

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Effecting and Reporting Actions

The State Civil Service Commission will hold a public hearing on July 12, 2000 to consider the following Rule proposals. The hearing will begin at 9:00 a.m. and be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

The Department of Civil Service is altering the method used to review personnel actions for compliance with the provisions of Article X of the Constitution, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director. The new method will decentralize both the processing of personnel and position actions and the maintenance of associated documentation. These alterations will allow agencies to effect most personnel and position actions without obtaining prior approval from the director. Civil Service review of such actions will occur after their effective date. The requirement for all personnel actions to be taken in accordance with the provisions of Article X of the Constitution, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director will remain unchanged.

Chapter 15. Effecting and Reporting Actions

15.1 Effecting and Recording Actions

a) Appointing authorities shall take actions in accordance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

b) The director shall prescribe the records which appointing authorities must maintain to provide adequate documentation of personnel and position actions, payroll and attendance, applicant flow and such other information as may be specified. The director shall prescribe the retention schedule for such records.

c) Each appointing authority shall establish adequate internal controls to prevent fraud and to ensure that actions are effected in compliance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Explanation

Section a) authorizes appointing authorities to effect actions without the prior approval of the director, provided that those actions fully comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and

Pay Plans, and the policies and procedures issued by the director.

Section b) requires the director to specify the records agencies must maintain and the length of time they must maintain them.

Section c) requires appointing authorities to maintain a system of internal control which prevents fraud and ensures that all actions taken fully comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

15.2. ...

15.2.1. ...

15.3 Reporting and Certifying Actions

a) The director shall inform the appointing authorities which actions and status changes must be reported to the Department of Civil Service. These actions and status changes must be reported no later than 30 days after their effective date.

b) The appointing authority or his designated agent shall certify for each action effected under his authority that the action complies with the requirements of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. Certification by the appointing authority shall constitute authorization for payment of compensation to an employee at the rate specified as long as the employee remains in a pay status. The appointing authority shall notify the employee subject to such actions.

Explanation

Changes to Section a) eliminate language that requires agencies to report actions by means of paper forms, since decentralization will enable most agencies to report actions electronically. Actions must be reported no later than 30 days after their effective date.

Changes to Section b) eliminate the requirement for pre-approval from the director in order to pay an employee. Instead, appointing authorities are required to certify that their personnel actions comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director. Such certification by the appointing authority will authorize payments to employees. Appointing authorities must continue to notify employees of any actions affecting their pay or status.

15.4 Required Director's Approval of Actions

The director may require an appointing authority to obtain his approval of certain actions before they may be effected.

Explanation

Changes to Rule 15.4 clarify the director's authority to require an appointing authority to obtain his prior approval before the appointing authority may take certain types of actions.

15.5. ...

15.6 Review of Records

The director may examine departmental records to determine whether there is a violation of any provision of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director. The appointing authority shall provide copies or originals of any such records upon the director's request and within the time specified by the director.

Explanation

These changes clarify the director's right to examine an agency's personnel related records to assess compliance with Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. This amendment also specifies the appointing authority's obligation to provide the director with personnel records upon his request.

15.7 Actions in Violation of the Rules

If the director finds that any action has been effected in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, he may take any corrective action he deems appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescinding of any actions and associated compensation, or restitution to the employee.

Explanation

Changes to this Rule clarify the director's authority to correct or to instruct an appointing authority to correct any action found to violate Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director. The amended Rule also gives some examples of corrections that may be made.

- 15.8. ...
- 15.9 a) ...
- 15.9 b) ...
- 15.9 c) ...
- 1. ...
- 2. ...
- 3. Files, statements, reports, correspondence and other data in connection with and related to investigations of violations of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, when such inquiries are conducted by the commission or the director, except as permitted under Rule 16.3 c).
- 4. ...
- 5. ...
- 6. ...

Explanation

The change to this Rule allows the director to share the findings in an investigation with other appropriate officials as listed in Rule 16.3 c), such as the legislative auditor, etc.

16.3 Investigations by the Director

- a) ...
- b) Upon receipt of a request for investigation, the director or his designee shall conduct such investigation as he deems warranted based on the information contained in the request for investigation.
- c) Following an investigation, the director may issue a letter of admonishment, take corrective action, order an appointing authority to take corrective action, impose special

reporting requirements on an appointing authority, revoke authority previously granted by the director, require an appointing authority to obtain prior approval of personnel actions, file formal charges under Rule 16.4, report the facts disclosed in the investigation to the legislative auditor, attorney general, district attorney, or other officers, and/or take or order any other action deemed appropriate.

d) Corrective action may include, but is not limited to, rescinding an action and associated compensation, and the effecting of back-pay to an employee.

e) Corrective action which reduces an employee's pay, lowers an employee's pay grade, results in loss of permanent status, or nullifies an appointment, shall not become effective until the employee has been given notice of the reasons for the action, and a reasonable opportunity to respond.

Explanation

The changes to Rule 16.3 b) and the addition of 16.3 c) expand the director's choice of remedies for violations beyond the current single option of filing formal charges under Rule 16.4. The options provided by the amended Rule include issuing letters of admonishment, taking corrective action, ordering an appointing authority to take corrective action, imposing special reporting requirements on an appointing authority, revoking authority previously granted, requiring prior approval of personnel actions, reporting the facts disclosed in the investigation to the legislative auditor, attorney general, district attorney, or other officers, and/or taking or ordering any other action deemed appropriate.

The proposed Rule 16.3 d) explicitly states that corrective actions the director may take or may order an appointing authority to take can include the rescinding of actions and associated compensation.

The proposed Rule 16.3 e) specifies the requirements of due process which must be afforded an employee who is going to suffer a loss of pay or appointment as a result of a corrective action.

14.1 Prohibited Activities

- a) ...
- h) ...
- i) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.
- j) ...
- p) ...
- q) No person shall fail to comply with any order or directive issued by the director pursuant to the authority granted by the Rules.
- r) No person shall fail to comply with any agency policy or procedure when the Rules require either the director or the commission to specifically approve such policy or procedure, and where such approval has been obtained.
- s) No person shall fail to comply with any delegation agreement.

Explanation

The change to Rule 14.1 i) eliminates the requirement for the director's prior approval of compensation to employees, but preserves the requirement that any compensation of

employees must comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Rule 14.1 q) makes failure to comply with directives issued by the director a violation of Civil Service Rules. This would include failure to take corrective action as ordered by the director to remedy actions found to have been effected in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Rule 14.1 r) makes failure to follow agency policies formally approved by the director or the commission a violation of Civil Service Rules. This Rule applies to agency policies which require either director or commission approval such as dual career ladders, rewards and recognition programs, etc. It does not apply to agency policies which do not require approval by the director or the commission, such as internal grievance procedures, leave policies, etc.

Rule 14.1 s) makes failure to comply with the terms of a delegation agreement a violation of Civil Service Rules.

6.13 Certification and Payment

a) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

b) If payments to an employee are found to have been made in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, the director may take any corrective action he deems appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescinding of any actions and associated compensation, or restitution to the employee.

Explanation

The amended Rule eliminates the requirement for the director's pre-approval of personnel actions effecting employee pay. It standardizes the language that requires all actions to be taken in compliance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. It standardizes the language describing the director's authority to take or to direct appointing authorities to take corrective action. It provides some examples of corrective actions which may be taken.

8.15 Transfer

a) Subject to the provisions of Subsection d) hereof, a permanent or probationary employee may be voluntarily transferred from any position in the classified service in one department to any position in the classified service for which he is qualified in another department upon the recommendation of the appointing authority of the receiving department, provided the employee meets the qualification requirements of the job to which he is transferring and has met Civil Service requirements for testing and competition.

Explanation

The amended Rule eliminates the requirement for the director's pre-approval of employee transfers from one department to another.

Temporary Inter-Departmental Assignments

a) Upon agreement between departments, a permanent employee may be assigned to a classified position in another department for a period not to exceed one year, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

b) ...

c) ...

d) Either participating department may terminate the interdepartmental assignment of an employee at any time, with proper notification to the director. The director may terminate such assignment if he determines that it violates the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director.

e) Notwithstanding any other provision of these Rules, a temporary inter-departmental assignment may not be continued beyond one year without the director's approval.

Explanation

This amendment removes the requirement for the director's prior approval of temporary inter-departmental assignments of up to one year. It retains the requirement to obtain the director's approval before extending such a temporary assignment beyond one year.

8.16 a) Reassignment

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same minimum entrance rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

Explanation

This amendment removes the requirement to obtain the director's approval prior to laterally reassigning an employee.

8.16 c) Change in Duty Station

An appointing authority may change the duty station of a permanent employee from one geographical area to another. An appointing authority may change the duty station of a provisional or probationary employee from one geographical area to another in accordance with guidelines specified by the director to ensure observance of appropriate competition requirements.

Explanation

This amendment removes the requirement to obtain the director's approval prior to changing the duty station of a provisional or probationary employee, provided such a change does not circumvent competition.

Leave of Absence Without Pay

a) An appointing authority may extend leave of absence without pay to an employee, provided that such leave shall not prolong the period of the employee's appointment.

b) Abolish effective October 1, 2000.

Explanation

The changes to Rule 11.27 a) and b) eliminate the requirement to obtain the director's approval to extend leave without pay to an employee for more than one year. It preserves the prohibition against granting such leave to extend the length of an employee's appointment.

9.2 Permanent Appointment Action Following Probationary Period

a) Permanent appointment of a probationary employee shall begin upon certification by the appointing authority that the employee has met the required standard of work during the probationary period.

b) A permanent appointment must be reported to the director in the manner he prescribes.

Explanation

The changes to Rule 9.2 eliminate language requiring the use of the "Standard Form 1" to report actions to the director. The Standard Form 1 will be replaced. Some agencies will report such actions electronically, others will be instructed in the use of a new paper form.

1.1.2 "Action" means a personnel transaction effecting a change to a person's employment or to a position.

1.24.03 "Personnel Action" means a personnel transaction effecting a change to a person's employment or to a position.

Explanation

These definitions are being added to clarify that the use of the terms "action" or "personnel action" in these Rules may refer to both transactions affecting an employee and/or transactions affecting positions.

7.4 Minimum Qualifications

a) The director shall establish minimum qualifications for each job in the classified service. These minimum qualifications shall be included as part of the job specification for each classified job. Appointees to any classified job must meet the minimum qualifications established for that job unless exempted under provisions of Rules 7.9a) 2 c), 7.9 a) 2 d), 8.16 d), 8.18, or 5.8. The director may order the removal or separation of any employee found to have been appointed who does not meet the minimum qualifications.

Explanation

Currently, the director sets minimum qualifications for all jobs in the classified service, not just those which have examinations. Even when the term "examinations" is used in its broadest sense to include experience and training ratings as well as written tests, the current wording is misleading and subject to misinterpretation. The proposed rule provides clarification and codification of current practice.

7.5 Rejection of Application

a) The director may reject the application of any person who

1. ...

2. ...

3. Does not meet the minimum qualifications established for the job for which he or she applied.

4. ...

Explanation

This change is needed to clarify the wording so it does not appear to limit rejecting the application to jobs using tests.

Fiscal Impact Summary

The only costs associated with implementing these Rules are the costs of publishing them which total \$2040. There are no savings to state or local governmental units. There will be no effect on revenue collections of state or local governmental units. There will be no cost and/or economic benefit to directly affected persons or non-governmental groups. There will be no effect on competition and employment.

Family Impact Statement

Submitted in accordance with R.S. 49:972

The proposed Civil Service Rule changes will have no impact upon:

(1) The effect on the stability of the family.

(2) The effect on the authority and rights of parents regarding the education and supervision of their children.

(3) The effect on the functioning of the family.

(4) The effect on family earnings and family budget.

(5) The effect on the behavior and personal responsibility of children.

(6) The ability of the family or a local government to perform the function as contained in the proposed Rule.

Allen H. Reynolds
Director

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Performance Planning and Review

The State Civil Service Commission will hold a public hearing on July 12, 2000 to consider the following Rule proposals. The hearing will begin at 9:00 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

The following will be considered at the meeting: amend the following Rules in Chapter 10, Performance Planning and Review: 10.1, 10.2, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 10.15; add Rule 10.18; repeal Rule 10.16; amend the following Rule in Chapter 13, Appeals and Hearings: Rule 13.10 (a), (b), and (c); and repeal Rule 13.10 (d), (e), (f), (g), (h), (I), (j), (k), (l), (m).

Chapter 10. Performance Planning And Review

10.1. Performance Planning and Review System;
Required Components

(a) Each department shall use a performance planning and review system that complies with this Chapter and consists of at least the following components:

1. a performance planning and review form approved by the director;

2. a five-level rating system; and

3. a performance planning and review training manual that is reasonably accessible to rating supervisors.

(b) A department may opt to make variations to the PPR form, system, or instructions with prior written approval from the director.

(c) All classified employees are covered by this Chapter.

10.2. Rating Supervisor.

The appointing authority shall designate a rating supervisor for each employee. Generally, the rating supervisor should be the person who, in the appointing authority's judgment, is in the best position to observe and document the employee's performance. Failure to designate a rating supervisor or to rate or plan shall be a violation of these Rules.

10.3. Performance Factors to be Rated

(a) Each employee shall be rated on the following performance factors (or their equivalents): work product; dependability; cooperativeness; adaptability; communication; and daily decision making/problem solving.

(b) Additionally, each supervisory employee shall be rated on the following performance factors (or their equivalents): work group management and leadership; and performance planning and review.

(c) An employee may be rated on any additional performance factor(s) that the appointing authority considers applicable to the employee's job.

10.4. Ratings

(a) The rating supervisor shall rate the employee on each applicable performance factor, using the following ratings (or their equivalents) and points:

Outstanding **C**5 points

Exceeds Requirements **C**4 points

Meets Requirements **C**3 points

Needs Improvement **C**2 points

Poor **C**1 point

(b) The performance factor ratings shall then be averaged and the employee's overall rating or re-rating shall be assigned based upon the following scale:

Outstanding **C**4.50 - 5.00

Exceeds Requirements **C**3.50 - 4.49

Meets Requirements **C**2.50 - 3.49

Needs Improvement **C**1.50 - 2.49

Poor **C**1.00 - 1.49

(c) Ratings of "Un-rated" shall be created by default when the employee does not receive an official rating. Ratings of "Un-rated" shall be indicated on the final overall rating or re-rating form by the rating supervisor, reviewer, or human resource officer. Employees shall be notified when a rating or re-rating of "Un-rated" has been given as an official overall rating or re-rating. Ratings of "Un-rated" shall be reported on the annual report to the director of Civil Service in such manner as the director requires.

10.5. Performance Planning Session

(a) The rating supervisor shall conduct a performance planning session at least once per rating period, during which the rating supervisor shall discuss with the employee:

1. the factors upon which the employee will be rated and

2. the performance that will be expected during the coming rating period.

(b) The rating supervisor shall provide written expectations for all factors upon which the employee will be rated.

(c) The rating supervisor and the employee shall sign and date the performance planning form to document the session. The employee shall be given a copy of the planning

document.

(d) A performance planning session shall be conducted no later than 30 calendar days after:

1. the appointment of a new employee;

2. or the anniversary date of a current employee;

3. or the movement of an employee into a position having a different position number and significantly different duties.

(e) A performance planning session may be conducted when an employee gets a new rating supervisor or when performance expectations change. Additional performance planning sessions may also be conducted as the rating supervisor deems appropriate.

10.6. Rating Session

(a) To create an official rating, the rating supervisor shall:

1. sign and date the completed document,

2. discuss the rating with the employee,

3. provide documentation to support any factor rated "Needs Improvement" or "Poor;"

4. present the form to the employee to be signed and dated, and

5. give the employee a copy of the completed form with his or her official overall rating noted.

(b) For a new employee, the rating session shall take place within the 60 calendar days before or on the employee's first anniversary date as defined in Rule 6.14(b).

(c) For a current employee, the rating session shall take place within the 60 calendar days before or on the employee's anniversary date.

(d) For employees who are not present during the 60 day time frame for any reason, a copy of the completed document may be mailed to the employee on or before the employee's anniversary date.

10.7. Re-ratings.

(a) An employee whose official OVERALL rating is "Needs Improvement" or "Poor" shall be re-rated. The re-rating shall be due on the date that is 6 months after the employee's anniversary date. The re-rating may be given up to 60 calendar days prior to or on the re-rating due date.

(b) Employees who are re-rated as "Meets Requirements" or better may be considered for a merit increase, promotion, upward detail, or permanent status as of the date of the official re-rating.

(c) Employees may receive unofficial reviews as the supervisor deems necessary to provide feedback and update expectations.

10.8. Creating an Official Rating or Re-Rating

A rating or re-rating that complies with Rules 10.6 and 10.7 becomes official when a copy of the performance planning and review form is given to the employee. A copy is considered given on the seventh day after it has been mailed.

10.9. Employee's Refusal to Sign Form

An employee cannot prevent a planning session, rating or re-rating from becoming official by refusing to sign the performance planning and review form. If an employee refuses to sign any part of the form, the rating supervisor shall note on the form that the employee refused to sign, and the date of the planning or rating session.

10.10. Effects of "Needs Improvement" or "Poor" Rating

(a) A rating or re-rating of "Needs Improvement" or "Poor" is not a disciplinary action.

(b) Any employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" shall not receive a merit increase, a promotion or permanent status. An employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" shall not be detailed to a higher level position except as approved in advance by the director of Civil Service.

(c) An employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" may be separated or disciplined in accordance with the Rules applicable to the employee's status.

10.11 Effects of Absence of Official Rating or Re-rating.

(a) An employee who is not rated in accordance with the provisions of this Chapter shall have an official rating of "Un-rated" on the day after the employee's anniversary date.

(b) An employee who is not re-rated in accordance with the provisions of this Chapter shall have an official re-rating of "Un-rated" on the date that falls 6 months after the employee's anniversary date.

10.12. Record Keeping and Reporting Requirements

(a) Each completed performance planning and review form shall be kept in the agency Human Resource office or other designated, secure location not accessible to the public. Completed forms must be available to the Department of Civil Service for auditing purposes, to other agencies of the state of Louisiana for purposes of checking employment references and to the employee upon request.

(b) For each employee with an official overall rating or re-rating of "Needs Improvement" or "Poor" the department shall promptly provide a copy of page one of the performance planning and review form to the director of Civil Service.

(c) By July 31 of each year, each appointing authority shall report to the director of Civil Service, in such form as the director prescribes, information about ratings given during the previous year ending June 30.

(d) The director of Civil Service may require more frequent reporting as needed.

10.13. Review of Ratings

(a) A permanent employee who disagrees with any rating has a right to have the rating reviewed by the appointing authority or his/her designee. For purposes of this Rule, a "rating" includes an official rating or re-rating or a rating on any factor. The designated reviewer is the only person within the employing agency who may change an official rating.

(b) A written request for review must be postmarked or received in the employing agency's Human Resource office no later than 10 calendar days after the employee's anniversary date or, for a re-rating, no later than 10 calendar days after the day that falls six months after the employee's anniversary date. In the request for review, the employee must explain why he/she believes a higher rating is warranted and must attach whatever supporting documentation he or she wants the reviewer to consider.

(c) If the request for review is timely, the reviewer must review the rating, the request for review, and any

documentation supporting either. The reviewer must also discuss the contested rating(s) with the employee and the rating supervisor.

(d) The reviewer shall notify the employee and the rating supervisor, in writing, of the results of the review. Insofar as practicable, this notification shall be provided within 30 calendar days following the date the request for review was received in the Human Resource office. Any change in rating shall be retroactive to the anniversary date or in the case of a contested re-rating, on the day that falls six months after the employee's anniversary date.

(e) The initial PPR form, the request for review, the reviewer's response, and all supporting documentation shall be maintained in the employee's PPR file.

10.14. Appeal to the Director of Civil Service.

(a) A permanent employee who disagrees with the reviewer's decision has a right to have his/her PPR file reviewed by the director or the director's designee.

(b) An appeal under this Rule must be postmarked or received by the director within 30 calendar days following the date the employee received a copy of the reviewer's decision. In the appeal, the employee must explain why there was no basis for the contested rating.

(c) If the appeal is timely, the director or his designee shall obtain and review the employee's PPR file. When the director or his designee finds that the agency violated any Rule in this Chapter or that there was no documented, rational basis for a rating, the director may order any contested rating changed as he deems appropriate. Insofar as practicable, the director shall provide a written decision to the employee, the rating supervisor, and the reviewer within 30 calendar days following the date the appeal was filed.

10.15. Effective Date

The revisions to this Chapter shall become effective for anniversary dates on and after November 1, 2000.

10.16. Repealed

10.17. Exceptions

For compelling reasons, the director may approve exceptions to these Rules.

10.18. Grievance Process

The agency's grievance process shall not be used to review or reconsider ratings or a procedural violation of these Rules.

Rule 13.10 Appeals To The Commission

13.10. Appeals to the Commission

Only the following persons have a right of appeal to the commission:

(a) state classified employee with permanent status who has been removed or subjected to one of the disciplinary actions listed in Rule 12.2(b).

(b) a state classified employee who has been discriminated against in any employment action or decision because of his political or religious beliefs, sex or race.

(c) a state classified employee who has been adversely affected by a violation of any provision in the Civil Service Article or of any Civil Service Rule other than a Rule in Chapter 10.

(d) - (m) Repealed

Chapter 1 Definitions

1.20.1. Repealed

Explanation

Chapter 10

If approved, the proposed changes to Chapter 10 will amend some provisions and change some formatting to enhance clarity of intent of the Rules.

Rule 10.1 requires written approval from the director for variations to the PPR system or form and clarifies that all classified employees are covered by the Chapter.

Rule 10.2 defines who the rating supervisor should be but does not mention the reviewer. It further adds the provision that failure to designate a rating supervisor or failure to rate or plan shall be a violation of these Rules.

Rule 10.3 is not significantly changed.

Rule 10.4 has been amended to change the names of two rating categories. The ratings of "Satisfactory" and "Very Good" are changed to "Meets Requirements" and "Exceeds Requirements" respectively. The term "Un-rated" is used to describe ratings that are assigned by default when the employee does not receive an official rating. This means of creating a rating of "Un-rated" will be described on the revised PPR form and reported as such on the annual report.

Rule 10.5 is more specific about the frequency of a planning session and the process of the planning session. The Rule requires employees to be given a copy of their planning session document; a direct response to numerous complaints from employees who have not received or been given documentation of a planning session. Employees have also complained that planning sessions are given within days or weeks of the rating session rather than 12 months in advance as required. Rating supervisors are given clear authority to conduct a planning session update as needed.

Rule 10.6 clarifies the process of the rating session and lengthens the window of opportunity from its current 45 days to 60 days. The anniversary date is included within the window of opportunity so that ratings given on the anniversary date are timely ratings. In addition, Rule 10.6 allows an official rating to be created with only two signatures, that of the rating supervisor and the employee. The Civil Service requirement for the rating supervisor's supervisor to sign the document has been eliminated (although agencies or individual divisions may still require a review by the rating supervisor's supervisor as an agency procedure). This change is being made to effect several things: 1) a reduction in paperwork, 2) a less burdensome timeline for completing a rating, and 3) empowerment of the rating supervisor.

Rule 10.7 clarifies the timeline for giving re-ratings. The deadline of 6 months remains the same but the earliest date for a re-rating is 60 days prior to that deadline. This gives consistency in the amount of time allotted to the window of opportunity for both a rating and a re-rating. It states when personnel actions denied due to a rating of less than "Meets Requirements" can be given. It also defines unofficial review sessions and their frequency. Supervisors are empowered to give unofficial reviews (not ratings) to provide feedback.

Rule 10.8 restates the definition of an official rating to be more specific about the need for signatures and giving the employee a copy of the rating. It states that a rating or re-rating is considered given on the seventh day after it has been mailed.

Rule 10.9 is not significantly changed.

Rule 10.10 contains revised language for clarity. The

amended version adds upward details to the list of prohibited personnel actions for an employee with a rating that is less than "Meets Requirements." The ability of the director to consider exceptions to the new restriction is delineated.

Rule 10.11 clearly states that the absence of a rating will result in an employee having a default rating of "Un-rated" on the day after the anniversary date. The absence of a re-rating will result in an employee having a default rating of "Un-rated" on the day that falls 6 months after the anniversary date.

Rule 10.12 broadens the ability of the agency to determine where completed forms will be kept but requires them to be accessible to Civil Service, other agencies on a need-to-know basis and to the employee. The amended Rule also provides that the director may require more frequent reporting as needed.

Rule 10.13 is being re-enacted in its entirety. Rule 10.13 describes a process whereby any permanent employee with any rating or re-rating, including ratings of "Un-rated", may request a review of the rating. Non-permanent employees are not extended this privilege. The process for review includes a written request from the employee. To effect the review process, the appointing authority must designate one or more reviewers within the agency.

The role of the officially designated reviewer is to look at the issues raised by the employee and to determine if those issues have merit. This Rule makes it clear the reviewer is the only person within the employing agency who may change an official rating.

The role of the reviewer has been changed for a number of reasons. Under the current Rules, the reviewer is typically the rating supervisor's supervisor. Currently the reviewer is required to sign off on a rating. When both parties work in close proximity, obtaining the required signatures is not usually difficult. However, there are numerous cases where the reviewer is physically located some distance from the work group. Some reviewers are unfamiliar with the work of the employee and some change ratings without explanation or documentation. Removing the requirement for the reviewer to sign off on a rating eliminates these concerns. An agency or supervisor may, by policy, involve the reviewer in the creation of a rating and/or the review of planning documents.

A timeline for requesting a review and for responding to that request has been added. Currently there is no time limit on when the employee can request additional review of a rating. There is currently no requirement for a written response from the reviewer and no time limit on how long the reviewer has to respond.

The result of a reviewer's decision in contested ratings was interpreted to be retroactive to the employee's anniversary date. We have codified this in the Rule to clarify the intent. When the reviewer effects a change in rating based on the review, the rating shall be retroactive to the anniversary date or in the case of a re-rating, retroactive to the day six months after the anniversary date.

Items that have caused numerous complaints, questions, legal interpretations, and confusion are addressed in this section of Chapter 10. Complaints have been received from agency personnel, both supervisors and employees, about persons other than the rating supervisor or reviewer altering

ratings after the fact. Although we have opinion from our legal counsel that this is a violation of the Rules, a Rule to specifically address this problem was deemed appropriate.

Rule 10.14 is being re-enacted in its entirety. Rule 10.14 sets up an entirely new procedure for further review of a rating that has been through the review process at the agency. Because ratings cannot be heard as appeals based on recent court decisions, a process other than the appeals process is needed. Agencies reported that having two layers of review at the agency is burdensome and time consuming, especially in situations where other personnel actions hinge on the decision of the rating reviewers. Therefore, this Rule eliminates the requirement for the appointing authority to review the reconsideration. Instead, the director of Civil Service is authorized to establish a procedure whereby ratings may have a final review at Civil Service. The conditions under which this can take place are delimited in the Rule. The director is also given authority to create a form or process, or to delegate this authority in order to efficiently and expeditiously process these requests.

Rule 10.15 defines when this revised chapter shall be effective.

Rule 10.16 is repealed.

Rule 10.17 has not changed.

Rule 10.18 states simply that the agency's grievance process is not to be used to reconsider ratings.

Rule 13.10 is being amended to codify the decision in Louisiana Department of Agriculture and Forestry v. Sumrall, 98-1587(La. 3/2/99); 728 So.2d 1254. In this case, the Louisiana Supreme Court held that the commission cannot, by Rule, expand its jurisdiction over discrimination claims not provided for in Article X of the state constitution. The Court specifically declared Civil Service Rule 13.10(e), (f), (h), (i) and (c) coupled with Rule 1.14.1 unconstitutional. Therefore, Rule 13.10 has been re-written to list those actions which the courts have concluded are within the commission's jurisdiction—removal and disciplinary cases, discrimination claims based on political or religious beliefs, sex, or race, and certain Rule violation cases.

Additionally, Rule 13.10 (c) has been amended to eliminate the right of appeal to the commission based on a violation of a Rule in Chapter 10 because a different process for policing violations of the PPR Rules has been established in Chapter 10.

Rule 1.20.1 is being repealed because the repeal was inadvertently omitted when the definition for restricted appointment (Rule 1.38.1) was amended at the February 2, 2000 Civil Service Commission meeting. The amended definition for restricted appointment ended the need for and use of multiple restricted appointments. This was due to the definition's changing from an employee's being able to serve only three months in a twelve-month period on a restricted appointment to be able to serve six months in a calendar year. Thus, the maximum cap on such temporary appointments was raised, eliminating the need for multiple restricted appointments. The repeal of Rule 1.20.1 is a necessary, related Rule change that was simply overlooked when the definition for restricted appointment was changed.

Family Impact Statement

Submitted in accordance with R.S. 49:972

The proposed Civil Service Rule changes will have no impact upon:

- (1) The effect on the stability of the family.
- (2) The effect on the authority and rights of parents regarding the education and supervision of their children.
- (3) The effect on the functioning of the family.
- (4) The effect on family earnings and family budget.
- (5) The effect on the behavior and personal responsibility of children.
- (6) The ability of the family or a local government to perform the function as contained in the proposed Rule.

Allen H. Reynolds
Director

0006#120

NOTICE OF INTENT

Board of Elementary and Secondary Education

Awarding of Carnegie Credit for Mathematics and English Language Arts Remediation Courses
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The Board of Elementary and Secondary Education at its March 2000 meeting approved revisions to Standard 2.099.00 of Bulletin 741, *Louisiana Handbook for School Administrators*, regarding the awarding of Carnegie credit for mathematics and English language arts remediation courses. Two changes to the policy include: (1) Option 2 students (eighth grade students who scored *Unsatisfactory* on eighth grade LEAP 21) are eligible to receive elective Carnegie credit for remediation when they are placed in a transitional program on a high school campus and have scored at the *Basic* achievement level on eighth grade LEAP 21; and (2) increases from one to two, the maximum number of Carnegie units earned for remedial courses by high school students.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations**

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975). amended LR 25:2160 (November 1999), LR 26:

Standard 2.099.00:

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first

apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the GEE shall first be administered to students in the tenth grade.

The science and social studies components of the graduation test shall first be administered to students in the eleventh grade.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component of the eighth grade LEAP 21 provided the student:

! participated in a transitional program on a traditional high school campus;

! successfully completed specially designed elective(s) for remediation;

! scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

! earning one elective credit through remediation for eighth grade LEAP 21 and or one elective credit through GEE 21 remediation; or

! earning two elective credits through GEE 21 remediation.

Interested persons may submit written comments until 4:30 p.m., August 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Awarding of Carnegie Credit for
Mathematics and English Language Arts Remediation
Courses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no increase in cost to state or local governmental units to implement this policy change. School systems will use existing personnel to teach any remedial courses.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Benefits to schools and students include increased opportunities to earn Carnegie credit and receive remediation for 8th grade Louisiana Educational Assessment Program (LEAP 21) simultaneously.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no impact on competition and employment. Teachers currently employed will teach any new remedial courses.

Maylyn Langley
Deputy Superintendent
Management and Finance
0006#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Commission Bylaws (LAC 28:V.101 and 103)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with Section 952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part V. Student Financial AssistanceC Higher Education
Loan Program**

**Chapter 1. Student Financial Assistance Commission
Bylaws**

§101. Definitions and Commission

Business of the Commission (as used in these bylaws)Cactivities on behalf of the commission, including attendance at commission meetings and commission committee meetings; presentations at legislative committee hearings on issues or bills which relate to the role, scope, mission or programs assigned the commission; presentations to the public and to federal and state officials related to the role, scope, mission, or programs assigned the commission; and participation in projects, meetings or conferences related to the role, scope, mission or programs assigned the agency; all or any of the foregoing as directed by the commission, authorized by the chairman or a committee chairman, or requested by the executive director.

Services (as used in these bylaws)Cconducting the business of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:

§103. Meetings

A.-B. ...

C. Compensation

1. Members of the commission shall receive per diem as compensation for their Services at the rate authorized by statute or as authorized by executive order. Members shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the Business of the Commission.

2. The commission is limited to twelve meetings per year for which per diem may be drawn by commission members.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Commission Bylaws

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with adopting this change includes approximately \$120 to publish the change in the *Louisiana Register* and \$5,000 annually to compensate Commission members for performing business of the Commission.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on non-governmental groups is anticipated to result from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0006#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV. 301, 501, 503, 509, 701, 703, 705,
801, 803, 805, 1701, 1703, 1901, 1903, 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS) (R.S.

17:3042.1 and R.S. 17:3048.1) to implement changes to the TOPS rules required by Acts 69, 73, 105, 110 and 133 of the First Extraordinary Session, 2000 of the Louisiana Legislature. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Academic Year (High School) the annual academic year for high school begins with the fall term, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Louisiana Department of Education Bulletin 741.

* * *

Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the average maximum tuition, as determined by the agency, charged to full time students attending public postsecondary institutions for technical training that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

* * *

Eligible Colleges or Universities Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities.

* * *

First-Time Freshman a student who enrolls for the first-time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full time enrollment shall not preclude the student from being a First Time Freshman.

* * *

High School Graduate for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE. A student who graduates at any time

during an Academic Year (High School) shall be deemed to have graduated on May 31st of that year. For the purposes of determining when a student must begin postsecondary enrollment, all students that report completion of an approved home study course to BESE during an Academic Year (High School) are deemed to have graduated on May 31st of that year.

* * *

Weighted Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:1794 (January 2000), LR 26:688: (April 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

A. Initial Application. All new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2000-2001, submit the 2001-2002 version of the FAFSA.

1. All applicants (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

3. In the event of a budgetary shortfall, applicants who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Renewal Application

1. In order to remain eligible for TOPS awards, a student must file a renewal FAFSA by the deadline set in §503 (unless the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition).

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. In the event of a budgetary shortfall, applicants who do not file a FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26:

§503. Application Deadlines

A. - A.4. ...

B. Final Deadline For Full Award. In order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1st of the Academic Year (High School) in which a student graduates. For example, for a student graduating in the 2000-2001 Academic Year (High School), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

C. ...

D. Final Deadlines For Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:

§509. American College Test (ACT) Testing Deadline

A. The student must take the official American College Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for either the TOPS Opportunity Award or for the TOPS-TECH Award, or if the student has not previously

qualified for either the TOPS Opportunity Award or for the TOPS-TECH Award, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for the TOPS Performance Award or the TOPS Honors Award that is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted; however, when granting an award to an applicant whose qualifying test score is considered by the agency pursuant to the provisions of this Subparagraph, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. An applicant will not be allowed to use a test score obtained after high school graduation to upgrade a TOPS Opportunity Award to a TOPS Performance or Honors Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1st after high school graduation shall not be considered for an award.

D. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the American College Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999, shall be considered to have met the requirements of §509 A and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:

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

§701. General Provisions

A. - D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an Eligible College or University for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. in an academic program receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend;

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount, as defined in §301, plus any applicable stipend.

6.-8. ...

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of the TOPS Performance Award.

10. ...

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows.

a. Students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be charged to the student by the school with the highest tuition among those at which the student is simultaneously enrolled.

b. Students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the Weighted Average Award Amount, as defined in §301.

c. Students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) in an academic program shall receive a total amount not to exceed the amount that would be paid at the public school with the highest tuition among those at which the student is simultaneously enrolled or the weighted average award amount, whichever amount is greater.

F. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of two hundred dollars per semester or four hundred dollars per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a performance award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an opportunity award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a performance award.

G. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility,

students who meet each of the following requirements shall be awarded a stipend in the amount of four hundred dollars per semester or eight hundred dollars per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a honors award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an opportunity award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a honors award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:64 (January 2000), LR 26:

§703. Establishing Eligibility

A.-A.2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) in accordance with §501:

a. by the applicable state aid deadline defined in §503; and

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901; and

a. - f. ...

g. all students must apply for an award by July 1st of the Academic Year (High School) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d, that student must apply by July 1st of the Academic Year (High School) in which the student graduates, except as provided by §503.D, and must also apply by July 1st prior to the Academic Year (College) in which the student intends to first accept the award, and every year of eligibility thereafter, except as provided in §501.B.

A.5. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria.

E. - F. ...

G Early Admission to College

1. A student who enters an Eligible College or University under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters an eligible college or

university early admissions program prior to graduation from high school shall be considered a first-time freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:689 (April 2000), LR 26:

§705. Maintaining Eligibility

A. ...

1. have received less than four years or eight semesters of TOPS Award funds, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3. - 5. ...

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

7. by the end of each academic year, earn a total of at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters in an academic program at an Eligible College or University, or either earn a total of at least 24 college credit hours or complete an average of 30 clock hours per week during the fall and spring semesters or fall, winter and spring quarters in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. ...

9. maintain at an Eligible College or University, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. ...

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill, occupational training, or technical training at a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), LR 26:

§803. Establishing Eligibility

A. - A.2. ...

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline in accordance with the requirements of §503; and

4. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:

§805. Maintaining Eligibility

A. ...

1. have received the TECH Award for less than two years, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3.- B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools (public high schools listed in the Louisiana School Directory (Louisiana Department of Education Bulletin 1462);

2. Approved Nonpublic High Schools

a. nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 and which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement, and

b. nonpublic schools approved by BESE pursuant to R.S. 17:11 prior to May 15, 2000, which have applied for and have had their application forwarded by the Louisiana Department of Education prior to May 15, 2000, seeking the approval necessary for the students in such school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and starting the 2003-2004 high school academic year, meet the requirements to be eligible to receive from the state the benefit of such appropriations.

c. the approvals by BESE may be provisional or probational approvals.

3.-B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:65 (January 2000), LR 26:

§1703. High School Certification of Student Achievement

A.-B.1. ...

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. - b. ...

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. through the graduating class of the Academic Year (High School) 1999-2000, number of core units earned and the number of core units unavailable to the student at the school attended; after the graduating class of the Academic Year (High School) 1999-2000, core unit requirements may not be waived.

A.3. - C.2. ...

D. Certification. The high school headmaster or principal or designee shall certify that:

1.-3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. ...

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree) and LEAP. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University, and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, and LEAP.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

§1903. Responsibilities of Postsecondary Institutions

A.- A.7. ...

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1.-7.d. ...

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087(II), as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C.-F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459(August 1999), LR 26:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funding and Fees

A. - C.3. ...

D. Insufficient Funds Appropriated

1. ...

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from

consideration if insufficient funds are appropriated for the program.

D.2.b.-F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation costs associated with adopting these rule revisions include rule publication costs of \$1000. Total program increases are \$1,008,797 in FY 2000-01, \$618,026 in FY 2001-2002, \$265,944 in FY 2002-03, \$157,895 in FY 2003-04, and \$128,240 for FY 2004-2005.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS applicants who applied for the award or obtained a qualifying ACT score during specific time frames, or who originally qualified and continue to qualify for higher award levels than they initially selected, or who wish to attend a certificate or diploma program or a non-academic undergraduate degree program in a vocational or technical rather than an academic program will benefit directly from the implementation of these rule changes. Also, nonpublic high schools that applied for Brumfield v. Dodd approval by May 15, 2000 will benefit from the implementation of these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0006#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students
(TOPS)CQualified Summer Session
(LAC 28:IV.301, 509, 701, 703, 705, 805, 1903 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of

the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS)C Qualified Summer Session**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation costs associated with adopting these rule revisions include rule publication costs of \$100. No increase in program costs is anticipated to result from these changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

TOPS applicants who attend qualified summer sessions and non-academic programs will benefit from the implementation of these changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Mark Riley
Assistant Executive Director
0006#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment**

**Incorporation by Reference UpdateC40 CFR Part 60
(LAC 33:III.3003)(AQ102)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.3003 (Log #AQ206*).

This proposed rule is identical to federal regulations found in 40 CFR Part 60, July 1, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the

proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference 40 CFR Part 60 as revised July 1, 1999, into LAC 33:III.Chapter 30. Louisiana receives delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60 Standards of Performance for New Stationary Sources (NSPS) by incorporating the federal regulations into the LAC. EPA's 105 Grant Objective requires that incorporation by reference of new and revised NSPS regulations be made annually. This rulemaking meets that requirement. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 30. Standards of Performance for New
Stationary Sources (NSPS)**

Subchapter A. Incorporation by Reference (IBR)

**§3003. IBR 40 Code of Federal Regulations (CFR) Part
60**

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1999, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
	[See Prior Text in A - Ea]
Eb	Standards of Performance for Large Municipal Waste Combustors for which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction Is Commenced After June 19, 1996
	[See Prior Text in Ec - WWW]

[See Prior Text in Table 1.A]

B. Reserved.

[See Prior Text in C - D]

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 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on July 26, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ206*. Such comments must be received no later than July 26, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ206*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0006#102

NOTICE OF INTENT
Office of the Governor
Division of Administration
Property Assistance Agency

Items of Property to be Inventoried
(LAC 34:I.307)

In accordance with the R.S. 49:950, et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby gives notice of its intent to amend LAC 34:VII.307. The Items of Property to be Inventoried rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part I. Purchasing

§307 Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.F and §307.G, must be placed on inventory. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent

inventory information must be forwarded to the Louisiana Property Assistance Agency Director or his designee within 45 days after receipt of these items.

B. The head of the agency, at his discretion, may include items such as computers, electronic calculators, desks, file cabinets, tables, and other property having an acquisition cost of less than \$1000 in the inventory.

C. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is \$1000 or more.

D. Agencies manufacturing moveable property for use within the agency must determine the estimated cost based on the cost of labor and materials and include such items in the inventory provided that estimated cost is \$1000 or more.

E. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from Federal Surplus which would ordinarily be classified as moveable property and which have an acquisition cost of \$1000 or more. The acquisition date will be the date of acquisition by the state agency and the acquisition cost will be the actual cost incurred by the state agency.

NOTE: There are federal regulations regarding accountability for federal surplus property. State agencies should contact the Federal Surplus Property section for information regarding these regulations.

F - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.241 (August 1976), amended LR 8.144 (March 1982), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 12.103 (February 1986), LR 26:

Irene C. Babin
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Items of Property to be Inventoried

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The rule changes will result in a reduction of time and expense for state agencies in tagging and inventorying moveable property. Estimated savings are expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated with these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Irene Babin
Director
0006#118

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Electrolysis Examiners

Definition of Electrologist Technician; Exceptions and Rights; Licensure of Electrologists and Instructors, Sanitary Requirements; License Renewal
(LAC 46:XXXV.103, 105, 903, 905, 1303, 1401 - 1409 and 1503)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and of R.S. 37:74, the Board of Louisiana Electrolysis Examiners gives notice of its intent to revise Title 46, Part XXXV. The objective of this action is to adopt, amend and repeal rules in response to changes in the 1999 regular session, Act 530 of 1999, enacted on June 14, 1999. Rules are being changed for the requirements for licensure of instructors of electrology; licensure of electrologists technicians; to provide for the use of sterilized disposable equipment, and to establish continuing education. Implementation of the proposed rules will have no known effect upon family stability, functioning, earnings, budgeting, the responsibility and behavior of children, or parental rights and authority, as set forth in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXV. Electrologists

Chapter 1. General Provisions

§103. General Definitions

A. ...

* * *

Electrologist Technician Any person who for compensation practices electrolysis for the permanent removal of hair under the direct supervision of a licensed electrologist and has completed a 200-hour course of instruction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 10:329 (April 1984), repromulgated LR 11:534 (May 1985), amended LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§105. Exceptions and Rights

A. - C. ...

D. A new unopened presterile disposable type probe shall be used for each client treatment. Techniques of sterilization of other instruments shall be the same as is used in hospitals, using pressure heat, dry heat, or any other method of sterilization deemed appropriate by the board.

E. Operation of Other Business or Trade

1. No other business or trade shall be allowed in treatment rooms while electrolysis is being performed, however, a licensed physician may perform electrolysis in his private office or clinic.

2. If a person or business conducting electrolysis before July 1, 1983, moves to a different location, that person or business shall be required to comply with the terms of this Subsection.

3. Further, any person or person conducting electrolysis that accedes to the common office suites, treatment rooms, and reception or waiting rooms used for the performance of any other business or trade, including schools of electrology and apprenticeship programs, shall be required to comply with the terms of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:329 (April 1984), repromulgated LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

Chapter 9. Licensure of Electrologists and Instructors

§903. Licensure of Electrologists

A. The board shall license and issue an appropriate certificate to any person who files a verified application, accompanied by the appropriate application fee, with evidence, verified under oath and satisfactory to the board, that he is at least 18 years of age, of good moral character, has graduated from an accredited high school or equivalent (has submitted proof of G.E.D.), and has successfully completed a course in practical training of electrolysis in a school of electrology which maintains the standards established and approved by the board or that he has completed a like number of hours in the subject areas specified in an apprenticeship program approved by the board; at the time of certification is free of any infectious disease; has successfully completed the written and practical test, and is current with all fees owed to the board, and has completed at least 450 hours of clinical experience, 150 hours of academic study in a board approved school or apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§905. Licensure of Instructor

A. The board may issue a license to any person as an instructor of electrology, subject to the restrictions provided herein and rules promulgated pursuant to R.S. 37:3051-3077. No person shall teach or instruct electrology or its allied courses who does not hold both a valid license to practice electrology and a valid instructor's license issued by the board in accordance with the provisions of R.S. 3051-3077.

B. The board shall not license as an instructor of electrology any person who does not file with it a verified application thereof, accompanied by the appropriate application fee required, together with evidence verified by oath and satisfactory to the board, that the applicant:

1. meets all the requirements to practice electrology in this state and holds a current license to practice electrology in this state;

2. has practiced as a licensed electrologist for at least five years.

C. The board shall not issue an instructor's license to any person seeking initial licensure on or after August 1, 1999, who does not possess the following qualifications:

1. possesses the applicant qualifications required in §905.A and §905.B.1 and 2;

2. has successfully completed the curriculum for instructor training in electrolysis in an instructor training program that maintains the standards established and approved by the board and is part of either an approved school of electrology or an approved apprenticeship program. Such curriculum shall be under the supervision of a licensed instructor of electrology, shall include a course of study and practice over no less than a five-month period, and shall include at least 175 hours on the science of teaching, 150 hours of teacher assistance/observations, and 175 hours of clinic-supervised practice teaching;

3. successfully achieves a minimum test score on an examination administered and approved by the board. The examination shall be given annually at such time and place and under such supervision as the board determines and specifically at such other times as in the opinion of the board the number of applicants warrants. The board shall designate the date, time, and place of examination and give public notice thereof and, in addition, shall notify each person who has made application for examination to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§1303. Sanitary Requirements for Schools, Apprenticeship Programs, and Electrology Offices

A. ...

B. In compliance with recommendations of the Centers for of Disease Control (CDC), all electrology schools, apprenticeship programs, and electrology offices shall be equipped with either a dry heat sterilizer or steam heat autoclave to be used in accordance with the manufacturer's instructions. A new unopened presterile disposable type probe shall be used for each client treatment. Techniques of sterilization of other instruments shall be the same as is used in hospitals, using pressure heat, dry heat, or any other method of sterilization deemed appropriate by the board. All other instruments must be thoroughly cleansed with soap and water and then wiped clean with 70 percent alcohol solution before being placed in one of the following sterilization units. The instruments must then be sterilized following the manufacturer's proper sterilization procedures. These temperatures must be maintained during the complete sterilization cycle:

1. saturated steam, 250°F, 15 psi, 30 minutes; and
2. dry heat, 340°F for 60 minutes or 320°F for 120 minutes.

C. All probes must be discarded in a Contamination Waste Box (red box), then discarded or collected in accordance with State Biomedical Hazardous Waste Disposal Procedures.

D. Vinyl or latex protective gloves shall be used while attending electrology procedures. Hands shall be thoroughly washed with soap and water after removal of gloves. Unused gloves shall be used for each patient procedure and

discarded after each use or if practitioner leaves patient's side or touches anything.

E. Clean tissues, paper towels or freshly laundered towels shall be used for each patient. Before any patient is permitted to recline in a chair or on a table, said object shall be covered with a clean professional size towel or drape or a clean professional type tissue and shall be disposed of or laundered after each use.

F. The skin area to be treated must first be cleaned with 70 percent alcohol.

G. Every patient must be treated on a professional treatment table or chair, which shall be used for the purpose of electrolysis treatment only. The exception to the preceding is if the patient is physically handicapped; the patient may be treated in a wheelchair, stretcher, medical bed, chair or table.

H. All treatment shall be given in privacy within an enclosed area.

I. The electrolysis treatment room shall be provided with a separate entrance, but not leading directly from the exterior of the house or building. One must not pass through any part of the living quarters in order to reach the treatment room.

J. The treatment room shall be closed from adjacent rooms by walls or doors. During treatment, such doors shall remain closed.

K. Every office shall have hand washing facilities with operating hot and cold water in the treatment room or adjacent room which can be reached without passing through any part of the living quarters. Such hand washing facilities shall not be located in the bathroom, or public restroom.

L. No electrologist, instructor or student in an apprenticeship program or school shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

M. No electrologist, instructor or student in an apprenticeship program or school shall treat a diabetic person without written authorization of the patient's treating physician.

N. All electrologists, instructor and student, must place probe in holder of epilator when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993).

Chapter 14. Electrologist Technician

§1401. Licensure of Electrologist Technician

A. The board shall license and issue an appropriate certificate to any person who files a verified application, accompanied by the appropriate application fee, with evidence, verified under oath and satisfactory to the board, that he is at least 18 years of age, of good moral character, has graduated from an accredited high school or equivalent (has submitted proof of G.E.D.), and has successfully completed a course in practical training of electrolysis in a school of electrology which maintains the standards established and approved by the board or that he has

completed a like number of hours in the subject areas specified in an apprenticeship program approved by the board, at the time of certification is free of infectious disease, has successfully completed the written and practical test, and is current with all fees owed to the board, and has completed at least 110 hours of clinical experience, 90 hours of lectures on insertion techniques, modalities, healing, regrowth problems, and office management.

B. Application fee for an electrologist technician shall be the same as provided in the R.S. 37:3072(A)(1).

C. The board may license any person as an electrologist technician who has successfully completed the provisions of R.S. 37:3063(C)(2) and passes the appropriate written and practical examinations. The electrologist technician must work under the direct supervision of a licensed electrologist or licensed electrologist instructor and provide the name of the supervising electrologist to the board. A licensed electrologist technician may upgrade his license to that of an electrologist by completing the additional theory and practical hours in school or an electrologist apprenticeship program and by passing the appropriate board examination.

D. If a student fails one or more parts of an examination, the student may take the parts in which he has failed in a subsequent examination upon payment of a \$15 examination fee. If, after two attempts, the examination is not satisfactorily completed, the student thereafter shall be required to repeat and take the entire examination within one year of the date of the original examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1403. Requirements for Electrologist Technician

A. Each licensed electrologist technician may provide services only under the direct supervision of a licensed electrologist or a licensed instructor of electrology and provide the name, address, and license number of the supervising electrologist to the board.

B. The licensed electrologist technician shall comply with the current regulations for sanitary requirements, proper sterilization, license renewals, and professional conduct in the boards rules and regulations.

C. The electrologist technician shall not give formal consultations by phone or in the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1405. Requirements for Instructor of Electrologist Technician

A. No instructor shall devote more than five days a week and no more than six hours a day to formal training in electrolysis including practical experience and extending over a period of not less than two months.

B. Electrologist Technician Students shall submit to the board in writing every month a record of the time completed by every electrologist technician student in practical and theoretical work.

C. No electrologist technician student may be supervised by another student or apprentice.

D. The board approved school or apprenticeship program shall provide an identification badge to each student. The badge shall include the student's name, picture, and school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1407. Requirements of Supervising Electrologists

A. Each supervising licensed electrologist shall be responsible for the activities of the electrologist technician under his/her direct supervision.

B. Have on file each patient's signed statement verifying that he/she is aware of being treated by a licensed electrologist technician which may be checked upon inspection by the board.

C. The supervising licensed electrologist shall furnish the board with the name, address, and license number of the electrologist technician under their supervision. The board must be contacted if the electrologist technician ceases to be under the direct supervision of the licensed electrologist.

D. Each licensee must display his or her license in the treatment room. Each duplicate license will be provided by the board after payment of a \$25 duplicate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1409. Curriculum Regulations for the Electrologist Technician

A. The 110 hours of clinical experience shall involve epilation whereby the licensed instructor demonstrates how to perform electrolysis on areas to be treated on the face and body not specifically prohibited in §105.B of the rules and regulations.

B. The 90 hours of academic study shall include the following:

1. histology of hair and skin structure	30
2. bacteriology and sterilization	20
3. electricity and equipment	15
4. basic dermatology	15
5. professional conduct and hygiene (including statutes and state board rules and regulations)	90

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

Chapter 15. License

§1503. Renewal of License

A. Each license to practice electrology in this state shall be renewed annually on or before December 1 of each year upon application thereof accompanied by the renewal fee prescribed in R.S. 37:3072(A) and, beginning December 31, 1999, proof that the applicant has completed at least three hours of continuing education approved by the board.

B. Continuing Education Guidelines

1. The board may grant an extension of up to six months for completion of the continuing education requirements to any person who applies to the board in writing for an extension and shows good cause.

2. In addition to the continuing education requirements of §1503.A and B.1, license renewal for an instructor's license shall include completion of an additional two hours of continuing education approved by the board. The board may grant an extension of up to six months for completion of the continuing education requirements to any

person who applies to the board in writing for an extension and shows good cause.

B. Failure to Register

1. When any electrologist, instructor, electrolysis school, or electrologist apprenticeship program licensed hereunder fails to register and pay the annual registration fee within 30 days after the registration fee becomes due, the license or certificate of such person, school, or electrologist apprenticeship program shall be revoked automatically at the expiration of 30 days after the registration was required, without further notice or hearing. However, any person, school, or electrologist apprenticeship program whose license or certificate is automatically revoked as provided herein may, within three years of the date of revocation, make application in writing to the board for the reinstatement of such license or certificate and, upon good cause being shown, the board in its discretion may reinstate such license or certificate upon payment of all past due renewal fees and the payment of an additional sum of \$50. The board may require as a condition of reinstatement that the person complete all or some of the past continuing education requirements within 12 months of reinstatement of the license.

2. Any person, electrologist school, or electrologist apprenticeship program who fails within three years after revocation of a license or certificate to make written application to the board for reinstatement must reapply to the board and successfully complete a written and practical examination and pay all fees as required under the provisions of this Chapter and the rules and regulations adopted pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

Interested persons may submit written comments through June 20, 2000 to the following address: Cheri L. Miller, Chairperson, Louisiana State Board of Electrolysis Examiners, P.O. Box 67, DeRidder, LA 70634.

A public hearing on the proposed rule will be held on July 24, 2000 at the Holiday Inn South, Airline Hwy., Baton Rouge, LA 70816. All interested persons will be afforded an opportunity to submit data, views, arguments, orally or in writing at the hearing.

Cheri L. Miller
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Definition of Electrologist Technician;
Licensing of Electrologist Technician**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no additional cost or savings to the board as a result of these rule changes. The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the *Louisiana Register* at \$120.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Due to the anticipated increase in the number of instructors, the estimated revenue collected by the board will increase by \$500 annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed action will have an effect on students of electrology as they will receive better training from better trained instructors.

The sterilization action proposed will promote safety and well-being to clients.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed action will allow students of electrology to receive better training.

The sterilization action proposed will promote safety and well-being to clients.

Cheri L. Miller
Chairperson
0006#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Education (LAC 46:LIII.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the current contents of the referenced chapter and adopt the proposed entire chapter.

Title 46

**PROFESSIONAL AND OCCUAPTIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 7. Pharmacy Education

§710. Statutory Authority

A. All applicants for licensure by examination shall have obtained practical experience in the practice of pharmacy concurrent with attending or after graduation from an approved college of pharmacy. The practical experience shall be predominately related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under state and federal law. The practical experience obtained shall have been under the direct and immediate supervision of a certified pharmacist preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§703. Student Registration and Internship Program

A. Qualifications

1. a student enrolled in an approved college of pharmacy, or

2. a graduate of an approved college of pharmacy or a graduate who has established educational equivalency through a program approved by the Board, or

3. an individual participating in a residency or fellowship.

a. *Residency* Can organized, directed postgraduate training program in a defined area of pharmacy practice.

b. *Fellowship* Ca directed, highly individualized, postgraduate program designed to prepare the participant to become an independent researcher.

4. The intern applicant shall be non-impaired.

a. The applicant may be required to submit to confidential random drug screen testing or evaluations.

b. A positive drug screen test result may be self-evident as proof of improper drug use.

B. Requirements

1. All students and graduates shall be registered with the Board. The failure to register may result in disciplinary action by the Board.

a. The properly completed application shall be submitted no later than the end of the first semester of the first professional year.

b. The Board may issue an Intern Registration/Work Permit to the applicant, upon receipt of a properly completed application and the appropriate fee.

c. The Intern Registration/Work Permit shall expire no later than one year after the date of graduation from an approved college of pharmacy.

d. The Intern Registration/Work Permit shall be posted in the preceptor site.

e. The Board shall reserve the right to refuse to issue or to recall any Intern Registration/Work Permit.

f. In the presence of extraordinary circumstances, an intern may petition the Board, in writing, for an extension of the expiration date of the Intern Registration/Work Permit.

2. While on duty, an intern shall wear appropriate attire and be properly identified with name, status, and college of pharmacy.

C. Practical Experience Hours

1. Interns shall supply by affidavit a minimum of 1500 hours of practice experience in order to apply for pharmacist licensure.

a. Hours shall be listed on a form supplied by the Board, signed by the preceptor and intern, notarized, and submitted to the Board for approval and credit.

i. An intern may receive credit for a maximum of 50 hours per week.

ii. A separate affidavit shall be required from each preceptor site.

b. Hours obtained outside the State of Louisiana shall be certified to the Louisiana Board of Pharmacy by the board of pharmacy in the state in which the hours were obtained. Upon written request by the intern, the Board may certify practical experience hours earned in Louisiana to other boards of pharmacy.

c. For interns enrolled in a B.S. program:

i. at least 600 hours shall be earned in the internship program prior to and as a prerequisite for obtaining a maximum credit of 400 hours for the structured didactic program or demonstration project offered by an approved college of pharmacy;

ii. a minimum of 500 hours shall be earned in the internship program after certification of graduation from an approved college of pharmacy;

iii. all 1500 hours may be earned in the internship program after certification of graduation from an approved college of pharmacy.

d. For interns enrolled in a Pharm.D. program:

i. at least 400 hours of practical experience shall be earned in the internship program as a prerequisite for obtaining a maximum credit of 1100 hours for the structured didactic program of an approved college of pharmacy. A maximum of 200 hours may be earned in a non-permitted pharmacy practice, as defined in LAC 46:LIII.913;

ii. a maximum credit of 1100 hours may be earned upon the satisfactory completion of the structured didactic program or demonstration project offered by an approved college of pharmacy. Of the 1100 hours maximum allowed in the structured program, a minimum of 300 hours shall be earned in community pharmacy practice and a minimum of 300 hours shall be earned in hospital or health-system pharmacy practice;

iii. all 1500 hours of practical experience may be earned in the internship program after certification of graduation from an approved college of pharmacy.

e. An intern shall not work in a permitted site that is on probation or with a pharmacist preceptor who is on probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§705. Preceptor Program

A. Qualifications for Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and actively practicing for not less than two years prior to the date of application.

2. The applicant shall not be on probation at the time of application.

B. Requirements

1. The applicant shall complete a Board approved preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certificate. The Board shall issue a Pharmacist Preceptor Certificate after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years from the date of issue, and may be renewed upon application to the Board and verification that all requirements have been satisfied.

b. The Board shall reserve the right to refuse to issue or to recall any Pharmacist Preceptor Certificate.

c. The Pharmacist Preceptor Certificate shall be conspicuously displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1202.C.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§707. Continuing Education Program

A. The Board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

1. Definitions

ACPECAmerican Council on Pharmaceutical Education

CPECContinuing Pharmacy Education, a structured postgraduate educational program for pharmacists to enhance professional competence.

CPE UnitCa standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to ten credit hours.

2. Requirements

a. A minimum of one and one-half ACPE or Board approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

b. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the Board.

c. When deemed appropriate and necessary by the Board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the Board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

3. Compliance

a. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

b. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2) and shall constitute a basis for the Board to refuse licensure renewal.

c. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241.A.(22).

d. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the Board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1210.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

The full text of these proposed rules may be obtained by contacting the Louisiana Board of Pharmacy at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 1:30 p.m. to 4:30 p.m. on July 27, 2000 at the Board office.

Malcolm J. Broussard, RPh
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule consists of printing and distributing the rule to the 2,000 holders of the Louisiana Board of Pharmacy Book of Laws and Regulations. That cost is estimated to be \$3,422 in FY 00-01. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency anticipates a decrease of \$6,000 in registration fees from pharmacy interns for FY 01-02 and beyond.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pharmacy interns currently pay an annual registration fee of \$10. The proposed rule changes the registration period to the entire four-year professional curriculum; thus, each intern should realize \$30 savings in fees during their professional education. The Board is unable to determine any other impact on income or receipts as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Board is unable to discern any effects on competition or employment.

Malcolm J. Broussard, RPh
Executive Director
0006#110

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office for Addictive Disorders**

OAD Resource Allocation Formula

The Department of Health and Hospitals, Office for Addictive Disorders, proposes to adopt a rule to utilize a resource allocation formula established by the assistant secretary to fund prevention and treatment services for the Office for Addictive Disorders. This formula provides a measurement tool to assist in working toward equitable access to addictive disorder prevention and treatment services in the state. The primary use of the formula will be to identify under-served regions of the state and to target them with new or underutilized funds. This formula will be evaluated each year to determine necessary changes.

This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This proposed rule will implement the provisions of R.S. 28:772, as amended. This proposed rule has no known impact on family functioning stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Office for Addictive Disorders will utilize the following resource allocation formula to determine the distribution of funding for the delivery of prevention and treatment services within the state. The elements upon which the formula is based, along with assigned weights (%) which represent the relative importance of each element, are as follows.

Resource Allocation Formula Elements/Weights

Poverty 20%

This is measured as the number of persons residing in the region who have incomes below the poverty level as defined by the U.S. Census Bureau.

Population 20%

The total population living in the regions between the ages of 15 and 34 according to the U.S. Census Bureau.

Treatment Need 20%

This is the estimated number of adults needing alcohol or drug treatment in each region as determined by the Research Triangle Institute.

Arrests 15%

This is the total number of adult and juvenile arrests for alcohol and drug offenses.

Rurality 15%

This is the number of persons living in rural areas with less than 2,500 residents as defined by the U.S. Census Bureau.

Teenage Mothers 10%

This is the number of persons in each region under 20 years of age who have given birth according to data provided by the Louisiana Vital Records Registry.

Interested persons may submit written comments on the proposed changes to Michael Duffy, Deputy Assistant Secretary, Office for Addictive Disorders, Department of Health and Hospitals, P.O. Box 3868, Baton Rouge, Louisiana 70821. He is responsible for responding to inquiries regarding this proposed rule. The deadline for receipt of all written comments is 4:30 p.m. on Thursday, July 20, 2000.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: OAD Resource Allocation Formula**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state or local governmental units other than paying printing costs, which are estimated at \$120 in FY 1999/00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect or revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Utilization of the formula will allow the Office for Addictive Disorders to identify underserved regions of the state and to target those regions with new or underutilized funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Alton E. Hadley
Assistant Secretary
0006#097

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 74C Payment of Health Coverage Claims
(LAC 37:XIII.Chapter 60)

In accordance with the provisions of R.S. 49:953 of the Administrative Procedure Act, R.S. 22:3, 22:250.35, the Department of Insurance is proposing to adopt the following regulation regarding standards for the processing of claims, by health insurance issuers and preferred provider organizations. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:1299.41(A)(1).

Title 37

INSURANCE

Part XIII. Regulations

Chapter 60. Regulation 74C Payment of Health Coverage Claims

§6001. Purpose

A. The purpose of this regulation is to implement the statutory requirements of health insurance issuers under Title 22 of the Louisiana Revised Statutes of 1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements for payment of claims by health insurance issuers serving residents of Louisiana. The statutory requirements establish the intent of the legislature to assure that residents with health care coverage are not billed for liabilities of health insurance. The statutory requirements also establish the legislative intent to prohibit certain billing activities by health care providers for services due and payable by a health maintenance organization.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the standards for payment of claims by health insurance issuers and supercedes current regulations on uniform claim forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

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

§6003. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance coverage issued for delivery in the state of Louisiana that is

otherwise subject to the statutory requirements of Part VI-D of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950. The requirements of this regulation apply to all preferred provider organization contracts as required under the provisions of R.S. 40:2203.1(E) of the Louisiana Revised Statutes of 1950. The requirements of this regulation shall also apply to the State Employees Group Benefits Program as required under R.S. 22:230.4(A)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

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

§6005. Claim Payments C Definitions

Claim C a request that covered benefits of a health insurance issuer be provided or paid for services that have been provided. The benefits claimed may be in the form of covered services, supplies, and payment for all or a portion of expenses incurred a combination of covered services, supplies and expenses incurred, or indemnification for all or a portion of actual losses.

Claimant C covered person, an authorized representative, or other entity filing a clean claim that is entitled to receive reimbursement from a health insurance issuer for covered benefits.

Clean Claim C a correctly completed standardized claim form as required under the Department of Insurance, Regulation 48.

Commissioner C the commissioner of insurance.

Contracted Medical Services C services provided by a state licensed, certified, or state registered provider of health care services, treatment, or supplies, including but not limited to those entities defined in R.S. 40:2203.1 that have entered into a contract or agreement with a health insurance issuer to provide such services, treatment or supplies to an individual enrollee or insured.

Covered Benefits C benefits available to a member, subscriber or insured under an insurance policy, benefit plan, or other contract for coverage of health care benefits. The term also includes any medical services or equipment that is provided to a covered person under an assignment of benefits, when such assignment is authorized by law and the terms of an insurance policy or contract of coverage issued by a health insurance issuer.

Covered Person C an insured, enrollee, member, or subscriber. In the case of a minor, the term includes an insured or legal guardian authorized to act in the best interest of such minor and therefore is acting on behalf of such covered person.

Date Upon Which a Clean Claim is Received C the date the uniform claim form is received by the health insurance issuer or its legal agent. For health insurance issuer examinations, the department will use the postmark date of claims to determine if the date of receipt reasonably reflects the date claims are actually received by health insurance issuers.

Department C the department of insurance.

Electronic Claim C the transmission of data for purposes of payment of covered medical services in an electronic data format specified by a health insurance issuer and approved by the department.

Health Insurance Coverage C benefits consisting of medical care provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer that is subject to the requirements of Part VI-C of Chapter 1 of the Louisiana Revised Statutes of 1950.

Health Insurance Issuer C an insurance company, including a health maintenance organization, as defined and licensed pursuant to Part XII of Chapter 2 of Title 22, unless preempted as an employee benefit plan covered by the provisions of the Employee Retirement Income Security Act of 1974. The term shall also include the State Employees Group Benefits Program as required under R.S. 22:230.4(A)(4) and preferred provider organizations as required under R.S. 40:2203.

Just and Reasonable Grounds Such as Would Put a Reasonable and Prudent Businessman on His Guard C an articulable set of facts, as opposed to mere speculation or assumption, that fully complies with established jurisprudence. For health insurance issuer examinations, the department will reasonably determine whether denials are based on an articulable set of facts.

Non-Contracted Medical Services C services provided by a state-licensed, certified, or state-registered provider of health care services, treatment, or supplies, including but not limited to those entities defined in R.S. 40:1299.41(A)(1) that have no contract or agreement with a health insurance issuer to provide such services, treatment or supplies to an individual enrollee or insured.

Paid C the date the claim is adjudicated and any amount due and payable is released by the health insurance issuer. Any difference between the date of adjudication and the date the payment is released is required to be documented in the health insurance issuer's claim handling procedures filed with the department.

Prohibited Billing Activities C the demand for payment of medical services from a covered person for covered benefits that are payable under the terms of a provider agreement with a health insurance issuer that is in effect.

Uniform Claim C a standardized claim form as required under the Department of Insurance, Regulation 48.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

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

§6007. Nonelectronic Claim Submission Standards

A. Contracted Medical Services

1. Any claim submitted by a contracted health care provider within 45 days of the date of service or discharge shall be paid to the claimant not more than 45 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, for an allowable expense on behalf of a covered person, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

2. Any claim submitted by a health care provider more than 45 days after the date of service or discharge or

resubmitted because the original claim was incomplete or incorrect shall be paid to the claimant not more than 60 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

B. Non-Contracted Medical Services

1. Any claim for health insurance coverage benefits, whether submitted for payment by a covered person or by the health care provider rendering covered medical services that are not otherwise payable to the provider under a medical service contract with the health insurance issuer, shall be paid to the claimant not more than 30 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

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

§6009. Electronic Claim Submission Standards

A. Any clean claim for a covered benefit payable to or on behalf of a covered person submitted by a contracted health care provider as an electronic claim shall be paid to the claimant not more than 25 days from the date upon which a clean claim form is received by the health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

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

§6011. Thirty-Day Payment Standard

A. A health insurance issuer may elect to utilize a thirty-day payment standard for compliance with the requirements of §§6007 and 6009 following provision of written notice to the Office of Health Insurance who shall provide notice of such changes. Health insurance issuers may cancel this election upon provision of written notice to the Office of Health Insurance. Any health insurance issuer electing to utilize a 30 day payment standard shall continue to meet all other requirements of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

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

§6013. Claim Handling Procedures

A. Health insurance issuers shall have appropriate handling procedures approved by the department for the acceptance of various claim submissions. Health insurance issuer claim handling procedures shall be filed with the Office of Health Insurance for review and approval. Such procedures shall include:

1. a process for documenting the date of actual receipt of claims. Health insurance issuers shall include appropriate safeguards to assure claims are appropriately classified and

directed to the appropriate claims staff for review. The procedures shall include a process for documenting complaints regarding lost claims and appropriate corrective action protocols;

2. a process for reviewing claims for accuracy and acceptability. Health insurance issuers shall document their review process that includes procedures to verify compliance with uniform claim handling procedures. The procedures shall document the reasonable period of time taken to completely review each claim for completeness. The process and average timeframe utilized by the health insurance issuer shall be described in sufficient detail to document the average time required to determine if a uniform claim form has been correctly completed. For any claim that is found to be incomplete or otherwise not payable, the health insurance issuer shall provide specific written notice to the claimant within two days of all known reasons that the claim cannot be processed for payment within a reasonable period of time from the date of reviewing such claim for completeness. The procedures shall assure that the health insurance issuer prohibits the offsetting of claim payments for any other party, except as specifically provided by law, or with the expressed written consent of the claimant as provided for in the health insurance coverage contract or by the contracted medical services provider contract. Except as required under R.S. 40:2010, a health insurance issuer whose policies or contracts of coverage do not allow benefit assignment shall be authorized to reject claims that are incorrectly completed as assigned claims;

3. a process for reporting all claims rejected by the health insurance issuer and the reason for such rejection.

B. Late Payment Procedures. Health insurance issuers shall establish appropriate procedures approved by the department to assure that any claimant who is not paid within the time frames specified in this regulation receives a late payment adjustment equal to 1 percent of the amount due at the time the claim is paid. For any period greater than 25 days following the time frames specified in this regulation, the health insurance issuer shall pay to the claimant an additional late payment adjustment equal to 1 percent of the unpaid balance due for each month or partial month that such claim or any portion of the claim remains unpaid.

C. Compliant Procedures. The health insurance issuer's procedures shall include a process for insureds or enrollees to file complaints regarding provider demands for amounts owed by health insurance issuers. The procedures shall include all actions that will be taken by the health insurance issuer to address non-compliant providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

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

§6015. Limitations on Claim Filing and Audits

A. Health insurance issuers that limit the period of time that a claim may be filed for payment of benefits shall have the same limited period of time following payment of such claims to perform any review or audit for purposes of reconsidering the validity of such claims. For example, where a health insurance issuer limits the period for filing a claim for benefits to 12 months, then the health insurance

issuer shall be limited to 12 months from the date of payment to perform any review or audit of the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

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

§6017. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

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

A public hearing on this proposed regulation will be held on July 26, 2000 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 9 a.m.. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation, and may submit oral or written comments to Claire I. Lemoine, Senior Attorney, Department of Insurance, P.O. Box 94214, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-5317. Comments will be accepted through the close of business at 4:30 p.m. July 26, 2000.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 74C Payment of
Health Coverage Claims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is not anticipated that Regulation 74 would result in any implementation costs or savings to local or state governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Regulation 74 should have no impact upon revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Regulation 74 calls for late-payment adjustments to claimants whose claim is not paid within the time frames specified in the regulation. There are insufficient data available to determine the amount such adjustments might total; this would be a benefit to the claimant and an added cost to the insurer.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Regulation 74 is not expected to have any impact on competition and employment.

Craig S. Johnson
Chief of Staff
Management and Finance
0005#007

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Accounting Regulations; Internal Controls, Slots
(LAC 42:VII.2723, IX.2723 and XIII.2723)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2723.F, G and H, to amend 42:IX.2723.F, G and H to amend 42:XIII.2723.F, G and H and to repeal 42:VII.2715.P and XIII.2715.P in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Part VII. Pari-Mutuel Live Racing
Facility Slot Machine Gaming**

Chapter 27. Accounting Regulations

§2715. Internal Control; General

- A. - O. ...
- P. Repealed
- Q. - R. ...

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

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:748 (April 2000) amended by the Gaming Control Board, LR: 26:

§2723. Internal Controls, Slots

- A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

- I. - W.4. ...

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

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:728 (April 2000) amended by the Gaming Control Board, LR: 26

Part IX. Landbased Casino Gaming

Chapter 27. Accounting Regulations

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - W.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR:26:

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2715. Internal Control; General

A. - O. ...

P. Repealed

P. - R. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2235 (November 1999), amended by the Gaming Control Board LR 26:

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999), amended LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 10, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Accounting Regulations; Internal
Controls, Slots**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#094

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Requirements for Licensing (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2405.B. in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.6 ...

B. Requirements for Licensing

7. All applications shall include the name of the owner(s) of the premises on which the establishment is located. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subsection B.4. no later than July 1 of each year.

B.8 - C.7 ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Requirements for Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be an increase on revenue collections of state or local government units since licensees will be required annually to be current in the payment of all state and local taxes in order to obtain tax clearance certificates. However, the amount of any increase cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Structural Requirements for Licensed Establishments
(LAC 42:XI.2415)

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.3. ...

D. Structural Requirements for Licensed Establishments

1. - 5. ...

6.a. In order to obtain multiple licenses for video draw poker device operation by the same owner within a single building structure, each facility shall be a single, physically separate and noncontiguous place of business which meets all other applicable requirements of Subsection D.

b. In addition to the requirements of Subsection D.6.a., bars, taverns, cocktail lounges and clubs shall:

i. have separate and independent beverage preparation areas,

ii. prepare, dispense, and sell alcoholic beverages for on-premises consumption;

iii. have a person whose primary duty is tending bar on duty while the bar, tavern, cocktail lounge or other facility is open for business and has a permanently affixed wet bar facility including plumbing and sinks; and

iv. be able to accommodate a minimum of 25 patrons.

c. Same ownership as provided in Subparagraph D.6.a. exists when:

i. the building and the bars, taverns, cocktail lounges, clubs or other facilities are owned by the same person or persons;

ii. the building and the bars, taverns, cocktail lounges; clubs or other facilities are owned by different legal entities which are owned by the same person or persons;

iii. the building is leased to persons or entities who also own or lease the bars, taverns, cocktail lounges, club or other facilities;

iv. the owner of the building leases the bars, taverns, cocktail lounges, clubs or other facilities to the same person, persons or entities.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Structural Requirements for Licensed
Establishments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of rules requiring physically separate and noncontiguous facilities for the placement of video draw poker devices will result in fewer such devices in operation. No increase or reduction in revenue collections is expected to occur in FY 00-01. For FY 2001-2002, it is estimated that state and local government revenues will be reduced \$1,179,672 (State - \$884,754, Local - \$294,918). For FY 2002-2003, it is estimated that state and local government revenues will be reduced \$1,463,216 (State - \$1,907,412, Local - \$365,804).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

For FY 2001-2001, it is estimated that device owners and licensed establishments will have a reduction in revenue in the amount of \$3,337,432. For FY 2002-2003, it is estimated that device owners and licensed establishments will have a reduction in revenue of \$4,164,507.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Manufactured Housing
(LAC 55:V.521, 535, and 543)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S.51:911.32.A(2), the Office of the State Fire Marshal proposes to amend the *Louisiana Administrative Code*, Title 55, Part V, Manufactured Housing. This proposed rule is intended to accompany Act 92 of the First Extraordinary Session of 2000, which amended and reenacted R.S. 51:912.21 and R.S. 51.912.27 to provide for installation permit stickers to prevent unlicensed persons from installing manufactured homes and to provide penalties for unlicensed installation.

The text of this proposed rule may be viewed in the Emergency Rule Section of this Edition of the Louisiana Register

Any interested person may submit written comments regarding the contents of the proposed rule to Tony Walker, Attorney Office State Fire Marshal, 5150 Florida Blvd., Baton Rouge, LA, 70806. All comments must be received no later than 4:30 p.m., July 20, 2000.

Nancy VanNorwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Manufactured Housing

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Costs associated with the implementation of this rule are related to installation permits and stickers totaling \$3,102. In addition, the General Appropriations Bill for FY 00-01 is expected to include \$450,000 in self-generated revenue through the fees generated by Act 92 of the 2000 First Extraordinary Session. These funds would allow the Fire Marshal to hire an additional seven (7) positions to increase the number of inspections performed on manufactured homes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be an increase in revenue to the State based on the number of fines issued in Louisiana as well as fees generated from the issuance of installation permit stickers. These new sources of revenue were authorized by Act 92 of the 2000 First Extraordinary Session.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Industry costs are projected to be \$153,750 in fines and \$450,000 in fees. The projected revenue fines is based on prior history.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect upon licensed installers or dealers who make proper installations other than payment of \$15 fee per sticker. Enforcement actions will be directed against improper installations and particularly against unlicensed installers.

Nancy VanNortwick
Undersecretary
0006#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the General Counsel**

**Outdoor Advertising and Unique Traffic Generators
(LAC 70:I.112 and 205)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Outdoor Advertising Unique Traffic Generators" in accordance with R.S. 48:461 and R.S. 32:238(B).

Title 70.

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter A. Outdoor Advertising Signs

§112. Unique Traffic Generators

A. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Specific Services Signing (LOGO). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 and R.S. 32:238(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 26:

Chapter 2. Installation of Tourist Oriented Directional Signs (TODS)

§205. Unique Traffic Generators

A. - G. ...

H. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Tourist Oriented Directional Signs (TODS). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 12:1596 (December 1993), LR 22:230 (March 1996), LR 26:

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 Sherryl J. Tucker, Senior Attorney, Legal Section, Department of Transportation and Development, P.O. Box

94245, Baton Rouge, LA 70804-9245, telephone (225) 237-1359.

Kam K. Movassaghi, P.E., Ph.D
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outdoor Advertising and Unique
Traffic Generators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. This rule amends rules which originally established the Specific Services Signing (LOGO) Program in 1985 and the Tourist Oriented Directional Signs (TODS) Program in 1993. It allows the State Traffic Engineer the discretion to issue permits to businesses which do not otherwise qualify under the existing rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be only a minimal effect on revenue collections of state government and no more than five additional businesses to be accommodated under either program. (This number is limited by the number of spaces currently available, as well as business interest.) Five additional businesses added to the LOGO Program would generate \$600.00 per business per year for a total of \$3,000.00 annually. Five additional businesses added to the TODS program would generate \$37.50 per business per year for a total of \$187.50 per year. The estimated total increase in revenues is \$3,187.50 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Businesses which hereto were unable to qualify for LOGO or TODS Signing would benefit economically from the advertising afforded by these programs. The economic benefit should outweigh the fee, i.e. \$600 per business annually for a LOGO sign and \$37.50 per business annually for a TODS sign.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Allowing more businesses to participate in the LOGO and TODS programs will have a minimal, but positive, effect on competition and employment.

Kam K. Movassaghi, P.E., Ph.D
Secretary

0006#105

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Standards**

**Annual Heavy Equipment Permit
(LAC 73:I.315)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and

Development intends to promulgate a rule entitled "Weights and Standards Annual Heavy Equipment Permit," in accordance with R.S. 32:387.14.

Title 73

TRANSPORTATION

Part I. Office of Weights and Standards

Chapter 3. Oversize and Overweight Permit

§315. Annual Heavy Equipment Permit

A. Requirements

1. **Maximum Weight.** This permit may be issued by the department for the operation of vehicles transporting heavy equipment with a gross vehicle weight not to exceed 120,000 pounds.

2. **Maximum Dimensions.** Oversize dimensions of 14 feet 4 inches in maximum height, 12 feet 0 inches in maximum width, 90 feet 0 inches in maximum length, and a maximum rear overhang of 15 feet 0 inches shall be allowed under this permit and included in the cost of this permit. Loads with dimensions exceeding the envelope vehicle described above must obtain a separate oversize/overweight trip permit.

B. **Routing.** Vehicles which are issued this permit are prohibited from crossing bridges posted for 25 tons or less and from travel in restricted construction zones. Routing, which includes all vertical clearances, will be the responsibility of the permittee.

C. **Permit Price.** The cost of the permit is \$2,500.00 per year, the maximum price set forth in R.S. 32:387.14. Permits expire one year from the beginning movement date. The permit will be issued for the pulling unit and is non-transferable and non-refundable.

D. Axle Requirements

1. **Overweight vehicle combinations** with a gross vehicle weight from 80,000 pounds to 108,000 pounds are required to have a minimum of five load-carrying axles.

2. **Overweight vehicle combinations** with a gross vehicle weight from 108,000 pounds to 120,000 pounds are required to have a minimum of six load-carrying axles.

E. **Methods of Payment.** The cost of the permit may be paid by the following methods:

1. charge account;
2. credit card (master card or visa);
3. check;
4. cashiers check; or
5. money order.

Permittee must send the appropriate payment or payment information (account number, credit card information, etc.), accompanied by a completed application form and signed agreement form, to the Truck Permit Office, Department of Transportation and Development, P.O. Box 94042, Baton Rouge, Louisiana 70804-9042.

F. Permit Conditions

1. This permit must be carried within the vehicle using same, and must be available at all times for inspection by the appropriate authorities.

2. This permit is subject to revocation or cancellation by the department at any time.

3. The permittee assumes responsibility for and obligates himself to pay for any damages caused to highways, roads, bridges, structures, or any other state-owned property while using this permit. Issuance of the permit is not assurance or warranty by the state or the Department of Transportation and Development that the

highways, roads, bridges and structures are capable of carrying the vehicle and load for which this permit is issued; nor shall issuance stop the state or said department from any claim which may arise for damage to its property.

G. **Indemnification.** The permittee accepts the permit at his own risk. The permittee must agree to defend, indemnify and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, cost or expense including attorney fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by negligence of the department, its agents or employees. By exercising this permit, permittee certifies that the information supplied by him contained in his permit application is correct; that he made application to induce the issuance of the permit; that he fully understands all the provisions and requirements of the permit and of said R.S. 32:388(B)(I) and 32:387.14; and that he accepts all conditions and assumes all of the obligations imposed thereby.

H. **Movement Days and Times.** Vehicles exercising this permit are prohibited from traveling on certain holidays designated by the department. If all of the oversize dimensions are within legal limits, the vehicle will be granted 24 - hour movement, as well as holiday movement.

I. **Weather.** Permitted vehicles are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions.

J. **Speed Limits.** The permitted vehicle is not to exceed a speed limit of 55 miles per hour.

K. **Curfews.** The load may not cross any bridge spanning the Mississippi River in the New Orleans area or be within two miles of such bridge from 6:30 - 9:00 a.m. and from 3:30 - 6:00 p.m. Monday through Friday.

L. **Flags and Warning Signs.** Flags not less than 18 inches square are required for vehicles and loads which exceed the legal width. Vehicles and loads exceeding 10 feet in width, exceeding legal length or the legal rear end overhang must display signs with the wording oversize load. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the letters black. Letters must be at least 10 inches high with a brush stroke of 1 1/2.

M. Following is a model of the permit application form.

Heavy Equipment Annual Permit Application

Customer Number:	Requested Beginning Date:
Company Name:	
Address: City: State: Zip:	
Truck Make/Model:	Serial Number (Vin):
License Number:	State:

Permittee Signature

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:387.14.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 26:

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 James B. Norman, Weights & Standards Enforcement and Vehicle Permits Administrator, P.O. Box 94042, Baton Rouge, Louisiana 70804, telephone (225)377-7100.

John P. Basilica, Jr.
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Heavy Equipment Permit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule is being promulgated pursuant to the provisions of Act 121 of the First Extraordinary Session of the 2000 Louisiana Legislature. It will cost the Department of Transportation and Development approximately \$27,000.00 (one time) to modify its permit computer program so that it will perform all functions related to the issuance of its new permit. The contractor who developed the program estimates that approximately 120 man-hours at \$225.00 per hour will be necessary to perform the work. Total cost would equal 120 hours x \$225.00 = \$27,000.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An estimated 12,447 different trucks were part of a 12-month study of combinations of vehicles transporting loads with gross vehicle weights in the 80,001 to 120,000 lb. Range. It was estimated that approximately 15% of these loads traveled regularly enough to justify considering the purchase of the annual heavy equipment permit. Therefore, the total estimated revenues to be generated from the sales of the new permits would equal 12,447 (trucks) x .15 x \$2500.00 (the annual fee) = \$4,626,015.00. Actual sales during the 12 - month period for individual permits for these trucks were approximately \$4,626,015.00. Therefore, implementation of the new permit would result in a sales increase of approximately (\$4,667,625.00 - \$4,626,015.00 =) \$41,610.00.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The truck owners who avail themselves of these permits should see a positive economic benefit. They will save time because they will purchase one permit per truck per year, rather than multiple trip permits. Depending upon how many trucks they have and how often they make trips, they may also save money on the costs of their permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This new permit should have a positive effect on competition and employment.

John P. Basilica, Jr.
Undersecretary
0006#103

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Black Drum Size Limit, Daily Take Possession
Limits and Quotas (LAC 76:VII.331)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.331, abolishing the monthly reporting requirement for the commercial take of black drum over 27 inches total length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishing
§331. Black Drum Size Limits, Daily Take, Possession
Limits, and Quotas**

A. - A.2. ...

3. The maximum legal size for the recreational taking of black drum shall be 27 inches total length; provided however that recreational fishermen shall be allowed to take and possess no more than one black drum per day over 27 inches. It is provided further that commercial harvesters using legal gear shall be allowed to take and possess and sell black drum over 27 inches in unlimited quantities until the annual quota has been met in compliance with all other rules and regulations.

4. The annual commercial quota for 16 to 27 inch black drum shall be 3,250,000 pounds.

5. The annual commercial quota for black drum over 27 inches shall be 300,000 fish.

6. The fishing year for black drum shall begin on September 1, 1990 and every September 1 thereafter.

7. Once the black drum commercial quota(s) has been met, the purchase, barter, trade or sale of black drum taken in Louisiana after the closure is prohibited. The commercial taking or landing of black drum in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited. Nothing in this rule shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

8. The secretary of the Department of Wildlife and Fisheries shall, by public notice, close the commercial fishery(s) for black drum when the quota(s) has been met or is projected to be met. The closure shall not take effect for at least 72 hours after notice to public.

AUTHORITY NOTE: Promulgated in accordance with, R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), LR 26:

NOTICE OF INTENT

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

Pompano Permits (LAC 76:VII.703)

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Black Drum Size Limit, Daily Take
Possession Limits and Quotas**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused on a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing the monthly reporting and special permit requirements will directly impact commercial harvesters of black drum over 27 inches in state waters. The change will reduce the amount of paperwork required and will allow commercial harvesters of black drum over 27 inches more time to perform other activities. There are currently 128 permitted commercial harvesters of black drum over 27 inches.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0006#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.703, abolishing the monthly reporting requirement for the commercial harvest of Florida pompano. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. - 2. ...

3. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

4. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

5. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

6. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

7. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2400 feet in length and not smaller than 2-1/2 inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

8. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least eight-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land (excluding islands) within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

11. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

12. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

13. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

14. - B. 4. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pompano Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly affect commercial harvesters of Florida pompano in state waters. The change will reduce the amount of paperwork required and allow commercial harvesters of Florida pompano more time to fish, conduct maintenance on their equipment or concentrate on other activities. There are currently 10 permitted commercial harvesters of Florida pompano.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0006#088

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Harvest of Mullet
(LAC 76:VII.105)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.343, abolishing the monthly reporting requirement for the commercial harvest of striped mullet. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§343. Rules for Harvest of Mullet

A. - D. ...

E. Permits

1. - 3. ...

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, R.S. 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Rules for Harvest of Mullet

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly impact commercial harvesters of striped mullet in state waters. The change will reduce the amount of paperwork required by commercial harvesters of striped mullet and will allow them more time to fish, conduct maintenance on their equipment, or concentrate on other activities. There are currently 324 permitted commercial harvesters of striped mullet.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0006#090

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Spotted Seatrout Management Measures
(LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.341, abolishing the monthly reporting requirement for the commercial harvest of spotted seatrout. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. - 4.c. ...

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Mr. Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

0006#089

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Traversing Permit (LAC 76:VII.403)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.403, abolishing the monthly reporting requirement for traversing permit holders. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§403. Traversing Permit

A - G. ...

H. Permittees will be required to abide by the following conditions.

1. - 2. ...

3. When permitted gear is on board the permitted vessel or in possession of the permittee, the permittee and the vessel are assumed to be operating under authority of the permit. No gear other than gear allowed under the Traversing Permit may be on board the vessel or in possession of the permittee.

4. The vessel authorized for use under the Traversing Permit shall have distinguishing signs so that it may be identified as such. The signs shall have the letters "EEZ" and assigned numbers printed on them in at least 10-inch high letters and numbers on a contrasting background in block style so as to be visible and legible from low-flying aircraft and from any vessel in the immediate vicinity. The assigned numbers shall be situated on both sides and on top of the vessel.

5. The department reserves the right to observe the operations taking place under the Traversing Permit and, at its request, the department may assign aboard any permitted vessel an enforcement agent as an observer.

6. All permittees shall notify the department four hours prior to leaving port to traverse or fish under the conditions of the Traversing Permit and immediately upon returning from the permitted trip. The department shall be notified by calling a designated phone number.

7. The permittee must report to the department the name of the buyer who will purchase the fish product obtained under the Traversing Permit. This information shall be provided at the time that permittee notifies the department of his return.

8. When quotas have been met or seasons have been closed, no fish affected by such quotas or seasons may be possessed on board a vessel while having commercial gear on board traveling state waters.

9. Any violation of the conditions of the Traversing Permit and any violation of any fisheries regulation shall be punishable as defined by R.S. 56:320.2.D.(1) in accordance with Act 1316 of the 1995 Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:305.B, and R.S. 56:320.2.E.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Traversing Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly impact commercial harvesters that harvest in the federal exclusive economic zone (EEZ) with gill nets, trammel nets, or seines and land their catch in Louisiana. The change will reduce the amount of paperwork required and will allow harvesters more time to fish, conduct maintenance on their equipment or concentrate on other activities. There are currently 70 traversing permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0006#087

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office