for human consumption. Good health, as a result of good potable drinking water is an economic benefit to the state citizenry and is difficult to put a dollar value on.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Office of Public Health will be hiring sanitarian and laboratory staff to implement this rule. There will be competition between individuals seeking this employment.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule.

Act 1036 of the 1990 Legislative Session enacted Chapter 17 of Title 49 of the Revised Statutes of 1950. Under this law, urine collected and tested for drugs of abuse which may render consequences, either mandatory or discretionary to the individual, must be collected and tested in accordance with the National Institute on Drug Abuse (NIDA) Guidelines and said confirmation will be performed in a laboratory that is NIDA or CAP-FUDT (College of American Pathologists, Forensic Urine Drug Testing) certified. The NIDA guidelines were published in final form on April 11, 1988 in the *Federal Register* and are applicable to all laboratories that are certified to perform urine testing for federal agencies.

The law requires that rules and regulations be promulgated by DHH relative to approval of screening laboratories. In response to that directive, this rule is promulgated and contains the requirements for the approval of urine drug screening laboratories which will be performing screening for any of the following classes of drugs or their metabolites: marijuana, opioids, cocaine, amphetamines, and phencyclidine.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on April 26, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Licensure Standards
for Screening Laboratories**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the cost of implementing this proposed rule is \$4,565 for FY 90/91, \$57,213 for FY 91/92 and \$61,479 for FY 92/93. These costs are estimated expenditures for services of one additional licensing surveyor and one clerical support position. It includes salaries, related benefits, travel, and office supplies for staff necessary to inspect approximately 100 screening laboratories expected to apply for licensure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that state expenditures of \$4,565 will result in FY 90/91, \$57,213 for FY 91/92 and \$61,479 for FY 92/93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Laboratories desiring to become licensed screening laboratories will be affected by the proposed action. There is no revenue impact to drug screening laboratories anticipated from adoption of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of 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, hereby gives notice of its intent to promulgate rules and regulations 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 commit-

ted 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 discipli-

nary 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 issues 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:

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:15 p.m., May 15, 1991. Copies of the proposed regulation may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Forfeiture of Good Time for Escape**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- 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 associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**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, hereby gives notice of its intent to promulgate rules and regulations 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 ten 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:

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:14 p.m., May 15, 1991. Copies of the proposed regulation may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reporting and Documenting Escapes
(Juvenile Services)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- 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 associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

(Editor's Note: This Notice of Intent is being republished to correct an error in §10111.A.4 printed in the March 20, 1991 issue of the *Louisiana Register*.)

The Department of Public Safety and Corrections announces its intent to adopt revisions of current rules to enforce the requirements of R.S. 30:2361 et seq. relating to the Hazardous Material Information Development, Preparedness, and Response Act. This Act was passed in 1985 as the enabling legislation for the state's first "Right-to-Know" law. The passage by Congress in 1986 of the Superfund Amendments and Reauthorization Act (SARA) necessitated substantially amending Louisiana's "Right-to-Know" law in 1987, and existing rules in 1987, 1988, and 1990.

The purpose of these changes in 1991 is to designate reportable quantities (RQ's) for hazardous chemicals on which the Occupational Safety and Health Administration (OSHA) requires a Material Safety Data Sheet (MSDS) but which are not listed on federal Department of Transportation (DOT), Comprehensive Environmental Response Compensation Liability Act (CERCLA), or Extremely Hazardous Substances (EHS) lists. These proposed rules also specify what information must be provided by businesses at the time they make the immediate telephone and follow-up written notifications required by state and federal law on reportable releases and they rescind the requirement to report on-site incidents involving injuries and deaths resulting from exposure to hazardous materials.

**Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 2. Department of Public Safety
and Corrections - Hazardous Materials**

**Chapter 101. Hazardous Materials Information Development, Preparedness, and Response Act
§10111. Release Reporting**

A. A release of any of the following substances must be reported immediately if the release meets or exceeds the (release) reportable quantity (RQ) established for that substance herein, and the release escapes beyond the site of the facility:

1. any material and its RQ appearing on the most current list of extremely hazardous substances as established by the Environmental Protection Agency (40 CFR Part 355, Appendix A);

2. any material and its RQ appearing on the most current list of CERCLA hazardous substances as established by the Environmental Protection Agency (40 CFR Part 302, Table 302.4);

3. any material and its RQ appearing on the most current list of hazardous substances and reportable quantities as established by the Department of Transportation, Research and Special Programs Administration (49 CFR Part 172, Appendix to 172.101);

4. any material on which maintenance of an MSDS is required under the Occupational Safety and Health Administration's Hazard Communication Standard as found in 29 CFR 1910.1200 et seq., and does not appear on any of the lists found in Paragraphs 1, 2 or 3 above, must be reported if the material released exceeds the RQ of 5,000 pounds hereby established by the Louisiana Department of Public Safety and Corrections, except that all compressed or refrigerated flammable gases will have a 100 pound RQ, all flammable liquids (as defined in 49 CFR) will have a 100 pound RQ, and all other liquids requiring maintenance of an MSDS will have 500 pound RQ.

B. All releases as defined above must be reported immediately. They must be reported to:

1. Emergency Response Commission via Office of State Police, Transportation and Environmental Safety Section using the Hazardous Materials Hotline phone number 504/925-6595 (collect calls accepted 24 hours a day).

2. Local Emergency Planning Committee with jurisdiction over a facility.

3. Depending on the nature of the material and medium into which the release occurs, other agencies such as the state Department of Environmental Quality (DEQ), National Response Center (NRC), Environmental Protection Agency (EPA), Coast Guard, etc., may need to be notified. Facilities and transporters are responsible for determining the appropriate parties to be contacted.

C. If you have a reportable release (i.e., one that meets the requirements specified by either the state and/or federal Right-to-Know laws), you must provide, at a minimum, the following information relating to the release:

1. the name and telephone number of the contact person;

2. the company;

3. where the incident occurred (mailing address and physical location);

4. date and time the incident began; when it ended;
5. the type of substance released (This would include proper chemical name if available, an indication of whether the substance is extremely hazardous and whether it was solid, liquid or gas.);

6. the actual amount or an estimate of the amount released (If you do not know the exact amount, then provide an estimate of the amount released or a range into which the release would fall [example: 20-25 pounds]. Your notification is not complete until you have provided this information so our office can determine the appropriate response action.);

7. whether the material released escaped beyond the site of your facility;

8. the substance's hazard class and any other identifier (e.g., U.N. number, CHRIS code, etc.);

9. the details of the incident (how it happened and whether the release occurred into the air, water, and/or land);

10. whether the release resulted in a fire, injury to personnel, or a fatality;

11. any need for off-site protective action such as road closures or evacuation;

12. whether other responsible state and local agencies such as your Local Emergency Planning Committee have been notified.

D. Facilities must also make follow-up written reports for all releases within five days after the release occurs. This report must be made to the Local Emergency Planning Committee with jurisdiction over a facility and to the Emergency Response Commission via the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Box 66614, Baton Rouge LA 70896. The format for this report should be as outlined in Part C above and in Title III of the Superfund Amendments and Reauthorization Act (SARA). Any additional information not given in the initial telephone notification should also be included.

E. As per the authority granted in R.S. 30:2376, the Office of State Police - Transportation and Environmental Safety Section will coordinate emergency response activities arising as a result of releases of material regulated by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:761 (December 1987), LR 14:803 (November 1988), LR 16:975 (November 1990), LR 17:

These proposed rule changes are scheduled to become effective on June 20, 1991. For further information on these rules, please contact: Lieutenant Kendall J. Fellon, Transportation and Environmental Safety Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

Interested persons may comment on the proposed rules in writing or in person at the above address until May 10, 1991.

Marlin Flores
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Hazardous Materials Information
Development, Preparedness and Response Act
"Right-to-Know"**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation costs involved in these rule changes will be minimal (i.e., the cost of publishing additional rule booklets). Sufficient funds have been appropriated within this department to absorb the cost of implementing these rule changes. These funds are self-generated and result from the collection of filing fees authorized by R.S. 30:2361-2379.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are technical in nature and reference release reportable quantity amounts for materials on which OSHA requires an MSDS. Releases of these chemicals trigger immediate telephone notifications from industries/businesses manufacturing, using, storing, or transporting hazardous materials. They further define what information must be provided. These notifications are made to the Louisiana Emergency Response Commission and Local Emergency Planning Committee in the parish where the release occurs. No fees are charged for filing these notifications. Therefore, revenue collections of state or local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule changes lessen the burden on businesses and industries required to report releases of OSHA regulated materials on which an MSDS is required. Currently these releases are reportable if any amount escapes beyond the site of the facility. When these proposed rules become final, reportable quantities will be established for all categories of hazardous materials, and reporting of minor/insignificant releases will be eliminated. The rule changes detailing what data must be provided when releases occur are for clarification purposes and do not impose an additional financial burden.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Amendment of these rules will have no effect on competition and employment.

Rex McDonald
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Children's Trust Fund

In accordance with R.S. 46:2406, notice is hereby given that the Louisiana Children's Trust Fund Board plans to

adopt 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 become effective subsequent to adoption by the Louisiana Children's Trust Fund Board and 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 at the Louisiana Children's Trust Fund office, 1755 Florida Street, Baton Rouge, LA 70804 (504) 342-2245 and at the office of the State Register, 900 Riverside, Baton Rouge, LA 70804.

Persons interested in attending a public hearing on the above should submit written notification within 20 days of date of publication of this notice to: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Children's Trust Fund Board Comprehensive
State Plan for Child Abuse and Neglect Prevention**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The only costs to the state will be the printing and distribution of the plan once approved at approximately \$5,000.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The plan approval process will not affect revenue collection of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Upon approval of the Plan for Preventing Child Abuse and Neglect all future grant awards and other activities of the Louisiana Children's Trust Fund will be based upon the plan. It will be necessary for all budget requests submitted by a non-profit agency to the legislature for funding programs related to child abuse prevention to conform to the plan.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

Implementation of this rule will not significantly impact competition and employment in the public and private sectors although Children's Trust Fund contracts will be awarded based upon the plan as adopted.

Robert J. Hand
Division Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**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.

PROPOSED RULE

Louisiana will exercise the option to provide AFDC children who are not within the required 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.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 28, 1991 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Aid to Families with Dependent Children
(AFDC)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule is estimated to result in an increase in expenditures for monthly assistance payments as follows:

FY	TOTAL	FEDERAL	STATE
90/91	\$28,912	\$21,534	\$ 7,378
91/92	\$88,608	\$66,633	\$21,975
92/93	\$90,480	\$68,258	\$22,222

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Federal matching funds from the U.S. Department of Health and Human Services are estimated to be:

\$21,534 in FY 90/91
\$66,633 in FY 91/92
\$68,258 in FY 92/93

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed change will extend eligibility for Aid to Families with Dependent Children (AFDC) to children not within the required degree of relationship for AFDC but who live in the home with an AFDC recipient and who meet all other AFDC eligibility requirements. This will provide financial assistance and medical benefits to needy children in low-income families. It is estimated that an average of 139 children will be assisted each month during FY 90/91, 142 children during FY 91/92 and 145 during FY 92/93.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**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 intends to adopt the attached 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 & DEVELOPMENT
Part III. Highways**

**Chapter 1. Display Of American Flags Within Highway
Right-of-Way**

§101. 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 1 1/2 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 superstructure 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: (April 1991).

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: Mr. John Collins; Engineer Supervisor; Box 94245; Baton Rouge, LA 70804-9245.

Neil L. Wagoner
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Display of American Flags Within Highway
Rights-of-Way**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings as a result of this rule.
- 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 government 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 resulting from this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Neil L. Wagoner
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule governing the importation, exportation, transportation, culture, possession, disposal, transfer and sale of tilapia and/or their hybrids in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§903. Tilapia

A. Importation, Culture, Possession and Disposal of Tilapia in Louisiana

The Louisiana Department of Wildlife and Fisheries hereby adopts the following regulations governing the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia and/or their hybrids in Louisiana.

B. Definitions

Culture - all activities associated with the propagation and nurturing of tilapia.

2. *Culture system* - shall be a closed system and designed such that all water containing, or that at any time might contain, tilapia (adult fish, juvenile fish, or fish eggs) is filtered, recirculated and prevented from any discharge.

3. *Disposal* - the business of processing, selling, or purposely removing tilapia from the culture system.

4. *Department* - the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

5. *Secretary* - the secretary of the Louisiana Department of Wildlife and Fisheries.

6. *Tilapia permit* - official document that identifies the terms of, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana as approved by the secretary.

7. *Tilapia* - eggs, fish, or body parts belonging to the genera *Tilapia*, *Sarotherdon*, or *Oreochromis* and their hybrids.

8. *Permittee* - the individual or organization that possesses a valid Louisiana tilapia permit.

C. Tilapia Permit Request

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer or sell live tilapia in Louisiana must first request a permit from the secretary of the Louisiana Department of Wildlife and Fisheries. The following procedures will be necessary:

a. Applications for permits can be obtained by contacting the administrator, Inland Fish Division; Louisiana Department of Wildlife and Fisheries; Box 98000; Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Inland Fish Division personnel will review the application. Department personnel or a department-approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a tilapia permit. Department personnel will then recommend to the administrator if the applicant's request should be approved or disapproved.

d. The secretary will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may re-apply after correcting specified deficiencies noted in the secretary's letter of denial.

2. Individuals or organizations wishing to import or buy processed (dead) tilapia for the sole purpose of retail sales must first obtain written permission from the secretary. Requests should be addressed as in Subparagraph a above. Please include your name, phone number, intentions, and wholesale-retail dealers license number.

D. Transport of Live Tilapia

1. For each occurrence when the permittee wishes to import, export, transport, possess, transfer, or sell live tilapia, the permittee must obtain, in writing, approval from the department. In addition, if live tilapia are transported into or within the state of Louisiana, anyone taking possession of these live tilapia must also have a tilapia permit. Live tilapia showing signs of diseases shall not be transported into or

within the state of Louisiana. Following are procedures and necessary information for obtaining approval.

a. Requests shall be made to: Administrator, Inland Fish Division; Louisiana Department of Wildlife and Fisheries; Box 98000; Baton Rouge, LA 70898-9000.

b. Request shall include:

- i. Louisiana tilapia permit number, or a copy of the permit;
- ii. route of transport;
- iii. date of transport;
- iv. time(s) of transport;
- v. destination;
- vi. owner of transport vehicle;
- vii. electrophoretic certification which must identify stock(s) to species;
- viii. total number of each species;
- ix. identification of seller and buyer.

2. A bill of lading must accompany those individuals in possession of live tilapia during import, export, transport, transfer or sale and shall include:

- a. copy of the permittee's written approval as described in Clause i above;
- b. date and approximate time of shipment;
- c. route of shipment;
- d. source of tilapia (culture facility);
- e. name, address and phone number of seller;
- f. name, address and phone number of buyer;
- g. identification and certification as to species;
- h. total number of each species;
- i. destination;
- j. letter from source stating that tilapia are not showing signs of diseases;
- k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

E. Security of Tilapia Culture Facility

1. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the culture facility that will guard against vandalism and theft of tilapia.

2. Any changes or modification of a permitted security system must first have the approval of department officials.

3. The department will have just cause to revoke a tilapia permit for lapses in security if: 1) the permittee is found to be in non-compliance with Paragraphs 1 and 2 above; 2) the permittee is determined to be derelict in maintaining the security measures that were approved for the permit; 3) failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to immediately notify the secretary of any tilapia that leave the facility for any reason, including but not limited to accidental releases, theft, etc.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the culture system readily available for emergencies, inspections, etc.

F. Tilapia Culture Site

1. A legal description of the tilapia culture facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department-approved contractor, at the applicant's expense, to conduct unannounced random inspections of

the transport vehicle, property, culture system and fish. Additionally, department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the tilapia culture facility must be at least one foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

G. Tilapia Culture Systems

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture system.

2. The tilapia culture system shall be a closed system designed such that tilapia eggs, larvae, juveniles or adults cannot escape.

3. All water utilized in the culture of tilapia shall be accounted for and shall not leave the permittee's property.

4. All aspects of the tilapia culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

H. Processing of Tilapia

1. All processing of tilapia shall only occur at a department-approved permitted processing facility, and in such a manner that will prevent escapement of eggs, larvae, juveniles and/or adults.

2. Records shall be kept of all processed tilapia and include the following information:

- a. species;
- b. processed pounds;
- c. date processed;
- d. name of processor;
- e. buyer of processed fish.

A copy of this information shall be sent to the department's Baton Rouge office at the end of each year, or at any time upon the request of department officials.

I. General Provisions

1. The cost of a tilapia permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, a Fish Farming License from the department is required.

3. Permits are valid for 12 months.

4. Permits are not transferable from person to person, or property to property.

5. Live tilapia, fish or eggs, may be sold only to a holder of a valid tilapia permit.

6. No person may release live tilapia, fish or eggs, into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of tilapia to the department or a department-approved contractor upon request for identification and analysis, at the permittee's expense.

8. Only those persons or organizations with valid tilapia permits may propagate, culture or possess the following species and/or hybrids produced from their crosses.

Tilapia aurea *Tilapia nilotica*
Tilapia mossambica *Tilapia hornorum*

9. The permittee shall be required to submit an annual report to the secretary on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of

tilapia or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill his financial obligation, the permittee shall post a \$25,000 bond.

12. If a permittee terminates tilapia production, the permittee shall notify the secretary immediately and dispose of the tilapia according to methods approved by the department.

13. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17: .

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than May 31, 1991.

A. Kell McInnis III
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Tilapia Aquaculture**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will not be any implementation costs. Permits will be printed in-house, and existing personnel will conduct the inspections.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost of each permit will be \$50 plus the cost of the inspection. At this time, the department cannot estimate the number of permits that might be issued, and therefore, cannot determine possible revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Tilapia are presently prohibited in Louisiana. The proposed action will allow the aquaculture of Tilapia that will initiate a new industry in the state having a beneficial effect to all involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The new Tilapia aquaculture industry will have a direct and positive effect on employment in this state.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq, the Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule governing the regulations on the importation, transportation, possession, disposal, and sale of live triploid grass carp in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§901. Triploid Grass Carp

A. Introduction of Triploid Grass Carp in Commercial Catfish Culture Ponds

The Louisiana Department of Wildlife and Fisheries hereby adopts the following regulations governing the importation, transportation, possession, disposal, and sale of live triploid grass carp in Louisiana.

B. Definitions

1. *Catfish culture* - all activities associated with raising catfish from eggs to adult size.

2. *Commercial catfish farmer* - Any commercial catfish operator whose ponds are stocked with a minimum of 1500 catfish per acre and who markets 85 percent of his catfish.

3. *Triploid carp culture* - all activities associated with raising triploid grass carp from fingerling (not less than six inches in length) to adult size.

4. *Culture system* - shall be a system used for catfish culture and designed such that all triploid grass carp are prevented from escaping.

5. *Department* - the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

6. *Secretary* - the secretary of the Louisiana Department of Wildlife and Fisheries.

7. *Triploid grass carp culture permit* - the official document that identifies the terms of, and allows for the importation, transportation, possession, disposal, and sale of live triploid grass carp in Louisiana as approved by the secretary.

8. *Triploid grass carp* - refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid (3N chromosomes) by the U.S. Fish and Wildlife Service or an agency or contractor approved by the department.

9. *Permittee* - the individual, business, corporation or organization that possess a valid Louisiana triploid grass carp culture permit.

10. *Disposal* - the business of processing, selling, eradicating or purposely removing triploid grass carp from a culture system.

C. Triploid Grass Carp Culture Permit Request

Catfish farmers wishing to import, transport, culture, possess, dispose, or sell live triploid grass carp in Louisiana must first request a permit from the secretary of the Louisiana Department of Wildlife and Fisheries.

The following procedures will be necessary.

1. Applications for permits can be obtained by contacting the administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

2. The completed applications should be returned to the same address whereby Inland Fish Division personnel will review the application. Department personnel or a department-approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

3. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a triploid grass carp culture permit. Department personnel will then recommend to the administrator if the applicant's request should be approved or disapproved.

4. The secretary will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may re-apply after correcting specified deficiencies noted in the secretary's letter of denial.

D. Transport of Triploid Grass Carp for Culture

1. For each occurrence when the permittee wishes to import, transport, possess, or sell live triploid grass carp, the permittee must obtain, in writing, approval from the department. Following are procedures and necessary information for obtaining approval.

a. Requests shall be made to the administrator, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

b. Requests shall include:

- i. Louisiana triploid grass carp permit number, or a copy of the permit;
- ii. route of transport;
- iii. date of transport;
- iv. time(s) of transport;
- v. destination;
- vi. owner of transport vehicle;
- vii. total number of fish;
- viii. identification of seller and buyer.

2. A bill of lading must accompany those individuals in possession of live triploid grass carp during transportation and shall include:

- a. copy of the permittee's written approval as described in clause i. above;
- b. date and approximate time of shipment;
- c. route of shipment;
- d. source of triploid grass carp (hatchery, culture pond, etc.);
- e. name, address and phone number of seller;
- f. name, address and phone number of buyer;
- g. copy of triploid certification;
- h. total number of fish;
- i. destination;
- j. Display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

E. Triploid Grass Carp Culture Site

1. A legal description of the catfish culture property that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department-approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove and take fish samples for analysis and/or inspection.

3. All catfish culture ponds that will contain triploid grass carp must have levees at least one foot above the 100-year flood elevation.

4. Triploid grass carp will be permitted only in commercial catfish culture ponds.

F. Triploid Grass Carp Culture

1. The cost of a Triploid Grass Carp Culture Permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, a Fish Farming License from the department is required.

3. Permits are valid for 12 months.

4. Permits are not transferable from person to person or property to property.

5. Live triploid grass carp may be sold only to a commercial catfish farmer permitted to possess triploid grass carp.

6. No person may release live triploid grass carp into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of triploid grass carp to the department or a department-approved contractor upon request to verify triploidy, at the permittee's expense.

8. No eggs, fry or fingerlings under six inches in total length shall be transported, shipped, possessed, stocked or sold in Louisiana.

9. Water discharge from all culture systems stocked with triploid grass carp must have appropriate barriers designed to prevent escapement of triploid grass carp and constructed with rigid, sturdy screens of a size no larger than one-half inch square mesh.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of triploid grass carp or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions.

12. If a permittee terminates the use of triploid grass carp in catfish culture ponds, the permittee shall notify the secretary immediately and dispose of the triploid grass carp according to methods approved by the department.

13. In addition to all other legal remedies, failure to

comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70809-9000 no later than May 31, 1991.

A. Kell McInnis III
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Triploid Grass Carp Aquaculture**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The first year implementation cost is expected to be \$20,000. Permits will be printed in-house, and existing personnel will carry out the activities mandated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that about one-half of the state's commercial catfish farmers (125) would apply for this permit. This would generate about \$6,250/year. In addition, about \$15,000 would be collected to cover the inspection costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Use of triploid grass carp in commercial catfish farm ponds will decrease costs to control noxious aquatic weeds and will also increase fish production and profits to the catfish farmers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Increases in production and profits will have a beneficial effect on employment in areas of commercial catfish farms.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Wildlife and Fisheries is hereby giving notice of its intention to adopt the following rules.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§500. Lifting of Oyster Lease Moratorium

A. The moratorium for the taking of oyster lease applications established by the Wildlife and Fisheries Commission in April, 1978, will be permanently lifted. At that time applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised. For purposes of and only for purposes of this final lifting of the moratorium, the New Orleans Royal Street office will not be the site.

B. On the date for taking of applications only one applicant will be allowed in the office to take one application. The applicant will have 15 minutes to designate the area he wishes to apply for.

C. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of people can be handled at the regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

D. After applicant pays the application and survey fees he may return to the end of the line for another application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, L.R. 17:

§501. Oyster Leases

A. Office Policies and Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. Taking of Oyster Lease Applications

There shall be a 50-foot buffer zone established between new leases. However, by mutual written consent of applicants of adjacent water bottoms the lease boundaries may be common.

a. Where distances between oyster leases or between oyster leases and the shoreline are 200 feet or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

b. No new application will be taken or lease issued whose length exceeds its narrowest width by more than a factor of three except as follows:

i. between existing leases where all available water bottoms are taken;

ii. in bayous (or similar configurations connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation.

c. Any application for an oyster lease may be con-

toured to follow the shoreline.

d. No application will be taken to incorporate an existing lease or leases plus additional acreage when less than three years remain in the terms(s) of said lease or leases.

2. If an applicant does not keep his appointment with a surveyor his application will be cancelled. The applicant will be notified of action taken and be given an opportunity to reinstate the application with an additional payment of the survey fee within 14 days of the cancellation notice. When the department surveyor cannot keep his appointment all efforts will be made to notify the applicant.

3. a. If any survey of existing leases by the surveyor of the department shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest continuously uninterrupted lease and shall notify the lessees of the action.

b. All surveys for new area will be computed at a 50-foot offset from all existing leases. If applicant wishes to share common boundaries with the adjacent lease or leases, the applicant must submit to the survey section written consent from the adjacent lease owner or owners (even if lease or leases are in same name as the applicant) no later than Thursday prior to the week the work is scheduled.

4. All applicants must appear in this office to place applications for survey and lease, or provide power of attorney to agents to act in their behalf.

5. Annual rental notices will be mailed to lessees at least 30 days in advance of due date which is January 1 of each year.

6. A fee of \$10 per lease will be charged for transfer of oyster lease.

7. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	\$ 10 per copy
Plats	\$ 5 per copy
Lease Documents	\$ 5 per copy
Other materials	\$ 1 per copy
Computations	\$ 2 per point

(Lambert to Latitude/Longitude)

8. Survey Application Fees

a. Survey application fees for new leases will be as follows:

Acres	Dollars
10 or less	\$200
11 - 20	\$250
21 - 200	\$ 3.50 additional for each acre after 20
201 - 1000	\$ 2 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shorts, will be paid prior to approval of any lease.

b. Survey application fees on leases expiring by 15-year limitation are established as follows:

Acres	Dollars
10 or less	\$150
11 - 20	\$250
21 - 200	\$ 2.50 additional for each acre after 20
201 - 1000	\$ 1.50 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shots.

c. Survey application fees for RESTAKES of one's own lease are established as follows:

\$25 per shotpoint

d. Survey application fees for RESTAKES of someone else's lease are established as follows:

\$90 for the first two shotpoints

\$50 for each additional shotpoint thereafter

e. The Survey Section shall notify owner(s) of lease to be restaked.

C. Private Surveyors Surveying Oyster Leases for Oyster Farmer

1. All surveyors must appear in person in the office of the Survey Section of the Department of Wildlife and Fisheries to research information pertinent to their surveys.

2. Surveyor to be charged the basic rate for copies of documents needed.

3. All controls and corners of oyster surveys to be tied into the Louisiana State Plane Coordinates System.

4. All surveys must comply with R.S. 56:427B which requires the lease not to exceed the initial application by more than 10 percent compliance by negotiation with the applicant. If unacceptable, application will be cancelled and all fees forfeited.

5. Surveyors to execute properly survey's certificate appearing on reverse side of original application on file in the Oyster Lease Survey Section, or a photocopy of the original.

6. Surveyors must furnish the Department of Wildlife and Fisheries Survey Section with the original field notes on standard 4-1/2 x 7-1/2 looseleaf sheets.

7. Surveyors to note in the original field notes any activity in or adjacent to or on surveyed area, or any existing structures, etc.

8. Survey plats to be drawn in black ink on forms furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original tracing to become the property of same.

9. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded off to the next highest acre.

10. Application number and ownership on all survey plats to be shown on original application.

11. No land area to be included in survey. Probing to be done at random throughout the surveyed area to determine type of bottom and results noted on original field notes, along with tidal information.

12. Use standard signs and symbols.

13. If an oyster farmer knowingly has a private surveyor survey over an existing lease, application, or land area, that application or lease is cancelled and will constitute cause for the private surveyor to be barred from surveying oyster leases for a one-year period.

14. Noncompliance with any requirement established by law or by these rules, after 30-day notification from the department by certified mail, shall result in cancellation of the application or lease and forfeiture of all fees to the department.

D. Complaints in the field are to be handled in the following manner.

1. The oyster farmer should allow the survey to be completed in all situations. The surveyor has his instructions.

2. If the oyster farmer is dissatisfied with the survey after completed, he may register his complaint with the survey office within 14 days of date of survey.

3. Survey crew is to note that the oyster farmer will complete the survey under protest at time survey is being performed.

4. If the oyster farmer prevents survey from being completed in the field, his application will be cancelled. The oyster farmer has 14 days from postdate on letter notifying him of said cancellation to come into the office and pay survey fee and have application reinstated.

E. Oyster Lease Posting Requirements. In an effort to comply with R.S. 56:430(B), and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements.

1. The oyster lessee or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

2. The signs shall have letters of at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to 12 feet above the water level.

3. At the main entrance to the property and at no less than all corners along the boundary of said property, the party seeking to post same shall include his name or initials in addition to the lease number.

4. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

5. In open waters all signs are to be placed facing outward.

F. 1. Applications will remain in effect for a period of three years. At the end of three years any applications not surveyed by this department or a private surveyor will be cancelled.

2. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the survey of applications. If the department has not been notified within 180 days the application will be cancelled and survey fees will be retained.

3. No application for lease shall be transferrable.

4. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline, attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description, except as provided in 5.a.ii. below.

5. a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply: the applicant shall have the option of:

i. taking all available remaining acres within the originally described area in a lease and receiving a pro rata re-

fund of unused survey application fees for any loss of acreage; or

ii. taking all applied-for acres in one lease outside of the originally described area but in the nearest unencumbered water bottom; or

iii. if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the survey application fee.

b. The applicant shall have 30 days from the date of notification of the conflict to exercise the above options.

c. If the applicant exercises the option as set out in Paragraph 5.a.ii above he shall be held to the amount of acres in his original application plus 10 percent.

d. In all such cases, the department shall have final approval of all relocations.

e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by number for which it is being substituted and shall also be approved in writing by the undersecretary and the chief surveyor of the department.

f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost of any survey performed prior to final approval of the relocated application.

6. No application for a new area will be accepted from any person not of the full age of majority (18 years).

H. Policy to comply with laws concerning default in payment of rent on oyster leases (Non-compliance R.S. 56:429)

1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the state and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.

2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10 percent. Up to and including the second Monday in March, the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Department of Wildlife and Fisheries. The auctioneer will be the chief surveyor or his designee. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by certified check. The auction will start with the lowest numbered lease and continue numerically until complete.

4. Any leases not sold at auction will be removed from the Survey Section maps. The area will be open and may be taken by application.

I. Procedures to Comply with R.S. 56:432.

1. The Survey Section will keep an indexing system to determine the acreage held by all oyster lease holders.

2. No application will be accepted that will cause an applicant to exceed a total of 1000 acres under lease and application. Reference R.S. 56:432.

3. No lease will be issued to an oyster lease holder that will cause his account to exceed 1000 acres underlease unless he qualified for additional acres by the ownership of oyster canning plants.

4. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application that would cause his lease acreage to exceed 1000 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:470 (June 1984), amended LR 12:844 (December 1986), amended LR 15:197 (March 1989), LR 17:

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m. July 19, 1991 to Bettie Baker, Undersecretary, 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: Rules for Taking Oyster Lease Applications
Title 76**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional cost to the department as a result of changing oyster survey application methods.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Permanently re-opening water bottoms for lease is the objective of this new rule. The proposed rule change may shift the timing of the receipt of application fees to sooner in the year but will not affect revenues in total.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Oyster farming in Louisiana generates approximately \$32 million in dockside value to oystermen. Increasing oyster acreage will have a positive effect on income to these individuals and therefore enhance economic activity in Coastal Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will enhance the opportunity for competition among farmers by making more acreage available for farming activities. This increased acreage will have a positive effect on employment though the numbers can not be estimated.

Bettie 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 1. Freshwater Sport and Commercial Fishing

§155. Netting Prohibition - Bartholomew Lake

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to prohibit the use of gill nets, trammel nets, hoop nets and fish seines in Bartholomew Lake located in Ouachita and Morehouse Parishes, Louisiana. Such action by the commission has been requested by the Bayou DeSiard-Bayou Bartholomew Cut-off Loop Water Conservation Board who is the governing body for Bartholomew Lake; and recommended by technical fisheries staff of the Louisiana Department of Wildlife and Fisheries.

Interested persons may submit written comments on the proposed rule to the following address before May 31, 1991: Bennie J. Fontenot, Jr., Administrator, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:

James H. Jenkins, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Netting Prohibition - Bartholomew Lake

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. Ouachita and Morehouse Parish Enforcement Agents are presently employed to patrol Bartholomew 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 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 should result in an increased recreational fishery in Bartholomew Lake, resulting in increased fishing-related expenditures at marinas and other establishments at the lake. Increased visits from both in-state and out-of-state fishermen are anticipated. Increased employment in areas adjacent to the lake is expected as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Needs, services, materials and equipment commen-

surate with an expanded recreational fisheries will boost employment and have both a direct and indirect benefit to the state.

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

§157. Netting Prohibition - False River Lake and Lake Concordia

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to prohibit the use of gill nets, trammel nets and fish seines in False River Lake located in Pointe Coupee Parish, and in Lake Concordia located in Concordia Parish, LA. Said netting ban is recommended by the technical fisheries staff of the Department of Wildlife and Fisheries.

Interested persons may submit written comments on the proposed rule to the following address before May 31, 1991: Bennie J. Fontenot, Jr., Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:

James H. Jenkins, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Netting Prohibition - False River Lake and Lake Concordia

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. Concordia and Pointe Coupee Parish Enforcement Agents are presently employed to patrol Lake Concordia and False River Lake.

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 should result in an increased recreational fishery in Lake Concordia and False River Lake,

resulting in increased fishing-related expenditures at marinas and other establishments at these lakes. Increased visits from both in-state and out-of-state fishermen are anticipated. Increased employment in areas adjacent to these lakes is expected as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Needs, services, materials and equipment commensurate with an expanded recreational fisheries will boost employment and have both a direct and indirect benefit to the state.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Administrative Code Update

**ADMINISTRATIVE CODE UPDATE
January, 1991 through March, 1991**

Vol. Title:Part.Section	Effect	Location LR 17	Month	Page
1 LAC 10				
II.101	Adopted		Jan	34
V.Chapter 1	Adopted		Jan	72
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 LR 17 Month	Page
2	LAC 7			
	III.Chapter 5	Adopted	Feb	164
	III.541, 542	Adopted	Mar	249
	V.Chapter 35	Adopted	Mar	249
	XXI.11701	Amended	Jan	29
	XXI.11709	Amended	Jan	30
	XXI.11711	Amended	Jan	30
	XXI.11733	Amended	Jan	29
	XXI.11735	Amended	Jan	30
	XXI.11737	Amended	Jan	31
	XXI.11739	Amended	Jan	31
	XXV.Chapter 141	Amended	Mar	251
3	LAC 46			
	XXI.Chapters 1,5,6,9	Amended	Jan	31
	XXXVII.513	Amended	Mar	270
	XLI.707	Amended	Mar	257
	XLI.1904	Adopted	Mar	260
	XLVII.3356	Repromulgated	Jan	58
	XLIX.105	Amended	Feb	199
	LV.Chapters 1-9	Amended	Jan	49
	LXI.902	Adopted	Mar	273
	LXI.1701	Amended	Mar	273
	LXI.2103	Amended	Mar	273
4	LAC 4			
	VII.Chapter 11	Amended	Jan	57
	IX.Chapters 1-23	Repromulgated	Mar	267
	LAC 34			
	V.Chapter 1	Amended	Mar	264
	VII.901	Amended	Mar	266
5	LAC 76			
	III.320	Adopted	Feb	208
	V.109	Adopted	Jan	78
	V.111	Adopted	Feb	204
	V.113	Adopted	Feb	205
	VII.110	Amended	Mar	278
	VII.123	Repealed	Mar	277
	VII.147	Adopted	Jan	78
	VII.149	Amended	Mar	277
	VII.323, 327	Amended	Feb	207
6	LAC 22			
	I.103	Amended	Feb	202
	I.309	Adopted	Feb	203
	I.325	Amended	Jan	68
	LAC 55			
	V.309	Adopted	Mar	272
	V.3001-3059	Adopted	Mar	273
7	LAC 40			
	I.Chapter 9	Amended	Feb	176
	III.Chapter 1	Amended	Feb	179
	IV.Chapter 1	Repromulgated	Jan	35
	IV.Chapter 3	Repromulgated	Jan	38
8	LAC 48			
	I.Chapter 125	Amended	Jan	61
	V.6001	Adopted	Feb	199
11	LAC 33			
	III.3131	Adopted	Feb	181
	III.3301	Adopted	Mar	263
12	LAC 33			
	III.6079	Adopted	Mar	263

Vol.	Title:Part.Section	Effect	Location LR 17 Month	Page
14	LAC 33			
	IX.708	Amended	Mar	263
	IX.Chapter 11	Amended	Mar	264
16	LAC 70			
	III.Chapter 5	Adopted	Feb	204
	XV.101	Adopted	Mar	274
17	LAC 43			
	I.1517	Adopted	Mar	272
18	LAC 28			
	I.903	Amended	Jan	35
	I.1523	Amended	Jan	35

Committee Report

COMMITTEE REPORT

House Natural Resources Subcommittee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on April 1, 1991 and reviewed certain proposed rules by the Louisiana Department of Wildlife and Fisheries to require that the head and caudal fin of certain freshwater finfish be intact when placed on shore from a vessel with the following results.

There was testimony both for and against the proposed rules. The members of the committee felt the rule would be unfair to people who had camps only accessible by water and those who had houseboats. Those persons would not be able to accumulate legally taken fish, filet them, and take them to shore without violating the rule. The proposed rule was found unacceptable by a vote of 7 to 1.

In accordance with R.S. 49:968, copies of this report are being forwarded this date to the governor, the Department of Wildlife and Fisheries, the Louisiana Senate and the State Register.

Randy Roach
Chairman

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Crop Pests and Diseases

Quarantine

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

a) In the United States: the states of Alabama, Florida, Georgia, Mississippi, Texas, and South Carolina.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana.

2) That portion of Natchitoches Parish lying south and west of the Red River.

3) The following areas are non-sweet potato areas:

(a) Those portions of Bienville parish as follows: The property of Lamar Brown in Section 23, Township 14 North, Range 6 West; the property of Vester Harper in Section 24, Township 14 North, Range 6 West; the properties of Dixie Daniels, Charlie Mazie and Prentiss Riddle in Section 27, Township 14 North, Range 6 West; and all properties within a one-mile radius thereof.

(b) Those portions of Caldwell parish as follows: The property of Marshall Braddock in Section 19, Township 12 North, Range 4 East; and all properties within a one-mile radius thereof.

(c) Those portions of Claiborne parish as follows: The property of John Lopo in Section 7, Township 20 North, Range 6 West; the property of Wilson Cornelius in Section 17, Township 20 North, Range 6 West; and all properties within a one-mile radius thereof.

(d) Those portions of Jackson parish as follows: The properties of Casey Anders, Joe Anders and Jolly Wright in Section 23, Township 17 North, Range 1 West; and all properties within a one-mile radius thereof.

(e) Those portions of Red River parish as follows: The property of Alvin Lloid in Section 19, Township 12 North, Range 9 West; the property of Wyret Hessee in Section 38, Township 12 North, Range 10 West; and all properties within a one-mile radius thereof.

(f) Those portions of Union parish as follows: The property of Drew Nolan in Section 13, Township 20 North, Range 2 East; the properties of J.B. Brantley, Ben Bryan and Ezra Dean in Section 23, Township 20 North, Range 2 East; and all properties within a one-mile radius thereof.

g) Those portions of Winn parish as follows: The property of Oliver Neal in Section 23, Township 9 North, Range 5 West; the property of Vesta Fredieu in Section 24, Township 9 North, Range 5 West; and all properties within a one-mile radius thereof.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

(1) Generally infested area: the entire state.

CALIFORNIA

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, Tulare.

LOUISIANA

(1) Generally infested area: None

(2) Suppressive area: Caddo parish

NEVADA

(1) Generally infested area: The entire counties of Clark and Nye.

(2) Suppressive area: None.

NEW MEXICO

(1) Generally infested area: The entire state.

OKLAHOMA

(1) Generally infested area: The entire state.

TEXAS

(1) Generally infested area: The entire state.

3.0 Brown Garden Snail (*Helix aspersa*)

The entire states of California and Arizona.

4.0 Leaf Scald (*Xanthomonas albilineans*)

All areas of the county where sugarcane is grown.

5.0 Lethal Yellowing

The states of Florida and Texas.

6.0 Sweet Potato Mosaic

The States of Alabama and Georgia and any other state which may hereafter be found to be infected with sweet potato mosaic; and all other states which do not maintain restrictions against the movement of regulated products from the quarantined area.

7.0 Tristeza, xyloporosis, psorosis, exocortis.

All citrus growing areas of the United States.

8.0 Burrowing nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

INDIANA

Entire state.

IOWA

Entire state.

KANSAS

Infected counties: Anderson, Atchison, Cherokee,

Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

KENTUCKY

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

MARYLAND

Infected counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton,

Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties except Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

ALABAMA

Entire state.

FLORIDA

Entire state.

GEORGIA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas campestris pv citri* (Hasse) Dawson)

That portion of Manatee and Highlands County, Florida, and any future areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

Bob Odom
Commissioner of Agriculture

POTPOURRI

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

Notice is hereby given that requests for construction variances pursuant to R.S. 30:2056 will not be considered unless applicants present adequate proof that a variance is required to prevent "the practical closing and elimination of any lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the people of the state."

Paul Templet
Secretary

POTPOURRI

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

Notice is hereby given that the Department of Environmental Quality will conduct a public hearing to receive comments on proposed substantive changes to the Louisiana Toxic Air Pollutants Regulations (Log AQ12). The hearing will be conducted on Tuesday, May 28, 1991 at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th St., Baton Rouge, Louisiana. Interested persons are invited to attend and submit oral comments on the proposed changes.

All interested persons are invited to submit written comments on the proposed changes. Such comments must be received no later than Friday, May 31, 1991 at 4:30 p.m. by David Hughes, Enforcement and Regulatory Compliance Division, Box 82282 Baton Rouge, LA, 70884-2282. The street address is 7290 Bluebonnet Boulevard, Baton Rouge, LA, 4th Floor. Commentors should reference this proposed regulation by No. AQ12.

Paul Templet
Secretary

POTPOURRI

**Department of Environmental Quality
Office of Legal Affairs and Enforcement
Enforcement and Regulatory Compliance Division**

The Department of Environmental Quality wishes to announce the availability of the semiannual Regulatory Agenda prepared by the Enforcement and Regulatory Compliance Division. The current agenda contains rules which have been proposed but have not been published as a final rule and rules which are scheduled to be proposed by December, 1991. To obtain a copy send a request to Lisa Lamendola, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or call (504) 765-0399 for more information.

Joan Albritton
Administrator

POTPOURRI

**Department of Environmental Quality
Office of Legal Affairs and Enforcement
Enforcement and Regulatory Compliance Division**

The Enforcement and Regulatory Compliance Division has moved from 333 Laurel St. to 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana, 4th Floor. The mailing address is now Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282. The phone number has changed to (504) 765-0399.

Joan Albritton
Administrator

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 23 claims in the amount of \$61,983.88 were received in the month of March 1991, 35 claims in the amount of \$72,771.48 were paid, and two claims were denied.

Loran C. coordinates of reported underwater obstructions are:

27593	29107	46918	46802
27514	26888	46985	46966
28328	28861	46826	47033
26880	28673	46964	46855

A list of claimants and amounts paid may be obtained from Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

POTPOURRI

Department of Revenue and Taxation Severance Tax Division

Severance Tax Rate on Natural Gas

Pursuant to the authority granted by R.S. 47:633 (9)(d) (ii), the Department of Natural Resources has determined the "gas base rate adjustment" for the twelve-month period ending March 31, 1991, to be .9031. Accordingly, the Department of Revenue and Taxation has determined the severance tax rate on natural gas and related products described in R.S. 47:633 (9) (a) to be nine cents per thousand cubic feet measured at the base pressure of 15.025 pounds per square inch absolute and at the temperature base of sixty-degrees Fahrenheit, effective July 1, 1991. This rate was arrived at by multiplying the "gas base rate adjustment" by ten cents.

The reduced rates provided for in R.S. 47:633 (9) (b) and (c) remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their publication in the *Louisiana Register* shall not be considered rulemaking within the intent of the Administrative Procedure Act, R.S. 49:950 et seq., particularly R.S. 49:953. Thus, neither a fiscal impact statement nor a notice of intent is required.

Leon R. Tarver II
Secretary

POTPOURRI

Department of Social Services Office of Community Services

The Louisiana Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the State Fiscal Year July 1, 1991 through June 30, 1992. The proposed FY 91-92 SSBG Intended Use Report has been developed in compliance with requirements of Section 2004 of the Social Security Act, as amended, and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of allocated SSBG funds. Section 2004 of the Social Security Act further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." DSS as the designated state services agency will continue to administer programs funded under the Social Services Block Grant (SSBG) in accordance with applicable

statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of federal SSBG funds. Estimated SSBG expenditures (including LIHEAP transfer funds) for FY 1991-92 are \$50,585,636.

Louisiana through the DSS Office of Community Services will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are proposed for provision without regard to income (WRI) to individuals in need.

Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 91-92 are:

1. Adoption (pre-placement to termination of parental rights);
2. Child Protection Investigations (investigation, assessment, evaluation, social work intervention, shelter care, counseling, referrals, and follow-up);
3. Day Care for Children (direct care for portion of the 24-hour day);
4. Family Services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
5. Foster Care/Residential Habilitation Services (foster, residential care and treatment on a 24-hour basis);
6. Homemaker (in-home personal care and chore services);
7. Training/Treatment (assistance to improve personal skills, adjustment, and knowledge);
8. Transportation (access to and from health and social resources and to conduct necessary household business).

Definitions for the proposed services are set forth in the Intended Use Report. Proposed funding for purchased homemaker, training/treatment and transportation services is contingent upon appropriation of state general funds.

Persons eligible for SSBG funded services include:

1. persons without regard to income, who are in need of Adoption services, Child Protection Investigation, Family Services, and Foster Care/Residential Habilitation services;
2. individuals without regard to income who are certified as Gary W. classmembers, and those who are recipients of Title IV E. Adoption Assistance;
3. recipients of Supplemental Security Income (SSI) and recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients;
4. low-income persons (income eligibles) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$1,396 would qualify as income eligible for services;
5. persons who are members of groups identified in the proposed plan to receive certain services except children's day care which involves additional eligibility criteria.

(The proposed SSBG Intended Use Report for FY 1991-92 is available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone re-

quest to (504) 342-2272 or by writing the Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804. Inquiries and comments on the proposed plan may be submitted until May 28, 1991 to the Assistant Secretary, OCS, at the above address.

A public hearing on the proposed SSBG Intended Use Report for FY 1991-92 is scheduled for Tuesday, May 28, 1991 at the Office of Community Services Building, 3rd floor conference room, 1755 Florida Street, Baton Rouge at 10 a.m.

At the public hearing all interested persons will have

the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through May 28, 1991.

Post expenditure reports for the SSBG program for state fiscal years 1988-89 and 89-90 are included in the SSBG Intended Use Report for FY 91-92 and are available for public review at the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA.

May Nelson
Secretary

**CUMULATIVE INDEX
(Volume 17, Number 4)**

1991		
<i>Pages</i>		<i>Issue</i>
3— 128	January
131— 235	February
241— 319	March
325— 443	April

AGRICULTURE AND FORESTRY

- Agricultural and Environmental Sciences, Office of,**
 - Horticulture Commission
 - Examination, 233P, 233P
 - Quarantine, 439P
 - Structural Pest Control Commission
 - Fumigation, 251R
 - Technician, 251R
- Agriculture Finance Authority**
 - Securitized Program, 164R, 249R
- Animal Health Service, Office of**
 - Pet Turtles, 78N, 350R
- Forestry, Office of**
 - Stumpage values, 3ER
- Livestock Sanitary Board**
 - Auction market, livestock 30R, 30R
 - Definitions, 29R
 - Livestock admittance, 29R, 79N, 354R
 - Livestock dealers, 30R
 - Livestock sale/purchase, 31R, 31R
- Market Commission**
 - Strawberry tax, 249R

CIVIL SERVICE

- Civil Service Commission**
 - Continuous service, 390N
 - Military leave, 279N
 - Referee decision, 278N

ECONOMIC DEVELOPMENT

- Architectural Examiners, Board of**
 - Continuing Education, 208N
 - Statute interpretation, 210N
 - Titles, firm names, 210N
- Certified Shorthand Reporters,
Board of Examiners of**
 - Certification, 31R
 - Continuing education, 31R, 279N
 - Fees, 31R
- Commerce and Industry, Office of**
 - Enterprise Zone, 252R
 - Environmental tax exemption, 3ER, 213N
 - Finance Division
 - Louisiana labor, 280N
 - Public hearing, 317P
 - Rule One, 280N

Economic Development Corporation

- Community Economic Development Loan Assistance Program, 328ER

Financial Institutions, Office of

- Consumer Credit Law, 216N, 216N
- Credit Unions, 34R
- Licensed lender, 283N
- Records retention, 283N

Racing Commission

- Alcohol abuse, 5ER, 172R
- Apprentice jockey, 257R
- Apprentice's contract, 217N
- Audio transmission, 5ER, 171R
- Cellular telephone, 257R
- Equine urine sample, 390N
- Failure to comply, 258R
- Fax transmission, 5ER, 170R
- Filming/taping races; preservation, 258R
- Horse disqualification, 5ER, 169R
- Horse registration, 5ER, 258R
- Interstate common pool wagering, 259R
- License renewal, 260R
- Matters not covered, 260R
- Maximum overweight, 260R
- NSF checks, 261R
- Paddock inspection, 261R
- Pari-Mutuel Machines, 5ER, 169R
- Pari-Mutuel Tickets, 5ER, 170R, 261R
- Perjury, 391N
- Program statistics, 262R
- Publication of past performances, 262R
- Race schedule, 5ER, 170R
- Rider, 5ER, 170R
- Subpoena, 5ER, 172R
- Substance abuse, 5ER, 172R, 391N
- Super six, 329ER
- Totalizator; camera, 262R
- Tote companies, 5ER, 173R
- Video transmission, 5ER, 171R

Real Estate Appraisal Subcommittee

- Experience Credit, 244ER, 392N
- Residential Certification, 79N, 393N

Real Estate Commission

- Branch offices, 393N
- Escrow, trust account, 394N
- Out-of-State broker, 396N
- Continuing education, 396N
- Transfers, terminations, 397N

EDUCATION

Elementary and Secondary Education, Board of

- 8(g) Annual Program/budget, 284N
- ACT scores, 174R

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

Diploma, nonpublic high school, 8ER, 80N, 354R
Foreign language, 398N
High school diplomas, 174R
Holiday
 Presidential Election Day, 398N
LTIP/LTEP, 132ER, 244ER, 247ER, 286N, 330ER,
 399N
Noncertified personnel, 35R
Nutrition education/training, 340ER
Post secondary curriculum, 175R
Practical nursing certification, 330ER
Pupil appraisal handbook, 285N
School psychologist, 285N
Substance abuse, 131ER, 174R
Teacher evaluation, 9ER, 81N
Temporary teaching assignments, 10ER
Vo-tech
 Fees, courses, visits, 287N
 Salary schedule, 8ER, 81N, 286N, 355R
 Tuition fee, 35R

Student Financial Assistance, Office of

Adverse discretionary decision appeal, 400N
Agency name, 175R
Bankruptcy of school, 401N
Delinquencies, 175R
Fee schedule, 175R
Guaranty fee refund, 402N
Interest rate, 176R, 176R
Last resort loan, 288N
Occupational licensing, 291N
Out-of-state eligibility, 288N
PLUS/SLS, 176R, 176R
Scholarship eligibility, 289N
Scholarship/grant, 289N
Scholarship/merit ranking, 290N
Tax forms for participation, 399N

Proprietary School Commission

Student complaint procedure, 355R

ELECTION AND REGISTRATION

Voting machines, 218N

EMPLOYMENT AND TRAINING

Barber Examiners, Board of

Repeal, repromulgate rules, 356R

Employment Security, Office of

Repeal, repromulgate rules, 38R

Labor, Office of

Apprenticeship, 356R
Community Services Block Grant, 10ER, 357R
JTPA, 357R
Minor Labor Law, 357R
Private employment service, 82N, 357R

Plumbing Board

Repeal, repromulgate rules, 49R

Review, Board of

Repeal, repromulgate rules, 35R

Worker's Compensation, Office of

Administrative procedures, 357R
Fiscal Responsibility Unit, 114CR
Fraud, 359R
Hearing officer, 262R

Safety requirements, 176R
Utilization review, 263R, 402N

Worker's Compensation Second Injury Board

Repeal, repromulgate rules, 179R

ENVIRONMENTAL QUALITY

**Air Quality and Radiation Protection, Office of
Air Quality Division**

Air oxidation emissions (AQ27), 407N
Capture efficiency (AQ53), 404N
Construction variances, 441P
Continuous emission monitors
 (AQ30), 223N
 (AQ18), 405N
Distillation operations (AQ28), 407N
Emission monitoring (AQ19), 409N
Flame ionization analyzer (AQ34), 408N
General control device, 181R
Liquid storage tank (AQ20), 263R
Organic compound emission
 (AQ36), 82N, 360R
 (AQ51), 406N
Permit, 223N
Steam generating units, 224N
Toxic air fees (AQ50), 403N
Toxic air pollutant (AQ12), 122P, 233P, 441P
Visible emissions (AQ29), 263R

Legal Affairs and Enforcement, Office of

New office location, 441P
Permit, 225N
Regulatory agenda, 441P

**Solid and Hazardous Waste, Office of
Hazardous Waste Division**

Manifest Requirements (HW25), 84N, 362R
Non-HSWA Cluster II (HW26), 410N
Non-HSWA Cluster VI (HW27), 226N
Revisions, SW02, 292N
Revisions, SW03, 293N
Toxicity Characteristic Leaching Procedure
 (TCLP) (HW20), 85N, 368R
Underground storage tanks (UT02), 411N

Water Resources, Office of

Ground Water (GW-1), 234P
Oil/gas exploration, production (WP05), 263R
Surface Water (WP07), 86N, 149ER, 264R, 293N

EXECUTIVE ORDERS

BR 91-1—Authorizes lease purchase agreement with Office
Facilities Corporation, 131

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

GOVERNOR'S OFFICE

Division of Administration

Commissioner's Office
PPM No. 71-IRS state compliance 115PPM
Community Development Section
LCDBG, 183R, 412N
Contractual Review, Office of
Professional, personal, consulting, social
services, 264R
Engineers Selection Board
Selection procedure, 415N
Property Assistance Agency
Penalties, 266R
Property Control, 266R
Risk Management, Office of
Patient's Compensation Fund
Oversight Board, 57R
State Purchasing
Vendor subscription fees, 343ER, 415N
Telecommunications Management, Office of
Repeal, repromulgate rules, 267R

Elderly Affairs, Office of

Area Agency
Advisory council, 296N
Governing body, 296N
Ombudsman, 297N
Responsibilities, 297N
Council on Aging
Organization, 299N
GOEA Manual, 57R

Law Enforcement and Administration of Criminal Justice

Inmate housing, 412N

Wetland Conservation and Restoration Authority

Plan (FY 91-92), 122P

Women's Services, Office of

Marriage license fees, 227N

HEALTH AND HOSPITALS

Board Certified Social Work Examiners, Board of

Fees, 370R
License, 416N

Embalmers and Funeral Directors, Board of

Examination, 122P, 270R, 317P

Electrolysis Examiners, Board of

Inspections, 417N
Sterilizations, 417N

Hospitals, Office of

Automated cardiac defibrillation, 24ER, 89N
Lecturer compensation, 247ER

Human Services, Office of

Alcohol/drug abuse services, 418N
Drug treatment fund, 419N
Substance abuse; group homes, 299N

Medical Examiners, Board of

Hearing, 318P
Midwives, 87N, 234P
Physician temporary permit, examination, fees, 88N
Radiologic technologists, 122P

Nursing, Board of

Continuing education, 58R

Nursing Home Administrators, Board of Examiners of

Notification change, 199R

Physical Therapy Examiners, Board of

Licensing, 417N
Education, 417N
Fees, 417N

Public Health, Office of

Fecal Pollution, 123P
Head injury, 199R
Neonatal screening, 92N, 378R
Safe Drinking Water Program, 421N
Sanitary Code
Biomedical waste, 420N, 420N
Seafood, 199R
Sewage/refuse, 123P, 201R
Surface water treatment, 271R
Vital Records
Birth certificate, 89N, 375R

Secretary, Office of

AFDC

Medically needy, 271R
AIDS, 154ER
Anesthesia services, 25ER
COBRA (1985), 155ER
Dispensing fee, 271R
Drug screening (urine), 422N
Facility Need Review, 61R, 301N
Federally-qualified health center, 343ER
Foster children, 158ER
Inpatient psychiatric recipient, 344ER
Low-income patients, 158ER
Medicaid eligibility, 159ER
Medicaid providers, 201R
Nursing facilities, 159ER, 201R
OBRA (1990), 27ER
Pharmacy program, 27ER
Pregnancy/prenatal risk assessment, 344ER
Provider billing, 271R
Rural care providers, 156ER, 160ER, 161ER
SN/TDC per diem, 378R
SSI disability, 272R
Skilled nursing facility/services, 28ER, 161ER
Stepparent's eligibility, 346ER

Speech Pathology and Audiology, Board of Examiners for

Code of Ethics, 370R
Procedural Rules, 372R

Substance Abuse Counselors, Board of Certification of

Continuing Education, 149ER

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

INSURANCE

Commissioner of Insurance

Chiropractic, 202R
Directors/Officers liability insurance, 93N, 378R
Group health insurance, 67R
Medicare Supplemental Insurance, 67R, 67R, 67R

LOUISIANA ADMINISTRATIVE CODE UPDATE

Administrative Code Update

January, 1990 - December, 1990, 112
January, 1991 - March, 1991, 437

NATURAL RESOURCES

Conservation, Office of

Hazardous liquids pipeline, 379R
Public hearing, 234P
Statewide Order 29-B, 382R

Secretary, Office of

Fees, 302N
Fishermen's Gear
Claims, 123P, 234P, 318P, 441P
Equipment labeling, 272R

PUBLIC SAFETY AND CORRECTIONS

Alcoholic Beverage Control, Office of

Fairs, festivals, 162ER, 303N
Malt beverage industry, 304N
Stocking/pricing/rotating, 306N

Corrections Services

Administrative remedy, 68R
Adult prisoners, 228N
Death penalty, 202R
Escape (juvenile), 422N, 424N
Medical parole, 228N
Work release, 203R

Fire Marshal, Office of

Electrical power connection, 272R
Extinguisher/alarm systems, 273R

State Police, Office of

Bingo, Keno, raffle, 94N, 383R
Commercial lessor, 229N
DWI, 307N
Electronic video bingo, 97N
Right-to-Know, 307N, 425N

REVENUE AND TAXATION

Tax Commission

Natural gas severance tax, 442P
Real property, 231N
Stumpage values, 3ER

SOCIAL SERVICES

Community Services, Office of

Adoption Assistance Program, 97N, 386R
Adoption Subsidy Program, 231N
Adult Protective Services, 232N
Child Custody Permanency Plan, 98N, 387R
Child protective services, 99N, 387R
Children's Trust Fund, 426N
Emergency Shelter Grant, 318P

Social Services Block Grant, 442P
Weatherization Assistance Program, 123P

Family Support, Office of

AFDC, 346ER, 427N
Child Support Enforcement Services
Tax offset fee, 100N, 388R
JOBS, 100N, 101N, 248ER, 309N, 388R, 388R

Rehabilitation Services

Commission for the Deaf
Rules of Operation, 102N, 388R
Independent living, 273R
Personal care attendant, 310N
Sign language interpreter, 102N, 389R

STATE

Uniform Commercial Code, Office of

Central Registry; Farm Products, 103N
Secured transactions, 72R
Transmitting utility debtors, 108N, 163ER

TRANSPORTATION AND DEVELOPMENT

Flood Control and Water Management Division

Port Construction/Development Priority, 274R

Professional Engineers and Land Surveyors, Board of Registration

Engineering Branches, 273R
Seal use, 273R

Secretary, Office of

American flag display, 428N
Roadside vegetation, 204R

TREASURY

Bond Commission

Fees, 163ER, 313N

State Employees Group Benefits Program, Board of Trustees of the

Grandchildren eligibility, 310N
Military reservists, 78R
Pre-existing conditions, 248ER, 311N
Well-baby care, 311N
Well-child care, 312N

State Employees' Retirement System, Board of Trustees of the

Deferred Retirement Option Plan (DROP), 109N
Payroll deduction, 110N
Trustees, 109N, 314N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

WILDLIFE AND FISHERIES

Secretary, Office of

Scenic and River System, 315N

Wildlife and Fisheries Commission

Aquaculture, 429N, 431N

Alligators, 347ER

Black Bass, 273R, 277R

Deer Management Program, 78R, 204R

Cobia, 207R

Fox/coyote, 205R

Free fishing days, 389R, 389R

Freshwater gamefish, 112N, 438CR

Freshwater Trout, 78R

Hunting seasons, 28ER

New Orleans area, 208R

King Mackerel, 28ER, 164ER, 207R, 347ER

Netting prohibition, 436N, 437N

Oyster season, 164ER, 348ER, 433N

Resident game birds/quadrupeds, 316N

Sherburne Wildlife Management, 29ER

Shrimp season

Chandeleur Sound, 348ER

Raccoon Point, 249ER

Spanish Mackerel, 207R

Toledo Bend, 233CR, 273R, 317CR

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

