

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development Board of Architectural Examiners

Architectural Engineers (LAC 46:I.1123)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the adoption of LAC 46:I.1123 pertaining to the board's interpretation of R.S. 37:145. R.S. 37:145 limits the use of the title "architect", or any term derived therefrom, to persons who have secured from the board a certificate of registration and license; the board proposes to interpret this definition as it pertains to a registered professional engineer who has a degree entitled Architectural Engineering from an accredited public or private college or university, or an entity formed by or employing such an engineer.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 11. Administration

#### §1123. Interpretation of La. R.S. 37:145; Architectural Engineers

A. A registered professional engineer who has a degree entitled Architectural Engineering from a public or private college or university accredited by the Accreditation Board for Engineering and Technology to offer such a degree may use the title "Architectural Engineer." A corporation, partnership, limited liability company, or group may include the title "Architectural Engineer" in its firm name, provided an owner, partner, or principal of that firm is a registered professional engineer who has such a degree from a public or private college or university so accredited.

B. This interpretation limits the use of the words "Architectural Engineer" to the descriptive title only. Nothing contained herein shall be construed to authorize or allow such an individual or firm to practice architecture in this state.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 27:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Architectural Engineers

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

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

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

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

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

The proposed rule pertains to the name that a registered engineer with an Architectural Engineering degree may use; it also pertains to the name that a corporation, partnership, limited liability company, or group may use, provided that an owner, partner or principal has such a degree. If such individuals or firms are not allowed to use the words "Architectural Engineering" in their firm titles, those individuals and firms would be required to use a different name in Louisiana. It is anticipated that the cost for these registered engineers and firms doing business in Louisiana under a different name would be nominal.

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

The proposed rule only affects the name that a registered engineer or firm of engineers may use, and thus there is no estimated effect on competition or employment associated with this proposed Rule.

Mary "Teeny" Simmons  
Executive Director  
0105#021

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

Non-Depository Records Retention  
(LAC 10:X1.501 and XVII.701)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807, the commissioner of the Office of Financial Institutions gives notice of intent to repeal LAC10:X1.501, the Rules promulgated in the *Louisiana Register*, Volume 17, page 588 (June 1991), and Volume 18, page 26, (January 1992), regarding records retention schedules, and adopt a Rule providing for a record retention schedule for all

non-depository persons subject to the supervision of the commissioner. This proposed Rule significantly streamlines the existing record retention Rule by requiring that applicable institutions maintain minimum records and retention periods as deemed necessary by the commissioner for the proper examination and supervision of the person by this office and clarifies that the rule applies to all non-depository persons supervised by the commissioner.

The proposed repeal and Rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

#### **Title 10**

### **FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC**

#### **Part XVII. Miscellaneous Provisions**

#### **Chapter 7. Records Retention**

#### **§701. Non-Depository Records Retention**

Each non-depository person subject to the supervision of the Office of Financial Institutions shall retain such minimum records which are deemed necessary for the examination and supervision of such persons by this office and for such minimum retention periods as determined by the commissioner and set forth in a "record retention schedule" to be detailed in policy which may be amended from time to time as necessary. This rule does not replace the person's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, and including, but not being limited to, residential mortgage lenders, collection agencies, sellers of checks, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, credit repair services organizations, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

#### **Part XI. Consumer Credit**

#### **Chapter 5. Records Retention**

#### **§501. Licensed Lenders Records Retention Schedule**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:588 (June 1991) amended LR 18:76 (January 1992), repealed LR 27:

All interested persons are invited to submit written comments on this proposed Rule no later than 5 p.m. June 20, 2001 to Gary L. Newport, Chief Attorney, Office of

Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Doris B. Gunn  
Deputy Commissioner

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

#### **RULE TITLE: Non-Depository Records Retention**

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

The proposed rule will not result in any additional costs to the state of Louisiana or any local government unit. The purpose of the rule is to communicate to persons which are licensed pursuant to the Residential Mortgage Lending Act, Louisiana Consumer Credit Law, Collection Agency Regulation Act, Credit Repair Services Organizations Act, Louisiana Check-Cashing Law, Sale of Checks Act, Pawnbroker Act, and Bond For Deed Act, which records the commissioner will require to be retained. The rule is being promulgated in accordance with the discretion afforded the commissioner by R.S. 6:1091 A.

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

The proposed rule will have no effect on revenue collections for the state of Louisiana nor any other governmental unit.

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

The proposed rule shall only affect persons licensed pursuant to the aforementioned statutes. Licensees already provide for retention of certain records. The method which each uses for storage of records also varies greatly. Therefore, estimated additional costs associated with requirements of the rule are indeterminable but expected to be minimal.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)** There is no anticipated effect on competition and employment within the affected industries as a result of the proposed rule.

Doris B. Gunn  
Deputy Commissioner  
0105#015

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Economic Development Office of the Secretary**

Capital Companies Tax Credit Program  
(LAC 13:XV.320)

The Department of Economic Development, Office of the Secretary, pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935, to provide for the investment of certain funds, as determined by the Secretary, in pre-seed, seed, and early stage business ventures, and certified disadvantaged businesses, and business ventures operating in economically distressed areas.

This proposed rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

The full text of this proposed rule may be viewed in the Emergency Rule portion of this register.

Any interested person may submit written comments regarding the contents of the proposed Rule to Daryl K. Manning, General Counsel, Department of Economic Development, in person to One Maritime Plaza, 101 France Street, Baton Rouge, LA 70802; or by mail to P.O. Box 94185, Baton Rouge, LA 70804-9185. All comments must be received no later than 5:00 p.m., June 21, 2001.

Don J. Hutchinson  
Secretary

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Capital Companies Tax Credit Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no significant implementation costs to state or local governmental units anticipated due to this Rule. All certified Louisiana capital companies are monitored and audited by the Office of Financial Institutions. Compliance with this rule will be monitored under the Office of Financial Institutions existing procedures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
It is estimated that between \$5,000,000.00 and \$10,000,000.00 of additional private venture capital funds will be made available to seed, pre-seed and to economically disadvantaged companies through the Capital Companies Tax Credit Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition is anticipated. It is expected that some increase in employment in Louisiana based seed, and pre-seed businesses and in economically disadvantaged businesses will result. The exact increase in employment is not susceptible of accurate projection.

Don J. Hutchinson  
Secretary  
0105#057

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Racing Commission**

**Licenses Necessary for Entry (LAC 46:I.1105)**

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.1105 "Licenses Necessary for Entry," to allow for owners to be licensed as young as 16 years old, with certain licensing requirements.

The text of this proposed rule may be viewed in the Emergency Rule section of this register.

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

The domicile office of the Louisiana State Racing Commission is open from 8am to 4pm and interested parties may contact Charles A. Gardiner III, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through June 8, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Licenses Necessary for Entry**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is estimated to be no effect on revenue collections of local governmental units associated with this proposed rule. However, the state may receive a very slight increase (not measurable) in self-generated revenue through a few additional license applications sold to horse owners that are 16 to 18 years old.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This action benefits horse owners by allowing younger individuals to qualify for such licenses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner III  
Executive Director  
0105#022

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 741C Louisiana Handbook for School  
Administrators C Corrective Actions (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, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved

student achievement. The State's accountability system is an evolving system with different components. The proposed change more clearly explains and refines existing policy as follows requirements of Corrective Actions schools and the roles/responsibilities of Distinguished Educators (DEs) and District Assistance Teams (DATs).

**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**

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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 by the Board of Elementary and Secondary Education LR

26:635 (April 2000); LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:

**The Louisiana School and District Accountability  
SystemC Corrective Actions**

2.006.09 A school that has a SPS of 30 or less or has a SPS of less than 100 and fails to reach its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. The information shall be required on an annual and/or quarterly basis.

**Requirements for Schools in Corrective Actions I**

*1) A Revised or New School Improvement Plan*

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools falling within the category of Academically Unacceptable and placed in Corrective Actions I shall be required to review and either revise or completely rewrite their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- A. A statement of the school's beliefs, vision, and mission;
- B. A comprehensive needs assessment which shall include the following quantitative and qualitative data:
  - C Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);
  - C Demographic indicators of the community and school to include socioeconomic factors.
  - C School human and material resource summary, to include teacher demographic indicators and capital outlay factors;
  - C Interviews with stakeholders: principals, teachers, students, parents;
  - C Student and teacher focus groups;
  - C Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
  - C Classroom Observations;
  - C Measurable objectives and benchmarks;
  - D. Effective research-based methods and strategies;
  - E. Parental and community involvement activities;
  - F. Professional development component aligned with assessed needs;
  - G. External technical support and assistance;
  - H. Evaluation strategies;
  - I. Coordination of resources and analysis of school budget (possible redirection of funds);
  - J. Action plan with time lines and specific activities.

*2. Assurance pages*

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

*3. A quarterly Monitoring of the Implementation of the School Improvement Plan*

District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the

implementation of their school improvement plan in paper and/or electronic format.

*4. An Annual Evaluation of the Level of Implementation of the School Improvement Plan*

This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

Corrective Actions Level II: All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a *Monthly Monitoring of the Implementation of the School Improvement Plan*.

A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard #2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard #2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40% of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted Schools SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

## Corrective Actions Summary Chart

### School Level Tasks

#### Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval.

#### Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change.

#### Level III

- 1) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that schools Reconstitution Plan or No State Approval/No Funding;
- 2) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets; and
- 3) If Reconstitution Plan is not approved, no state approval/no state funding.

### District Level Tasks

#### Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

#### Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) Local boards make a written response to SBESE no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
- 4) As allowed by law, local boards reassign or remove personnel as necessary; and
- 5) For Academically Unacceptable Schools, authorize parents to send their children to other public schools.

#### Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40% of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; and c) SBESE grants non-school approval status.

#### Reconstitution or No State Approval/Funding

- 1) If Reconstitution Plan is approved by SBESE, provide implementation support.
- 2) If the Reconstitution Plan is not approved, no state approval/no state funding.

State Level Tasks	
Level I	
1)	Provide diagnostic process for schools;
2)	Provide training for District Assistance Teams;
3)	For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and
4)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Level II	
1)	Assign advisory Distinguished Educator to schools; and
2)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Level III	
1)	Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
2)	At end of Year 1, SBESE approves or disapproves Reconstitution Plans. If SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
3)	If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist The school in its continued improvement efforts; and
4)	Work to secure new funding and/or redirect existing resources to help schools Implement their improvement plans.
Reconstitution or No State Approval/No Funding	
1)	If Reconstitution Plan is approved by SBESE, a) monitor implementation of Reconstitution plan; and b) provide additional state improvement funds; and
2)	If Reconstitution Plan is not approved, no state approval/state funding.

Interested persons may submit written comments until 4:30 p.m., July 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody  
Executive Director

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There will be no effect on competition and employment.

Marlyn J. Langely  
Deputy Superintendent  
Management and Finance  
0105#019

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

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

**RULE TITLE: Bulletin 741C Louisiana Handbook for  
School Administrators C Corrective Actions**

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

There are no estimated implementation costs to state governmental units. The proposed change more clearly explains and refines the existing policy as it pertains to changes in the requirements of Corrective Actions schools and the roles/responsibilities of Distinguished Educators (DEs) and District Assistance Teams (DATs).

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

There will be no effect on revenue collections by state/local governmental units.

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

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State  
Certification of School Personnel C Practitioner  
Teacher Licensure Policy (LAC 28:I.903)

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 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. This Practitioner Teacher policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours)

and demonstrate proficiency during their first year of teaching can obtain a Level C Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS). A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B certificate.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

**Bulletin 746C Louisiana Standards for  
State Certification of School**

**PersonnelC Practitioner Teacher Licensure Policy**

A Practitioner Teacher license, renewable on a yearly basis for a maximum of three years, will be granted to those candidates who meet all entrance requirements for a Practitioner Teacher Program, who are accepted into and enrolled in an approved Practitioner Teacher Program, and who have a teaching assignment in a state-approved Louisiana school in the area of certification being studied. Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school.

Minimum admission requirements for the Practitioner Teacher Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess the required 2.5 GPA, and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS.

Candidates in the Practitioner Teacher Program will complete an intensive summer training experience prior to assuming a full-time teaching position in a Louisiana classroom. To allow for the summer training experience, employing systems/schools may offer contracts to Practitioner Teacher candidates as early as the spring preceding the school year in which the practitioner will assume a full-time position. It is a responsibility of the employing system/school, working in close collaboration with the program provider, to facilitate and coordinate the placement of practitioner teachers in state-approved schools in teaching areas in which there is an identified need. Practitioner teachers are issued a one-year Practitioner Teacher license, renewable on a yearly basis for a maximum of three years. The participant signs a one-year renewable contract with the school system and/or approved school. The practitioner teacher would be placed, at a minimum, on the same salary schedule as a regularly certified, salaried teacher.

If a candidate withdraws or is dropped from the Practitioner Teacher Program, the Practitioner Teacher license is no longer valid. A practitioner teacher must remain enrolled in the Practitioner Teacher Program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. All program requirements must be completed within the three-year period of the license.

A practitioner teacher may complete all requirements of the practitioner program in less than three years. Once a practitioner teacher completes ALL requirements of the Practitioner Teacher Program and is recommended by the program provider, he may apply for a Type C Teaching Certificate.

A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B certificate.

\* \* \*

Interested persons may submit comments until 4:30 p.m., July 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 746C Louisiana Standards for  
State Certification of School PersonnelC Practitioner  
Teacher Licensure Policy**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrated required content knowledge, instructional expertise, and classroom management skills.

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

This policy should result in an increase in the number of certified teachers available to teach grades K-12 in Louisiana.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0105#018

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1566C Guidelines for Pupil Progression Adoption Procedures (LAC 28:XXXIX.305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:XXXIX. Because of recent changes in the High Stakes Testing Policy, school systems have been unable to keep their Pupil Progression Plans up to date. The new revisions would give the local school systems flexibility in revising their plans when the revisions are mandated by the SBESE.

#### **Title 28 EDUCATION**

#### **Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression**

#### **§305. Adoption Procedures**

##### A. Initial Adoption by the Local School Board

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meeting Law [R.S. 42:4:2(A)(2); Attorney General's Opinion Number 79-1045].

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan has been adopted and approved, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

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

##### B. Locally Initiated Interim Revisions

1. School systems/school boards will comply with the same procedure as for initial adoption by the local school board.

##### C. State Mandated Interim Revisions

1. School systems will be notified of any policy change that will affect their currently approved Pupil Progression Plan within 15 working days after the Notice of Intent is passed by the State Board of Elementary and Secondary Education.

2. School systems/school boards shall develop a procedure for informing the public of the proposed policy change.

3. After final adoption as a rule by SBESE, school boards shall adopt and incorporate the state mandated policy changes into their current Pupil Progression Plan within 30 working days after notification of said changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

#### **§307. Submission Process**

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval and locally initiated revisions (including dates and locations) must be submitted.

1. Interim Revisions: Locally Initiated and State-Mandated

a. Resubmission of two copies of the local board approved pages is made to the Department of Education.

b. Signatures of the local school board president and superintendent are required.

c. The revisions are incorporated into the Pupil Progression Plan at both the local and state level.

B. 1. - 4. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

Interested persons may submit comments until 4:30 p.m., July 9, 2001, 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: Bulletin 1566C Guidelines for Pupil Progression Adoption Procedures**

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

There should be no increase in cost to state or local governmental units. School systems may experience a slight savings because of the elimination of one level of public review requiring public notice.

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

There is no effect on revenue collection 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 better accountability and a more informed general public.

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

There should be no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0105#017

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.113)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with §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**

**§113. Rights, Duties and Responsibilities of the  
Executive Staff of the Commission**

A.1. - 2. ...

B. Executive Director

1. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the commission for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the commission with respect to the conduct of the Office of Student Financial Assistance. The executive director shall be appointed by and shall hold office at the pleasure of the commission. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day-to-day operations of the Office of Student Financial Assistance, and shall include, but not be limited to, the authority to authorize and execute purchase orders, requisitions, agreements, and contracts for supplies, equipment, subscriptions, borrower credit and tracing information, and other materials and information necessary to maintain such day-to-day operations, provided such authority shall extend only to small purchases authorized by R.S. 39:1596 and an executive order of the governor.

B.2 - G ...

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 24:1265 (July 1998), LR 25: 654 (April 1999), LR 25:1091 (June 1999), LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, 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)**

No cost is anticipated to implement the proposed rule change. The rule further defines the discretionary authority of the Executive Director in the day-to-day operations of the agency.

**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  
0105#061

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)  
Early High School Graduation  
(LAC 28:IV.301 and 703)

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). 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 AssistanceC Higher  
Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

\*\*\*

*High School Graduate*C 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 31 of that year for the purpose of applying deadlines. 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 31 of that year.

\*\*\*

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 26:65 (January 2000), LR 26:688 (April 2000), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 27:36 (January 2001), LR 27:

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

**§703. Establishing Eligibility**

A. - G.I.d. ...

2. A student 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 §301, not earlier than the first semester following the academic year (high school) in which the student graduated. A student who 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 actually 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 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1998 (August 2000), LR 26:1996, (September 2000), LR 26:2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:174 (February 2001), LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, 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)C Early High School Graduation**

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

There may be an increase in state expenditures for TOPS payments because early graduates may elect to remain in state rather than accept aid offers from out-of-state

**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 recipients who graduated early from high school will be permitted to enter college the fall semester or quarter after their high school graduation.

**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  
0105#065

H. Gordon Monk  
Staff Director  
Legislative

**NOTICE OF INTENT**

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

Tuition Opportunity Program for Students (TOPS)  
Scholarship/Grant Programs  
(LAC 28:IV.703, 803, 903, 1103, 2113, and 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, 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., June 20, 2001, 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)C Scholarship/Grant Programs**

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

No change in cost to the program is anticipated to result from these revisions.

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

No impact on revenue collections is anticipated to result from these rule changes.

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

These rule changes clarify eligibility requirements of the Rockefeller State Wildlife Scholarship, make the TOPS home study requirements consistent with the statute and clarify the procedure for revising core curriculum.

**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  
0105#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Tuition Trust Authority**  
**Office of Student Financial Assistance**

Authority Bylaws (LAC 28:VI.209)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3091-3099.2 in compliance with §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 VI. Tuition Trust Authority**

**Chapter 2. Bylaws**

**§209. Committees**

A. - E. ...

F. Executive Committee

1. The executive committee shall consist of seven members.

2. - 3. ...

4. The remaining members, for a total of seven members, shall be appointed by the chairman of the authority from the other members of the authority.

5. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

6. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

7. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

8. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

9. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

10. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1656 (December 1997), amended LR 27:190 (February 2001), LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, 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: Authority Bylaws**

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

No cost is anticipated to implement the proposed rule change. The rule adds two members to the Executive Committee.

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  
0105#064

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Tuition Trust Authority**  
**Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)  
Program (LAC 28:VI.107, 307)

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

This 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., June 20, 2001, to Jack L. Guinn, Executive Director, Office of 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: Student Tuition and Revenue Trust**  
**(START Saving) Program**

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

The rule clarifies the restrictions on the allocation of tuition assistance grants (TAGs) for START accounts. This change does not increase costs to the program

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision

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

This rule clarifies restrictions on the allocation of tuition assistance grants (TAGs) for START accounts.

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  
0105#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Tuition Trust Authority  
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)  
Program (LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28  
EDUCATION**

**Part VI. Student Financial AssistanceC Higher  
Education Savings**

**Title 28  
EDUCATION**

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

**Chapter 3. Education Savings Account**

**§315. Miscellaneous Provisions**

A. - C.2. ...

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

D. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance LR 26:2267 (October 2000), amended LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, to Jack L. Guinn, Executive Director, Office of 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: Student Tuition and Revenue Trust  
(START Saving) Program**

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

The rule declares the interest rate for START accounts. This change does not increase costs to the program.

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision.

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

This rule provides the interest rates payable in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Badge Eldredge  
General Counsel  
0105#063

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

Asbestos-Containing Materials in Schools and State Buildings (LAC 33:III.2707 and 2721)(AQ216)

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.2707 and 2721 (Log #AQ216).

LAC 33:III.2707.B.1 requires local education agencies and state governments to conduct reinspections of all friable and nonfriable known or assumed asbestos-containing building material in each building that they lease, own, or otherwise use at least every three years after a management plan is in effect. The federal rule, which forms the basis for this rule, only requires management plans and reinspections in primary and secondary schools. The revision to the rule removes that requirement of reinspection in state buildings saving the state 6-7.5 million dollars every three years. The rule will continue to require initial inspections by accredited inspectors, 6-month surveillance inspections by properly trained personnel, and management plans in state buildings. The basis and rationale for this proposed rule are to make Louisiana's regulations equivalent to federal regulations with regard to asbestos reinspections in state buildings saving the state 6-7.5 million dollars every three years.

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 27. Asbestos-Containing Materials in Schools and State Buildings Regulation**

**§2707. Inspection and Reinspections**

\*\*\*

[See Prior Text in A – A.4.f.v]

**B. Reinspection**

1. At least once every three years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each building that they lease, own, or otherwise use:

a. review previous inspection data in the management plan and compare to existing school conditions and correct for any changes;

\*\*\*

[See Prior Text in B.1.b - 2]

3. For each area of a school, each person performing a reinspection shall:

\*\*\*

[See Prior Text in B.3.a - d]

e. visually inspect, sample, analyze, and assess the conditions of building materials that have been added to the school since the last inspection or reinspection;

\*\*\*

[See Prior Text in B.3.f - C]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§2721. Training and Periodic Surveillance**

\*\*\*

[See Prior Text in A – B.2.b]

c. submit to the person designated to carry out general local education agency or state government responsibilities under LAC 33:III.2705 a copy of such record for inclusion in the management plan.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on June 25, 2001, 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. Persons commenting should reference this proposed regulation by AQ216. Such comments must be received no later than July 2, 2001, 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) 765-0389. 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 AQ216.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Asbestos-Containing Materials in  
Schools and State Buildings**

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

As a result of this rule, state governmental units will realize an estimated savings of approximately 6 - 7.5 million dollars through the elimination of 3-year asbestos reinspections in state government buildings. These revisions will have no impact on local governmental units.

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

These revisions will have no effect on revenue collections of state or local governmental units.

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

These revisions will cause direct costs to those consulting firms that would have been awarded 3-year asbestos reinspection contracts. These firms may lose a total of 6 - 7.5 million dollars in revenues.

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

These revisions will have no effect on competition, but they will cause loss of employment to some asbestos inspectors and/or asbestos management planners, and loss of contractual funds to those consulting firms not awarded reinspection contracts.

James H. Brent, Ph.D.  
Assistant Secretary  
0105#092

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference 40 CFR Part 51  
(LAC 33:III.2160)(AQ213)

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.2160 (Log #AQ213).

The department is adopting by reference 40 CFR Part 51, Appendix M to alleviate word processing/printing problems that have occurred as a result of the numerous graphics which appear in the text of the regulations. Adopting the federal regulations by reference will ensure that Louisiana's regulations are identical to the federal regulations and have not been corrupted by computer problems. These federal regulations currently exist in the Air Quality regulations. This proposed rule will simply remove the federal language from LAC 33:III.Chapter 21, Subchapter N and replace it with a reference to the federal regulations in 40 CFR Part 51, Appendix M. Any existing non-federal language has been retained and renumbered. The basis and rationale for this proposed rule are to ensure that Louisiana's regulations are identical to federal regulations by incorporating by reference into the Air Quality regulations (LAC 33:III) the latest version of 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 21. Control of Emission of Organic Compounds

#### Subchapter N. Method 43C Capture Efficiency Test Procedures

#### §2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR part 51, appendix M, as amended July 1, 2000, are hereby incorporated by reference.

B. The volumes containing those federal regulations listed in Subsection A of this Section may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

C. Modifications and Exceptions. The following modifications and exceptions are made to the incorporated federal standards.

1. Method 204C, Section 8.2.3.1. A sampling point shall be centrally located outside of the temporary total enclosure (TTE) at four equivalent diameters from each natural draft opening (NDO), if possible.

2. Other NDOs

a. This step is optional. Determine the exhaust flow rate, including that of the control device, from the enclosure and the intake air flow rate. If the exhaust flow rate divided by the intake air flow rate is greater than 1.1, then all other NDOs are not considered to be significant exhaust points.

b. If the option above is not taken, identify all other NDOs and other potential points through which fugitive emissions may escape the enclosure. Then use the following criteria to determine whether flow rates and VOC concentrations need to be measured:

i. using the appropriate flow direction indicator, determine the flow direction. An NDO with zero or inward flow is not an exhaust point;

ii. measure the outward volumetric flow rate from the remainder of the NDOs. If the collective flow rate is 2 percent, or less, of the flow rate from 40 CFR part 51, appendix M, method 204E, section 8.1.1, then these NDOs, except those within two equivalent diameters (based on NDO opening) from VOC sources, may be considered to be nonexhaust points;

iii. if the percentage calculated in Subsection C.2.b.ii of this Section is greater than 2 percent, those NDOs (except those within two equivalent diameters from VOC sources) whose volumetric flow rate totals 2 percent of the flow rate from 40 CFR part 51, appendix M, method 204E, section 8.1.1 may be considered as nonexhaust points. All remaining NDOs shall be measured for volumetric flow rate and VOC concentrations during the capture efficiency (CE) test;

iv. the tester may choose to measure VOC concentrations at the forced exhaust points and the NDOs. If the total VOC emissions from the NDOs are less than 2 percent of the emissions from the forced draft and roof NDOs, then these NDOs may be eliminated from further consideration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on June 25, 2001, 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. Persons commenting should reference this proposed regulation by AQ213. Such comments must be received no later than July 2, 2001, 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) 765-0389. 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 AQ213.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Incorporation by Reference 40  
CFR Part 51**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs or economic benefits to persons or non-governmental groups as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposal will have no effect on competition or employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0105#093

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

**Minimum Offset Ratio (LAC 33:III.504)(AQ212)**

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.504 (Log #AQ212).

This rule proposes to revise the minimum offset ratios in LAC 33:III.504. Table 1. Major Stationary Source/Major Modification Emission Thresholds. For a nonattainment area with a classification of serious for ozone, the minimum offset ratio for volatile organic compounds (VOC) will be 1.20 to 1 with LAER (Lowest Achievable Emission Rate) or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for VOC will be 1.30 to 1. This rule also proposes to add a minimum offset ratio for nitrogen oxides (NO<sub>x</sub>). For a

nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.30 to 1. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls are necessary. Urban Airshed Modeling (UAM) indicates that a reduction in NO<sub>x</sub> emissions and further reduction in VOC emissions are required in at least the 5-parish area to lower ozone levels. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the ozone NAAQS. This revision to the minimum offset ratios is only one measure identified to reduce emissions. The basis and rationale for this proposed rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

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 5. Permit Procedures**

**§504. Nonattainment New Source Review Procedures**

\* \* \*

[See Prior Text in A]

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for ozone, VOC and NO<sub>x</sub> are the regulated pollutants under this Section.

\* \* \*

[See Prior Text in A.2 - D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the potential to emit 50 tons per year or more of VOC or NO<sub>x</sub> and is located in an area classified as serious, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC or NO<sub>x</sub> from other operations, units, or activities within the source at an internal offset ratio of at least 1.40 to 1 for VOC or NO<sub>x</sub>, then the requirements for LAER shall not apply.

\* \* \*

[See Prior Text in D.4 - F]

1. Emissions reductions claimed as offset credit for significant NO<sub>x</sub> or VOC increases may be from decreases of either NO<sub>x</sub> or VOC, or any combination thereof. Interprecursor trading is allowed for NO<sub>x</sub> and VOC offsets (e.g., using a NO<sub>x</sub> credit to offset a VOC emissions increase and vice versa).

\* \* \*

[See Prior Text in F.2 - G.Major Stationary Source.b ]

c. A major stationary source that is major for VOC or NO<sub>x</sub> shall be considered major for ozone.

\* \* \*

[See Prior Text in G.Major Stationary Source.d—Visibility Impairment]

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. Persons commenting should reference this proposed regulation by AQ212. Such comments must be received no later than July 2, 2001, 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) 765-0389. 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 AQ212.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

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

**RULE TITLE: Minimum Offset Ratio**

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

There will be no costs or savings to state or local governmental units as a result of this rule.

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

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

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

The exact effect this rule will have on a facility will vary. If a major source is not planning to apply for a permit that will involve significant increase in emissions, or shows sufficient contemporaneous reductions, the rule will have no effect at all. However, if such a facility is applying to increase VOC or NO<sub>x</sub> emissions beyond the major modification threshold, then Nonattainment New Source Review (NNSR) will be triggered. The source must then offset, i.e. use Emission Reduction Credits (ERCs), the emissions increase at the proposed rate and apply Lowest Achievable Emissions Rate (LAER) or apply ERCs depending on the circumstances. Costs, if any, are dependent on the future plans of individual firms and are not further quantifiable.

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

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0105#091

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

<b>Pollutant</b>	<b>Major Stationary Source Threshold Values (tons/year)</b>	<b>Major Modification Significant Net Increase (tons/year)</b>	<b>Offset Ratio Minimum</b>
OZONE	100	Trigger Values	1.10 to 1
VOC/NO <sub>x</sub> <sup>1</sup>	100	40 (40) <sup>2</sup>	1.15 to 1
Marginal <sup>1</sup>	50	40 (40) <sup>2</sup>	1.20 to 1
Moderate	25	25 <sup>3</sup> (5) <sup>4</sup>	w/LAER or
Serious		25 <sup>3</sup> (5) <sup>4</sup>	1.40 to 1
Severe			internal w/o LAER 1.30 to 1
CO	100	100	>1.00 to 1
Moderate	50	50	>1.00 to 1
Serious			
SO <sub>2</sub>	100	40	>1.00 to 1
PM <sub>10</sub>	100	15	>1.00 to 1
Moderate	70	15	>1.00 to 1
Serious			
Lead	100	0.6	>1.00 to 1

\* \* \*

[See Prior Text in Note 1 – Note 2]

<sup>3</sup> For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO<sub>x</sub> resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

<sup>4</sup> Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO<sub>x</sub> emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

NO<sub>x</sub> = oxides of nitrogen

CO = carbon monoxide

SO<sub>2</sub> = sulfur dioxide

PM<sub>10</sub> = particulate matter of less than 10 microns in diameter

**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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:

A public hearing will be held on June 25, 2001, 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

NOTICE OF INTENT

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Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Permit Procedures for New Emissions Sources and Major
Modifications in Specified Parishes
(LAC 33:III.509 and 510)(AQ218)

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.509 and 510 (Log #AQ218).

This rule proposes to establish a control technology
requirement for NOx and VOC emissions at new emissions
units located at new and existing major stationary sources, as
well as mandate an offset requirement for major
modifications as defined in LAC 33:III.509. This proposed
rule would be applicable to sources located in parishes
where emissions must be regulated to such an extent as to
maintain the attainment status of that parish, or expedite or
maintain the attainment status of an adjacent or nearby
parish. Namely, these parishes are Beauregard, Cameron,
Calcasieu, and Jefferson Davis. Calcasieu Parish
experienced six ozone exceedance days during the years
1998, 1999, and 2000. Four or more exceedances during any
consecutive 3-year period constitute a violation of the ozone
National Ambient Air Quality Standard (NAAQS). In
accordance with contingency measures established in the
approved air quality Maintenance Plan for Calcasieu Parish,
a control strategy must be developed and appropriate control
measures implemented in an effort to maintain Calcasieu's
current attainment designation and to protect air quality in
the area. The basis and rationale for this proposed rule are to
protect and maintain the air quality in Calcasieu Parish and
the adjoining parishes of Beauregard, Cameron, and
Jefferson Davis and to continue to meet the National
Ambient Air Quality Standard for ozone.

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 5. Permit Procedures

§509. Prevention of Significant Deterioration

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[See Prior Text in A - B.Baseline Area.1]

2. All parishes are designated as attainment for all
pollutants except the following parishes are designated
nonattainment for ozone only:

Table with 1 column and 5 rows listing parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge.

[See Prior Text in B.Baseline Concentration - S.4]
AUTHORITY NOTE: Promulgated in accordance with R.S.
30:2054.

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Air Quality and Nuclear Energy,
Air Quality Division, LR 13:741 (December 1987), amended LR
14:348 (June 1988), LR 16:613 (July 1990), amended by the Office
of Air Quality and Radiation Protection, Air Quality Division, LR
17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May
1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR
24:1284 (July 1998), repromulgated LR 25:259 (February 1999),
amended by the Office of Environmental Assessment,
Environmental Planning Division, LR 26:2447 (November 2000),
LR 27:

§510. New Emissions Sources and Major
Modifications in Specified Parishes

A. Applicability. The provisions of this Section shall be
applicable in the following parishes: Beauregard, Calcasieu,
Cameron, and Jefferson Davis.

B. Control Technology Requirements. The provisions of
this Section apply to the construction and reconstruction of
emissions units at new or existing major stationary sources,
as defined herein, provided such source or modification is
located within a parish specified in Subsection A of this
Section.

1. Maintenance Reasonably Available Control
Technology (MRACT) Requirements

a. The potential to emit of a stationary source shall
be compared to the major stationary source threshold values
listed in Table 1 of this Section to determine whether the
source is major.

b. All new emissions units at new or existing major
stationary sources shall apply MRACT requirements for
each pollutant subject to regulation under this Section that it
would emit, or have the potential to emit, in amounts greater
than or equal to the de minimus value specified in Table 1 of
this Section. The de minimus value shall represent the
potential to emit of the emissions unit only and shall not
consider any contemporaneous increases and decreases at
the facility.

c. Approval to construct shall become invalid if
construction is not commenced within 18 months after
receipt of such approval, if construction is discontinued for a
period of 18 months or more, or if construction is not
completed within a reasonable time. For a phased
construction project, each phase must commence
construction within 18 months of the projected and approved
commencement date. The department may extend the 18-
month period upon a satisfactory showing that an extension
is justified.

d. For phased construction projects, the
determination of the MRACT shall be reviewed and
modified, as appropriate, at the latest reasonable time but no
later than 18 months prior to commencement of construction
of each independent phase of the project. At such time the
owner or operator of the applicable stationary source may be
required to demonstrate the adequacy of any previous
determination of MRACT.

e. If the owner or operator applies for an extension,
as provided for in Subsection B.1.c of this Section, and the
new proposed date of construction is greater than 18 months
from the date that the approval to construct would become

invalid, the determination of the MRACT shall be reviewed and modified as appropriate before such an extension is granted. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of the MRACT.

2. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services, Permits Division, in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

a. a description of the nature, location, design capacity, and typical operating schedule of the emissions unit(s), including specifications and drawings showing the design and plant layout;

b. a detailed schedule for construction of the emissions unit(s); and

c. a detailed description of the planned system of emission controls to be implemented, emission estimates, and other information necessary to demonstrate that the MRACT will be applied and maintained.

3. Exemptions. The following emissions units are exempt from the control technology requirements of this Subsection:

a. those that are subject to the Best Available Control Technology (BACT) requirements of the Prevention of Significant Deterioration (PSD) program, LAC 33:III.509;

b. those that are subject to control requirements of a Maximum Achievable Control Technology (MACT) standard under the national emission standard for hazardous air pollutants in 40 CFR part 61 or part 63 (with regard to VOC control only); and

c. those that trigger control requirements of any section in LAC 33:III.Chapter 21 (with regard to VOC control only).

C. Offset Requirements. The provisions of this Subsection apply to major stationary sources and major modifications, as provided in LAC 33:III.509.I, provided such source or modification is located within a parish specified in Subsection A of this Section.

1. Emission Offsets

a. The emissions increase from a major modification as defined in LAC 33:III.509 shall be offset in accordance with the provisions of this Section at the ratio specified in Table 1 of this Section.

b. All emission offsets approved by the department shall meet the following criteria:

i. all emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interprecursor trading, for example, using a NO<sub>x</sub> credit to offset a VOC emission increase, is not allowed;

ii. all emission reductions claimed as offset credit must have occurred on or after June 2, 1997;

iii. all emission reductions claimed as offset credit shall be enforceable prior to commencement of construction of the major modification. All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of operation of the proposed major stationary source;

iv. offset credit for any emission reduction can be claimed only to the extent that the department has not relied on it in previously issuing any permit;

v. the emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard that is allowable under the applicable regulation for this major stationary source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable VOC emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reductions should the source switch back to a fuel that produces more pollution, is specified in a permit issued by the department;

vi. emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, federally enforceable, and in accordance with the State Implementation Plan (SIP);

vii. emission offsets shall be obtained from the same source or other sources located in the parishes subject to Subsection B of this Section; and

viii. emission reductions otherwise required by the Act or by state regulations shall not be credited for purposes of satisfying the offset requirement. Incidental emission reductions that are not otherwise required by the Act or by state regulations may be creditable as offsets.

2. Source Information. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Permits Division the following information:

a. a detailed description of the process to be controlled and the control technology to be used;

b. emission calculations showing the types and amounts of actual emissions to be reduced; and

c. the effective date of the reduction.

D. Compliance Schedule. For affected sources that have submitted or will submit a permit application prior to final promulgation of this Section that entails either a major modification as defined in LAC 33:III.509 or construction or reconstruction of a new emissions unit, the offset requirements of Subsection C of this Section and/or the MRACT requirements of Subsection B of this Section shall not apply if the application has been deemed administratively complete in accordance with LAC 33:III.519.A prior to the final promulgation date of this Section.

E. Definitions. The terms in this Section are used as defined in LAC 33:III.111 or 504.G, with the exception of those terms specifically defined as follows:

*Emissions Unit*—any part of a major stationary source, as defined herein, that emits or would have the potential to emit any pollutant regulated under this Section.

*Existing*—a major stationary source or emissions unit that does not meet the definition of *new*.

*Maintenance RACT (MRACT)*—reasonably available control technology for new emissions units in parishes designated by the department.

a. Includes control devices, systems, process modifications, or other apparatus or techniques that are reasonably available, as determined by the department on a case by case basis, taking into account:

i. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard in the parishes in question; and

ii the energy, environmental, and economic impact of such controls.

b. In no event shall application of reasonably available control technology result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard as set forth in sections 111 and 112 of the Act or LAC 33:III.5109.A, if applicable. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of MRACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

*Major Stationary Source—*

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a major stationary source, if the change would constitute a major stationary source by itself;

c. a stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table A in LAC 33:III.509.B; or

ii. any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the Act;

d. a stationary source shall not be a major stationary source due to secondary emissions.

*New*—a major stationary source or emissions unit for which construction or reconstruction commenced after promulgation of this Section.

*Regulated Pollutant*—a pollutant listed in Table 1 of this Section.

<b>Pollutant</b>	<b>Major Stationary Source Threshold Values (tons/year)</b>	<b>New Emissions Unit De Minimus Trigger Values (tons/year)</b>	<b>Offset Ratio Minimum</b>
VOC	100	25	1.10 to 1
NO <sub>x</sub>	100	25	1.10 to 1

VOC = volatile organic compounds

NO<sub>x</sub> = nitrogen oxides

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on June 25, 2001, 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. Persons commenting should reference this proposed regulation by AQ218. Such comments must be received no later than July 2, 2001, 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) 765-0389. 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 AQ218.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

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

**RULE TITLE: Permit Procedures for New Emissions Sources and Major Modifications in Specified Parishes**

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

There will be no costs or savings to state or local governmental units as a result of this rule.

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

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

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

The exact effect this rule will have on a facility will vary. If a major source is not planning to construct a new emissions unit that can emit NO<sub>x</sub> or VOC greater than the de minimus level, the rule will have no effect at all. However, if such a facility wishes to install a new emissions unit that can emit NO<sub>x</sub> or VOC greater than the de minimus level, the unit must be designed with reasonably available control technology (RACT), as determined on a case-by-case basis by the Department. Costs of RACT technology may vary considerably due to factors such as the type and size of emissions unit, the potential for multiple control strategies, etc.

The offset component of the rule will apply to major stationary sources and major modifications as described in LAC 33:III.509.I, and require facilities to offset the increase that triggered the major modification at a ratio of 1.10 to 1. If an existing facility has made past reductions that could qualify as Emission Reduction Credits (ERC), no additional cost will be incurred. If no such reductions exist, a facility would have to purchase ERC from another company. The potential supply of ERC in the Calcasieu area cannot be predicted, as the specific emission reductions that are eligible to be banked as ERC have not been catalogued. Consequently, an ERC cost would be difficult to predict, except that it should be comparable to that in the Baton Rouge area (\$5000 per ERC).

Costs, if any, are dependent on the future plans of individual facilities and are not further quantifiable.

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

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0105#090

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

RCRA XCAccumulation Time  
(LAC 33:V.1109 and 2231)(HW077\*)

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 Hazardous Waste regulations, LAC 33:V.1109 and 2231 (Log #HW077\*).

This proposed rule is identical to federal regulations found in 64 FR 64503-64509, 12/5/97, and 65 FR 12378-12398, 3/8/00, 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).

The proposed rule covers the adoption of rules in the RCRA X package for authorization for portions of the RCRA C program. The specific topic includes the following title: 180-day Accumulation for Waste Water Treatment Sludges from Metal Finishing. The rule also includes changes to reflect the delegable citations for the issuance of the general and site-specific variances. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this proposed rule are to adopt recently promulgated regulations that are equivalent or more stringent in order for the state to maintain equivalency to the RCRA C Program.

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 V. Hazardous Waste and Hazardous Materials

##### Subpart 1. Department of Environmental Quality— Hazardous Waste

#### Chapter 11. Generators

##### Subchapter A. General

#### §1109. Pre-Transport Requirements

\* \* \*

[See Prior Text in A - E.9]

10. A generator who generates 1000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

a. the generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 wastestream or otherwise released to the environment prior to its recycling;

b. the F006 waste is legitimately recycled through metals recovery;

c. no more than 20,000 kilograms of F006 waste are accumulated on-site at any one time; and

d. the F006 waste is managed in accordance with the following:

i. the F006 waste is placed:

(a) in containers and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters H, Q, R, and V; and/or

(b) in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter 43. Subchapters I, Q, R, and V, except LAC 33:V.4442 and 4445; and/or

(c) in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T, and has placed its professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(i) a written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(ii) documentation that the unit is emptied at least once every 180 days;

ii. in addition, such a generator is exempt from all the requirements in LAC 33:V.Chapter 43.Subchapters F and G, except for LAC 33:V.4379 and 4385;

iii. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

iv. while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste", and

v. the generator complies with the requirements for owners or operators in LAC 33:V.Chapter 43.Subchapters B and C, with LAC 33:V.4319, and 2245.E.

11. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of Subsection E.10.a - d of this Section.

12. A generator accumulating F006 waste in accordance with Subsection E.10 and 11 of this Section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 11, 15-21, 23-29, 31-37, and 43 (except LAC 33:V.4301.D and E) and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the administrative authority if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the administrative authority on a case-by-case basis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:0000 (May 2001), LR 27:0000 (May 2001), LR 27:

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

**Chapter 22. Prohibitions on Land Disposal**

**Subchapter A. Land Disposal Restrictions**

**§2231. Variance from a Treatment Standard**

\*\*\*

[See Prior Text in A - B]

C. After receiving a petition for a variance from a treatment standard, the administrative authority may request any additional information or samples that he or she may require to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and regional offices.

\*\*\*

[See Prior Text in C.1 - 2]

D. The EPA administrator and/or the Office of Environmental Services, Permits Division will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

\*\*\*

[See Prior Text in E - F]

G Based on a petition filed by a generator or treater of hazardous waste, the administrative authority may approve a site-specific variance from an applicable treatment standard if:

\*\*\*

[See Prior Text in G.1 - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:

A public hearing will be held on June 25, 2001, 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. Persons commenting should reference this proposed regulation by HW077\*. Such comments must be received no later than June 25, 2001, 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) 765-0389. 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 HW077\*.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

0105#014

## NOTICE OF INTENT

### Office of the Governor Division of Administration Office of Planning and Budget

#### Annual Program Evaluation Reports (LAC 4:I.Chapter 1)

In accordance with provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, has initiated procedures to amend LAC 4:I.Chapter 1 regarding the Annual Program Evaluation Reports. These Rules were amended by Act 911 of 1995, effective June 28, 1995.

#### Title 4

#### ADMINISTRATION

#### Part 1. General Provisions

#### Chapter 1. Annual Program Evaluation Reports

#### §101. Reports from Undersecretaries to Governor

A. Revised Statutes 36:8 (added by Act 160 of 1982 and amended by Act 230 of 1987 and Act 911 of 1995, requires undersecretaries, prior to November twenty-fifth of each year, to submit to the departmental secretary an annual report summarizing the activities of his office relating to management and program analysis. R.S. 36:8 also requires the departmental secretary to submit the report to the governor, commissioner of administration, House Committee on Appropriations, Senate Committee on Finance, and the standing committee of each house of the legislature having responsibility for oversight of the department, as provided in R.S. 49:968, prior to December fifth of each year. This report is to be contained on a form prepared by the Division of Administration. The report must contain the following items as required by R.S. 36:8:

1. a description of significant problems, deficiencies, and abuses relating to the administration and management of programs and operations within the department;
2. corrective measures recommended by the office for those problems identified pursuant to Paragraph 1;
3. an identification of significant recommendations in previous reports on which no action has been taken;
4. a summary of reports made to the secretary pursuant to this Section; and
5. a list and brief summary of program evaluations made by the office.

B. The following forms (§§103-111) have been adopted by the Division of Administration to adhere to the requirements of R.S. 36:8 for annual program evaluation reports, commonly known as "Act 160 Reports".

C. The Division of Administration promulgated as rules in the December, 1982 *Louisiana Register* the use of four forms for agencies to use to meet the reporting requirements of Act 160 of 1982. The use of a fifth form to capture the required "identification of significant recommendations in previous reports on which no action has been taken" was promulgated as rule in the February, 1984 *Louisiana Register*. Therefore, annual program evaluation reports must include Forms 160-1, 2, 3, 4, and 5 (modified for the appropriate reporting period), which follow.

D. It is understood that the intent of the Act 160 legislation was to provide undersecretaries in each department with a tool for internal planning, management, and control as well as to provide appropriate persons in the House and Senate, the commissioner of Administration and the governor with program information. The submission of Forms 160-1 through 5 is an indication of the fulfillment of the role of the undersecretary as defined in R.S. 36:8, and can be evidence to the public of efforts to make state government more efficient and effective. Routine monitoring of programs, institutions, etc. does not need to be included, nor should actual reports be attached in lieu of summarized information on the forms. The "Act 160 Report" should include only significant problems, reports, and evaluations (generally distinguished by the focus on the impact or level of success of a particular program or project).

E. If a department has not identified any significant problems in its administration and management of programs and operations, has made or acquired no evaluations of programs within its agencies, and has not had any significant report made to the undersecretary during the reporting period, the undersecretary shall submit a letter to the House Committee on Appropriations, Senate Committee on Finance, standing committee of each house of the legislature having responsibility for oversight of the department, governor, and commissioner of Administration indicating such in lieu of Forms 160-1 through 5 by the December fifth deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:8, R.S. 36:53 and R.S. 36:629(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 10:76 (February 1984), LR 27:

**§103. Form 160-1C Significant Problem, Deficiency, or Abuse**

Form 160-1 Department \_\_\_\_\_  
Reporting Period \_\_\_\_\_

1. Significant Problem, Deficiency, or Abuse Relating to the Administration or Management of Programs and Operations Within the Department. (Complete one sheet per problem.)

A. Problem Description

1. What is the nature of the problem?
2. What organizational unit in the department is experiencing the problem?
3. Who else is affected by the problem?
4. How long has the problem existed?
5. What are the costs and consequences of failure to correct the problem?

B. Corrective Measures

1. What corrective measures are recommended to alleviate the problem?
2. What are the criteria for improvement?
3. What is the expected time frame for corrective measures to be implemented?
4. What is the expected time frame for improvements to occur?
5. What are the costs of implementing the corrective measures?
6. Will additional personnel or funds be required to implement the recommended measures? If so, specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration in LR 8:644 (December 1982), amended LR 27:

**§105. Form 160-2C Reports to the Secretary**

Form 160-2 Department \_\_\_\_\_  
Reporting Period \_\_\_\_\_

Reports to the Secretary  
Reports completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 27:

**§107. Form 160-3C List of Program Evaluations**

Form 160-3 Department \_\_\_\_\_  
Reporting Period \_\_\_\_\_

List of Program Evaluations  
Evaluations completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 27:

**§109. Form 160-4C Summary of Evaluation or Report**

Form 160-4 Department \_\_\_\_\_  
Reporting Period \_\_\_\_\_

SUMMARY OF EVALUATION OR REPORT

Title:

Entity Evaluated/Reported:

Why was Evaluation/Report initiated?

Questions/Objectives of the Evaluation/Report:

Major Findings and Conclusions:

Major Recommendations:

What action was taken in response to the Evaluation/Report?

Contact person for more information:

Name \_\_\_\_\_ Agency \_\_\_\_\_

Phone # \_\_\_\_\_ Address \_\_\_\_\_

Fax # \_\_\_\_\_ E-mail Address \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 27:

**§111. Form 160-5C Significant Recommendations**

Department \_\_\_\_\_

Reporting Period \_\_\_\_\_

Significant Recommendations from Previous Reports with No Action Taken		
Program/Project	Recommendations	Reason(s) No Action Taken

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:76 (February 1984), amended LR 27:

**Family Impact Statement**

The proposed amendment to LAC 4:I.Chapter 1 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. 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.

Interested persons should submit written comments on the proposed rules to Carolyn Lane through the close of business on April 25, 2001, at P.O. Box 94095, Baton Rouge, LA 70804-9095.

Ray Stockstill  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Annual Program Evaluation Reports**

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

There are no estimated implementation costs (savings) to state or local governmental units as a result of this action.

Preparation of annual program evaluation reports by department undersecretaries has been mandated since 1982. Current rule reflects provisions of Act 160 of 1982 (which added R.S. 36:8). R.S. 36:8 was revised by Act 911 of 1995 to change deadlines for submission of annual program evaluation reports, make submission of annual program evaluation reports by department secretaries mandatory rather than optional, and revise and clarify to which entities and persons the department report must be submitted. Proposed rule revisions would reflect the changes made by Act 911 of 1995.

Since Act 911 of 1995 made submission of these reports (prepared by undersecretaries) by department secretaries to certain executive and legislative entities mandatory rather than discretionary, departments that previously opted not to submit reports now must do so. However, copying and distributing the reports should impose no significant costs on state agencies.

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

There is no estimated effect on revenue collections of state or local governmental units as a result of this action.

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

This proposed action will result in no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

Only state government entities would be directly affected by this proposed action. For those government groups, no additional forms or documentation is required. Preparation of annual program evaluation reports by department undersecretaries has been mandated since 1982. Current rule reflects provisions of Act 160 of 1982 (which added R.S. 36:8). R.S. 36:8 was revised by Act 911 of 1995 to change deadlines for submission of annual program evaluation reports, make submission of annual program evaluation reports by department secretaries mandatory rather than optional, and revise and clarify to which entities and persons the department report must be submitted. Proposed rule revisions would reflect the changes made by Act 911 of 1995.

It is possible that program evaluations and recommendations contained in these reports may result in costs and/or economic benefits to non-governmental groups or persons directly affected by the program evaluations and recommendations reported in the mandated reports. However, implementation of this rule change regarding the preparation and submission of these reports will result in no direct costs and/or economic benefits to directly affected persons or non-governmental groups.

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

This proposed action has no estimated effect on competition and employment.

It is possible that program evaluations and recommendations contained in these reports may have an effect on competition and employment. However, implementation of

this rule change regarding the preparation and submission of these reports will have no direct effect on competition and employment.

Whitman Kling  
Undersecretary  
0105#088

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Planning and Budget**

**Repeal of Planning and Development District Program  
(LAC 4:VII.Chapter 7)**

Under the authority of R.S. 39:21, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of Planning and Budget has initiated procedures to repeal LAC 4:VII.Chapter 7.

The rule was promulgated to establish guidelines for distribution of a one-time appropriation to the state's regional planning and development districts. This appropriation was part of Act 13 of 1982, the general appropriation act of 1982. The statutory provisions authorizing promulgation of the Planning and Development District Program rules (R.S. 49:1051, 1053, and 1054) were repealed by Act 765 of 1986, effective July 1, 1986.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 7. State Planning Office**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:1051, 1053, 1054. R.S. 49:1051 to 1057, regarding the Louisiana State Planning Office, were repealed by Act 765 of 1986, effective July 1, 1986; current statutory sections, R.S. 49:1051 et seq., contain provisions related to the Louisiana Geographic Information System. Rule repeal is promulgated in accordance with R.S. 39:21.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, LR 9:12 (January 1983), repealed LR 27:

Interested persons should submit written comments on the proposed rule repeal to Carolyn Lane through the close of business on April 25, 2001, at P.O. Box 94095, Baton Rouge, LA 70804-9095.

**Family Impact Statement**

The proposed repeal of LAC 4:VII.Chapter 7 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;

5. 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.

Ray Stockstill  
Director

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

**RULE TITLE: Repeal of Planning and Development  
District Program**

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

There are no estimated implementation costs (savings) to state or local governmental units. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

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

There is no estimated effect on revenue collections of state or local governmental units. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. No funding for this purpose has been requested, budgeted, or appropriated in recent years. This program is not part of the state's base budget. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

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

There is no estimated effect on competition and employment. This was a one-time distribution of funds, appropriated by Act 13 of 1982.

Whitman Kling  
Deputy Undersecretary  
0105#056

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health  
Center for Environmental Health**

Public Water System Capacity Development  
(LAC 48:V.7711, 7713, 7717, and 7719)

Under the authority of R.S. 40:4 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH/OPH) intends to amend the

Public Water System Capacity Development Regulations, LAC 48:V. 7707-7719. These amendments will provide certain exceptions to the existing provisions such that those provisions will not encumber the ability of certain public agencies to expeditiously furnish financial aid to public water systems which qualify for such aid within the constraints required by these agencies, nor will they encumber the DHH/OPH in its implementation of the Capacity Development Strategy.

There are two public agencies, the USDA Rural Utilities Services (RUS) and the Louisiana Community Development Block Grant (LCDBG), which provide financial aid in the form of grants and loans to existing and new public water systems. These agencies have capacity requirements for systems requesting such grants or loans. These proposed amendments preclude the necessity of those systems to submit a business plan (containing capacity requirements) to DHH/OPH for grants and loans from those agencies, since these systems must meet those agency capacity requirements.

This amendment further provides for more brevity and simplification in the business plan required of existing systems. Finally, there are certain clarifications and revisions regarding management training provisions in the Capacity Development Strategy.

In compliance with Act 1183 of the Regular Session of the Louisiana Legislature the impact of this proposed Rule on the family has been considered. The proposed Rule has no known impact on family functioning, stability or autonomy as described in R.S. 49:972.

For the reasons set forth, above, it is proposed to amend LAC 48:V.7707-7719 as follows.

**Title 48**

**PUBLIC HEALTH - GENERAL  
Part V. Preventive Health Services  
Subpart XXV. Drinking Water**

**Chapter 77. Drinking Water Program  
Subchapter B. Public Water System Capacity  
Development**

**§7711. Definitions**

A. The following terms used in these regulations shall have the following meanings

\* \* \*

*Public Water System*—a system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Division of Environmental Health Services,

Office of Public Health, LR 24:1767 (September 1998), amended LR 27:

### §7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a business plan to the department to aid in the department's determination of technical, managerial and financial capacity. Required information for the business plan shall be provided by the department. The Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all new public water systems funded by either the United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) and/or the Division of Administration's (DOA) Louisiana Community Development Block Grant (LCDBG) program, provided those public water systems are certified by RUS and/or LCDGB as meeting the respective agency's minimum capacity requirements. OPH staff will continue to review plans and specifications for all new public water systems.

B. . . .

C. Management Training. As a part of meeting the managerial capacity requirements, all such new public water systems wanting to commence operation after January 1, 1999, must make arrangements to attend the next scheduled training session provided by the state, its contractors or other state recognized trainers for board members/council members/mayors, owners, etc. Such arrangements shall be made upon making application to the department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation, i.e., issuance of the permit to construct and operate, for such new public water systems will be given by the department only after the department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations. The Office of Public Health (OPH) will issue the permit to construct and operate a new public water system funded by the RUS and/or the LCDBG program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective funding agency's minimum capacity requirements and the plans and specifications are reviewed and approved by OPH staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Division of Environmental Health Services, Office of Public Health, LR 24:1768 (September 1998), amended LR 27:

### §7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a shortened and simplified business plan to the department to aid in the department's determination of technical, managerial, and financial capacity. Required information for the business plan will be provided by the department. The department and the concerned parties will revise the content of the business plan, as necessary, to adapt it to the needs of existing system capacity requirements. A grant or a loan from either RUS and/or LCDBG programs will not trigger the requirement for

submission of the business plan. The required capacity assessment of existing systems, including submission of the business plan, will be based on whether the existing water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. However, the Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all existing public water systems actively seeking funding by the RUS programs, provided those public water systems are certified by RUS as meeting their minimum capacity requirements. Such plan must be submitted to the department within six months after the initial visit by the designated party of the state who is providing assistance to the public water system in preparation of the business plan.

B. . . .

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the state, its contractors or other state recognized trainers for board members, council members/mayors/owners, etc. Management training for all board members/council members/mayors/owners of existing public water systems will be based on whether their water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. The department will continue to encourage attendance on a voluntary basis at management training sessions by board members/council members/mayors/owners of all public water systems. Training sessions shall be provided periodically and appropriate parties as noted above will have the opportunity to attend one of the scheduled sessions within six months after the system has been notified that it is being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998), amended LR 27:

### §7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the department in partnership with concerned parties and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1769 (September 1998), amended LR 27:

The Department of Health and Hospitals will conduct a public hearing at 1 p.m. on Friday, June 29, 2001, in Room 118, Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd.,

Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule on or before the hearing date. Such comments should be submitted to T. Jay Ray, Manager, DWRLF, Office of Public Health, 6867 Bluebonnet Blvd., Box 8, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Public Water System Capacity Development**

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

There are no costs or savings to state or local units except for costs involved in the publication of the proposed Notice of Intent (NOI) and the final Rule in the *Louisiana Register* (\$160.00) in fiscal year 2000-2001.

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

There is no effect on revenue collections of state and local government units.

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

There are no associated costs to be borne by directly affected persons or non-governmental agencies as a result of this proposed rule.

Public water systems affected by this change would benefit in that they would not be required to submit capacity information to both the state and the funding agencies to qualify for financial aid from the agencies.

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

No impact is expected on competition and employment.

Madeline W. McAndrew    H. Gordon Monk  
Assistant Secretary      Staff Director  
0105#052                    Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health Center for Environmental Health

Sanitary Code Water Supplies  
(LAC 48:V.Chapter 73)

The Department of Health and Hospitals, Office of Public Health, Center for Environmental Health, proposes to repeal the Rule entitled Water Treatment Plant Operator Certification consisting of the Louisiana Administrative Code, Title 48, Part V, sections 7301 through 7335, and enact a new rule consisting of LAC, Title 48, Part V, Sections 7301 through 7339 authorized by R.S. 40:1148. The Rule is promulgated in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

In order to be in accord with the final guidelines published by the United States Environmental Protection Agency

pursuant to the Safe Drinking Water Act, Section 1419 (42 U.S.C.A. 300 g-8), and as published in the *Federal Register*, February 5, 1999 (Vol. 64, No. 24, pp. 5915-5921), and avoid the loss to the state of 20 percent of its Drinking Water Revolving Loan Fund (DWRLF) allocation, the Center for Environmental Health proposes to adopt the following rule.

Also, under the authority of R.S. 40:4 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. This amendment is necessary to comply with requirements of the U.S. Environmental Protection Agency Safe Drinking Water Act Amendments (SDWAA) of 1996 as published in the *Federal Register*, (Vol. 64, No. 24, pp. 5915-5921) on February 5, 1999.

In order to remove the exemption for systems serving under 500 population, as required by the Federal Operator Certification guidelines, Chapter XII (Water Supplies) is proposed to be amended also.

The following proposed rule amendments which could have a minimal effect on family earnings and budget, they are not expected to have any effect on family stability, functioning, parental rights, authority and responsibility for children.

## Title 48

### PUBLIC HEALTH-GENERAL

#### Part V. Preventive Health Services

#### Subpart 21. Water Treatment Operator Certification Chapter 73. Certification

#### §7301. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

*Community Sewerage System* Any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

*Department* the Louisiana Department of Health and Hospitals, Office of Public Health.

*Person* Can individual, a public or private corporation, an association, a partnership, a public body created by or pursuant to state law, the state of Louisiana, an agency or political subdivision of the state, a federally recognized Indian tribe, the United States government, a political subdivision of the United States government, and any officer, employee, or agent of one of those entities.

*Operator* the individual, as determined by the Committee of Certification, in attendance on site of a water supply system or sewerage system and whose performance, judgment, and direction affects either the safety, sanitary quality, or quantity of water or sewage treated or delivered.

*Public Water System* Ca system for the provision to the public of water for potable purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7303. Certification Requirements**

A. The basic requirements for certification are set forth in R.S. 40:1141-1151.

B. The Operator of any public water system or any community sewerage system shall hold current and valid professional certification(s) of the required category(s) at or above the level for the system/facility. Additionally, an operator shall demonstrate that, when not actually on site at the facility, he is capable of responding to that location within one hour of being notified that his presence is needed.

C. Systems operating multiple shifts are required to have a minimum of one certified operator on each shift. Exact numbers of certified operators required may be determined by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7305. Categories of Certification**

A. Certifications are offered in each of the following areas (categories), of qualification:

1. water production;
2. water distribution;
3. water treatment;
4. wastewater collection;
5. wastewater treatment.

B. Water production certifications are required on all facilities which use groundwater as a source of raw water and which do not alter the physical, chemical or bacteriological quality of the water other than simple disinfection.

C. Water distribution certifications are required on all portions of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

D. Water treatment certifications are required for all operators of facilities which use surface water and/or groundwater as a source of raw water that involve complex treatment and/or which in some way alters the physical, chemical or bacteriological quality of the water. Water Treatment certification shall not be required for groundwater systems for which the only type of treatment employed is chlorination, and where the well(s) has been determined to be not under the direct influence of surface water.

E. Wastewater treatment certifications are required on all facilities which provide for the treatment of wastewater and the reduction and/or handling of sludge removed from such wastewater.

F. Wastewater collection certifications are required on all components of a sewerage system except for the sewage treatment plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7307. Levels (Classes) of Certification for Types of Facilities**

A. Required levels of certification for an operator, based on facility classification, are as follows:

Population Served	Facility Classification
<1,000	Class 1
1,001-5,000	Class 2
5,001-25,000	Class 3
Over 25,000	Class 4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7309. Operator Qualifications C General (Education/Experience)**

A. Whereas R.S. 40:1141-1151 specifies minimum operator qualifications in years, these values have been converted to "points" for ease of integration with continuing education credits and substitutions between education and experience. Operator qualifications for the various levels of certification shall be determined by minimum point values as follows:

Certification Level	Required Points
Op-In-Training	0
Class 1	1
Class 2	2
Class 3	5
Class 4	8

NOTE: A minimum educational requirement of a High School Diploma (or G.E.D.) is applied to ALL levels of certification. Required point values for education and experience are in addition to this minimum level of education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7311. Operator Qualifications C Substitutions/Assignment of Point Values**

A. Point values for education, continuing education, and experience are assigned as follows.

1. Education
  - a. Each year of formal college education (minimum of 30 semester hours) = 1 point
  - b. Each year of formal graduate level education = 1.5 points
  - c. Each semester hour (credit) for college-level courses = 0.033 point
  - d. Each 40-hour qualified, approved training course = 0.10 point
  - e. Each 8 hours of qualifying, approved continuing education = 0.02 point
  - f. Each 1 hour of qualifying, approved continuing education = 0.0025 point

2. Experience
  - a. Each year of qualifying operator experience = 1 point
  - b. Each year of qualifying related experience = 0.5 point
  - c. Each year of qualifying supervisory experience = 1.5 points

NOTE: No more than 75 percent of the total required points for any level may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7313. Professional Certification**

A. All persons seeking professional certification must pass a written examination with a grade of 70 percent or higher, and meet minimum education/experience requirements in the category in which he seeks certification. Exams shall be conducted in the English language.

B. Certificates must be displayed by the holder in a prominent place in the classified facility. Additionally, at such time as a certified operator is issued a certified operator identification card, the operator shall carry his identification card on their person while on duty in the classified facility. Failure to do so may be considered grounds for revocation of the certificate in accordance with R.S. 40:1145(D).

C. Certificates shall be valid only so long as the holder uses reasonable care, judgment, and knowledge in the performance of his/her duties. No certificate will be valid if obtained or renewed through fraud, deceit, or the submission of inaccurate qualification data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7315. Limited Certificates**

A. Only those limited certificates issued prior to the effective date of these rules, in compliance with R.S. 40:1141-1152 remain valid, and shall remain valid only for the system in which the operator was previously employed and for the conditions of operations and duties involved on the original effective date of this rule. Limited certificates shall be renewable upon application provided the requirements for renewal without reexamination for certificates of even grade are satisfied. Persons granted limited certificates and renewals of limited certificates shall pay the same fees as are fixed for mandatory certificates of like grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7317. Operator-in-Training**

A. Operator-in-Training certificates may be granted to newly hired personnel, who have not previously been certified, or who have not held any type of certification for in excess of two years, and who do not presently qualify for certification. Such individuals may make application for the appropriate category (water, wastewater) of operator-in-training certificate. The certification officer will then begin maintaining records of all approved education, training and experience credits accumulated by the operator-in-training. An operator-in-training certificate shall be valid for a period

of 24 months from the date of issue, and may be renewed in the same manner as provisional or professional certificates. Operators-in-training may not be designated as the operator of the system/facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7319. Provisional Certificate**

A. A provisional certificate may be issued to any applicant who successfully passes an examination. Provisional certificates shall not qualify an individual to serve as the operator of a facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7321. Examinations C General**

A. The committee of certification has established open examination periods for water and/or wastewater operators to be examined. They are as follows.

1. One annual open exam shall be conducted at the conclusion of the annual Louisiana Conference on Water Supply, Sewerage and Industrial Waste "Short Course," meeting which is held in various locations around the state. This meeting is usually held in March of each year.

2. One open exam shall be conducted at the conclusion of the Louisiana Rural Water Association Annual Conference, usually held in June or July of each year.

3. Other open examinations may be scheduled at other locations as determined by the committee of certification based on their determination of need subject to provisions of §7305 of these rules.

4. Application for examinations to be given following scheduled training courses, seminars, workshops, etc., (as listed in §7329 and §7331 of these rules) will be considered on a case-by-case basis by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7323. Examinations C Individual Operator**

#### **Requirements**

A. Individual operators must make written application to the committee of certification to take each examination or series of examinations. The application forms will be made available to the examinee prior to the exam period with ample time given to allow completion prior to the actual exam period. The operator (examinee) carries the responsibility for the accuracy of the information contained in the application.

B. Applicants for certification examinations must pay the prescribed exam fee at the conclusion of testing (see §7333 of these rules).

C. All examinations shall be administered in the English language. Requests for examinations to be administered orally may be considered by the administrator, upon written request by an applicant, submitted at least 30 days in advance, with verifiable proof from a physician that the applicant has a medical condition temporarily preventing him from taking the examination in the conventional manner.

D. Exams shall be taken and passed in sequence from the Class 1 to the Class 4.

E. Applicants may not apply to take or take examinations for certification higher than one level above that for which they are currently qualified.

F. If an applicant takes an examination and fails to attain a passing grade (70 percent or higher), he must wait a minimum of 90 days before he can take another exam in the same category and level. After three failed attempts at the same examination, an applicant will be required to attend a 40-hour training course before retesting will be allowed.

G. All examinations will be graded by Department of Health and Hospitals personnel and retained for two years. The examinee will be notified of the results. Examinations will not be returned to the examinee, but may, upon written request, be reviewed in the Operator Certification Program Office in Baton Rouge within 30 days following receipt of the notification of results.

H. Individuals caught cheating during the operator certification examinations or found to have prejudiced these exams or applications in any way shall be entitled to an administrative hearing before the committee of certification. If the committee finds that valid grounds exist, it shall revoke the subject's current certificate, it may refuse to certify the applicant and it may reject future applications. As provided in the Administrative Procedure Act, an aggrieved party may seek judicial review of the committee of certification's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7325. Application for Certification**

A. All applications for certificates shall be addressed to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Applications for certificates must be accompanied by the prescribed fees.

B. All initial applications for any category of either new certificates or renewal certificates received subsequent to the effective date of this rule, shall be accompanied by a "Certification Law and Rules Examination" to be completed by the applicant as part of the application process.

C. Applicants who pass the required examinations, and meet the minimum education and experience requirements, and are actively employed by a water or wastewater system, will be notified that they may apply for the earned professional operator certification.

D. Applicants who pass an examination but do not meet the education and experience requirements will be notified of what education and/or experience and/or training is required to qualify. Such applicants, upon payment of the prescribed fee, will be issued a provisional certification in the classification(s) for which they have passed the examination(s). At whatever time the applicant qualifies, an application with the necessary fee must be submitted or re-examination may be required.

E. Individuals who have combined work experience in both water and wastewater may make written application to the certification committee for credit toward certification in either or both of the two categories. The work experience

will be listed in a detailed resumé application which details the overlapping areas of work responsibility. This application will be certified by the immediate supervisor of the individual requesting certification. The committee of certification will rule on each individual application as presented. These applications will be reviewed twice a year by a screening subcommittee composed of members of the operator certification committee.

F. One individual may be designated as the operator over (several) more than one water or wastewater system or district provided that he can demonstrate that he is actively involved on a day-to-day basis in the operation of each of the systems, and is able to respond to the systems locations within one hour of notification that his presence is required.

G. Experience must be in actual water system or sewage system operation or its approved equivalent and must be in the field applying to the respective certificates. Experience as foreman or supervisor in most capacities in water and sewerage systems may be considered acceptable. Experience in purely clerical capacity, such as accounting, bookkeeping cannot be considered as acceptable experience. Experience in narrow technical capacities, such as laboratory technicians or meter readers may be considered for partial credit by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7327. Renewal and Recertification**

A. Renewal Requirements. In order to qualify for renewal in any and all classes, all operators of water and sewerage works shall enumerate, certify and provide evidence that he/she has attended minimum of 8 contact hours of approved operator training for each certification held during the previous two-year certification period, with a total minimum of 16 hours of approved operator training for each category (water or wastewater) in which he was certified during the previous two-year period. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate. Approved training is defined as the completion of any of the training courses listed in §7329. It is strongly recommended that course outlines (or lesson plans) for other proposed in-service training be submitted for approval prior to the proposed date of training.

B. Recertification. Operators for whom certification has been expired in excess of two years are not eligible to renew their license(s), and shall be required to reapply for certification under the provisions of this Rule. In such cases, applicants shall be re-examined and shall demonstrate compliance with appropriate education and experience requirements before any certificates will be issued. In those instances where an operator's license has previously been revoked by the committee, the committee shall recommend any additional requirements for recertification that are deemed appropriate, and rule on the operator's eligibility to reapply for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7329. Training-General**

A. Training Courses Available. In order for the training courses identified in Paragraph B of this Section to be approved by the administrator of the Operator Certification Program for training credits on the individual operator's record, the course must meet the following general requirements.

1. The administrator must have on file a copy of the course outline of the training course, seminar, workshop, etc. to make his approval decision.

2. Information must include dates, place held, sponsoring organization, speakers/instructors and time (length of subject), and target audience (category and levels of certification addressed).

3. No blanket approvals (from year to year) will be given or implied and a separate approval must be given by the Operator Certification Program each time training is given. On doubtful courses, the administrator will bring the matter to the committee of certification for disposition. (An aggrieved applicant may apply for an administrative hearing to be conducted by a panel of the committee of certification.)

4. Operators shall be responsible to assure the sponsoring organization submitting his certified transcript of training credits earned to the administrator.

B. Training courses, short courses, technical sessions, seminars, workshops, etc., recognized by both the committee of certification and Department of Health and Hospitals, OPH include, but are not limited to the following:

1. annual short course of the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

2. regional conferences of one or more days sponsored and/or co-sponsored by the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

3. American Water Works Association Annual Conferences, technical sessions, seminars and workshops;

4. National Association of Water Companies Annual Conferences seminars and workshops;

5. Southwest Section, American Water Works Association Annual Conference, technical sessions, seminars and workshops;

6. college or university and vocational-technical sponsored water and/or wastewater courses, as approved by the certification committee;

7. Water Environment Federation Annual Conference, regional meetings, technical sessions, seminars and workshops;

8. Louisiana Water Environment Association regional meetings, technical sessions, seminars and workshops;

9. Louisiana Rural Water Association annual training and technical conference, regional meetings, technical sessions, seminars and workshops;

10. Louisiana Environmental Training Center, at University of Louisiana at Lafayette, training courses, technical sessions, seminars and workshops;

11. regional meetings, technical sessions, seminars, workshops and/or training programs, sponsored and/or co-sponsored by the Department of Health and Hospitals, or the Department of Environmental Quality;

12. water and/or wastewater operator training courses approved for certification examinations by the committee of certification;

13. short schools, technical courses, seminars, workshops and training programs sponsored by other states.

C. A water and/or wastewater organization or utility not listed above may apply to the committee of certification for recognition and approval to conduct a training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

### **§7331. Examinations in Conjunction with Training Courses**

A. Applicants for approved training courses may request that certification exams be conducted following the completion of the course. In order to obtain approval from the committee of certification, the applicant (sponsoring individual or organization) must comply with the following requirements and rules.

B. The applications must be submitted to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

C. Applications must be submitted 30 days prior to the beginning of the course.

D. No exam shall be conducted without prior written approval.

E. Blanket approval for training courses and exams will not be given by the committee of certification, i.e., each training course and each exam period must be approved according to these rules.

F. No exam shall be approved to follow a training course consisting of less than 32 hours. An exception to this rule may be granted to the Louisiana Conference on Water Supply, Sewerage and Industrial Waste as this organization and its sub-organizations comprise the official training arm of the committee of certification.

G. Approval will be given to conduct exams only at the level of training and for areas of instruction given at the training course, i.e., for training in Class I, II, III or IV in production, treatment or distribution, or wastewater collection or treatment.

H. The level and area of training for which the course is designed must be stated in the application.

I. The applicant must submit a detailed course outline to include:

1. the goal of the training course;
2. which operators in water and/or wastewater would benefit from taking the course;
3. each subject to be covered;
4. a formal lesson plan for each subject area to be covered;
5. the number of hours covered in each subject;
6. what references will be supplied in the course;
7. what references and materials the student should bring to the course.

J. The applicant must submit the names of all instructors, and their qualifications, including their education and work experience credentials and their certification levels. Instructors shall possess, at a minimum, a "provisional" certification in the subject area covered; or, shall have completed a qualified instructor training course or equivalent; or, be specifically accepted by the committee based upon their credentials.

K. Only those examinations prepared under the auspices of the administrator and the committee of certification will be recognized for certification.

L. All examinations will be conducted and monitored by members of the staff of the Louisiana Department of Health and Hospitals and/or members of the committee of certification. No exams will be conducted without the presence of a sufficient number of monitors approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

#### **§7333. Examination Fees**

A. All fees for examinations shall be paid to the committee of certification.

B. Examination Fees shall be established as authorized by the Legislature, but in no case shall be less than \$5 per exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

#### **§7335. Certification Fees**

A. Certificate fees, in addition to the examination fee, shall be:

1. collected for issuance, renewal and/or reciprocation of all classes of certificates. The amount of the certificate fee shall be as established by the legislature, but in no case shall be less than \$10 for certification in the first category in water and/or sewerage and an additional \$5 for each added category;

2. communities, municipalities, utilities and/or corporations may elect to utilize a flat fee system regarding their employees' certification. For a fee of \$50 per year for either field of water or sewerage or \$100 per year for both, all eligible operators may be certified, either initially or renewed. In addition to the flat fee, there will be a \$5 per certificate charge for each certificate issued. In the instance of the flat fee, the individual operators at each facility will be the responsibility of the principal of the organization and shall be submitted with each renewal (flat fee) payment;

3. duplicate certificates will be issued for a fee of not less than \$5 per certificate.

4. water and wastewater operator certificates will be renewed on a two-year basis, with the fees remaining at the same annual rates as are currently in effect but collected every two years.

5. fees are to be paid in the form of a check or money order made payable to the Committee of Certification, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. In addition to payment of the prescribed fee, the applicant must enumerate, certify and provide evidence that he/she has attended at least 16 hours of approved operator training hours for each field in which certified during the previous two-year period. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

#### **§7337. Reciprocity**

A. Reciprocity shall be granted at the discretion of the committee of certification, without examination, to holders of comparable certificates issued by other states, territories, or possessions of the United States. The applicant for a certificate under the reciprocity clause must submit his application on an official application blank, obtainable from the administrator. The application must be accompanied by the appropriate fee. The applicant must submit a copy of his certificate or other proof, satisfactory to the committee of certification that he holds a certificate issued by a governmental agency of another state, territory or possession of the United States. Such certificates must have been received after passage of an examination at least equivalent to that given by the Louisiana committee of certification for the level of competency for which application is made.

B. The burden of proof to submit sufficient information for the committee of certification's consideration shall be upon the applicant. If, after receiving such an application, the committee of certification is satisfied that the applicant qualifies for a certificate, it may, at its discretion award him a certificate in the appropriate grade. A reciprocal certificate will not ordinarily be issued unless the applicant is employed, or has accepted employment, in a Louisiana water or wastewater facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

#### **§7339. Notification**

A. Failure to receive any notices previously mentioned does not relieve the certificate holder or applicant from complying with the rules of the committee of certification. The burden is upon the certificate holder or applicant to provide the committee of certification with a current mailing address.

B. Any request for applications, training course approvals, reciprocity, etc., and/or questions on operator certification should be addressed to: Administrator, Operator Certification Program, DHH-OPH, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

Proposed amendment to Chapter XII of the Sanitary Code, State of Louisiana reads as follows:

#### **Sanitary Code, State of Louisiana**

#### **Chapter XII (Water Supplies)**

\* \* \*

**12:003-2: Plant Supervision and Control:** All public water supplies shall be under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

\* \* \*

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Friday, June 29, 2001, in Room 118 of the Blanche Appleby Computer Complex Building, 6867 Bluebonnet Boulevard, Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on or before the hearing date. Such comments should be submitted to G. Wayne McCartney, Administrator, Operator Certification Program, Office of Public Health, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810 or faxed to (225)765-5040.

David W. Hood  
Secretary

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

**RULE TITLE: Sanitary Code C Water Supplies**

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

The DHH-OPH will have to pay a total of approximately \$800 in FY 00-01 funds to the Office of the State Register to have the notice of intent and the final rule published in the *Louisiana Register*.

Water/wastewater systems serving under 500 population which would be added to the requirement for a certified operator, may incur some additional expense. This should be minimal in most cases, dependant on whether the system/municipality opts to pay for testing and certification fees or requires their operator to pick up this expense themselves. It is also possible that some systems may need to increase the allotted salary for their system operators. This expense could be passed on the customers with a slight increase in rates.

New regulations will necessitate increased data management capabilities and tracking of the new and existing certified operators. It is anticipated that equipment additions and upgrades (computers, software, etc.) to accomplish this will cost approximately \$8,750 per year.

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

State or local governmental units which own, manage, and/or operate a community waste/wastewater system may determine a need to increase their revenue collections (i.e., increase water bills) to cover any increased costs of complying with the operator certification rule. If such increases do occur, it should be in only a very small number of instances since most systems have certified operators already employed and will encounter no new expense.

Adoption of the proposed water treatment certification rule would add approximately 1,000 water systems serving under 500 population to the existing inventory already tracked by the agency. Of these systems, we anticipate an increase of about 250 tests given and about the same number of certificates applied for each year. At the current rate of \$5 per exam and an average of \$30 per applicant for issuance of certificates, the self-generated revenues for the program should see an increase of approximately \$8,750 per year beginning in FY 02-03.

Also to be considered, with the adoption of the new rule, approximately \$2,176,460 in federal funds would be released to the state as part of the Drinking Water Revolving Loan Fund (DWRLF) FY 2001 grant. A similar amount would be forthcoming in the following fiscal year. This is as a result of a USEPA requirement to hold back 20 percent of the state's unawarded FY 2001 funds (\$10,882,300) and FY 2002 funds (amount not yet determined). If the state's Operator Certification Program is not approved by September 20, 2002, these funds will be permanently lost to the state.

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

A small number of consumers may have a minimal increase in their service rates as a result of charges being passed on to them by their providers.

Most directly affected by this new rule will be operators of very small systems which were previously exempt from certification. As an operator certified by the state of Louisiana, these people will possess a professional license which could open employment opportunities both within the state as well as within other states which have a reciprocal agreement with Louisiana.

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

No impact is expected on competition and employment.

Madeline McAndrew  
Assistant Secretary  
0105#053

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Adult Denture Program  
Reimbursement Fee Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to increase the reimbursement fees for certain designated procedure codes. In addition, the bureau established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register*, Volume 27, Number 1). The bureau requires Adult Denture Program providers to process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This requirement is applicable to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp and lower acrylic partial w/clasp. The bureau now proposes to adopt a rule to continue the provisions contained in the January 21, 2001 emergency rule.

## NOTICE OF INTENT

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

The text of this proposed rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Adult Denture Program C Reimbursement Fee Increase**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$207,968 for SFY 2000-01, \$486,827 for SFY 2001-02, and \$501,432 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$496,446 for SFY 2000-01, \$1,155,640 for SFY 2001-02, and \$1,190,309 for SFY 2002-03.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Implementation of this proposed rule will increase Medicaid payments to providers of adult denture services by approximately \$704,294 for SFY 2000-01, \$1,642,467 for SFY 2001-02, and \$1,691,741 for SFY 2002-03.  
Recipients will benefit by having unique identification information processed into all new removable dental prosthetics reimbursed under the Medicaid program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0105#060

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### Disproportionate Share Hospital Payment Methodologies Provider Based Rural Health Clinics

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule to establish the provisions governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This March 20, 1998 rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The bureau provides coverage and reimbursement for rural health clinic services under the Medicaid Program. In addition, the bureau issues disproportionate share payments to qualifying rural hospitals for uncompensated costs. Currently, the uncompensated costs of rendering health care services in a provider based rural health clinic are not considered in the calculation of the hospital's uncompensated costs. The bureau adopted an emergency rule to include the uncompensated costs of a provider based rural health clinic in the calculation of the rural hospital's uncompensated costs (*Louisiana Register*, Volume 27, Number 4). This rule was adopted to enhance access to primary healthcare services. The bureau now proposes to adopt a rule to continue the provisions contained in the April 10, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

#### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payments to small rural hospitals by including the uncompensated costs of health care services provided in a rural health clinic that is licensed as part of the small rural hospital in the calculation of the hospital's uncompensated costs. Qualifying hospitals must meet the qualifying criteria contained in section II. E and either

section II. A, B, or C of the May 20, 1999 rule. In addition, qualifying hospitals must meet the definition for a small rural hospital contained in III. B.1. of the March 20, 2000 rule. Qualifying hospitals must maintain a log documenting the provision of uninsured care in the rural health clinic as directed by the department. All other provisions contained in the May 20, 1999 rule shall remain in effect as previously promulgated.

The disproportionate share payments to each qualifying rural hospital shall continue to be equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 2000 through March 31, 2001, multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs or the amount appropriated. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

Implementation of this rule shall be subject to the approval of the Health Care Financing Administration.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Disproportionate Share Hospital Payment Methodologies C Provider Based Rural Health Clinics

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

There are no estimated implementation costs to the state as a result of this proposed rule. It is anticipated that certified match will be obtained through intergovernmental transfer from public rural hospitals. The certified match will be approximately \$492,474 for SFY 2000-01, \$2,291,236 for SFY 2001-02, and \$2,359,972 for SFY 2002-03. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,175,686 for SFY 2000-01, \$5,438,978 for SFY 2001-02, and \$5,602,148 for SFY 2002-03.

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

Implementation of this proposed rule will increase disproportionate share payments to the eight rural hospitals that

own twelve rural health clinics by approximately \$1,668,000 for SFY 2000-01, \$7,730,214 for SFY 2001-02, and \$7,962,120 for SFY 2002-03. It is possible that this program could expand if additional rural hospitals choose to open new rural health clinics.

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

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0105#059

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Early Periodic Screening Diagnosis and Treatment (EPSDT) Dental Program C Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the 7 percent reduction to the reimbursement rates for EPSDT dental services was restored and the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7). The bureau subsequently determined that it was necessary to make additional increases to the fees for certain designated procedure codes in order to be in compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature. In addition, the bureau established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register*, Volume 27, Number 1). The bureau requires EPSDT dental providers to process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This requirement is applicable to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp, lower acrylic partial w/clasp, upper cast partial/acrylic and lower cast partial/acrylic. The bureau now proposes to adopt a rule to continue the provisions contained in the January 21, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no

known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

The text of this proposed rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Early Periodic Screening Diagnosis and  
Treatment (EPSDT)C Dental ProgramC Reimbursement  
Fee Increase**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$19,663 for SFY 2000-01, \$45,854 for SFY 2001-02, and \$47,230 for SFY 2002-03. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$46,834 for SFY 2000-01, \$108,849 for SFY 2001-02, and \$112,114 for SFY 2002-03.

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

Implementation of this proposed rule will increase Medicaid payments to providers of EPSDT dental services by approximately \$66,337 for SFY 2000-01, \$154,703 for SFY 2001-02, and \$159,344 for SFY 2002-03.

Recipients will benefit by having unique identification information processed into all new removable dental prosthetics reimbursed under the Medicaid program.

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

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0105#058

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Labor  
Office of the Secretary**

**Drug-Free Workplace and Testing (LAC 40:XXI.101-117)**

In accordance with the provisions for rule adoption under R.S. 49:950 et seq., the Administrative Procedure Act, and by virtue of the statutory authority vested by R.S. 36:304(3), notice is hereby given that the Office of the Secretary proposes to adopt the following rule.

The proposed adoption of such rule shall serve to fulfill the commitment of Executive Order MJF 98-38 for a drug-free workplace for the public employees of Louisiana and to therewith develop and implement drug testing programs pursuant to R.S. 49:1001, et seq.

**Title 40  
LABOR**

**Part XXI. Drug-Free Workplace and Drug Testing  
Chapter 1. General Provisions**

**§101. Declaration of Policy**

A. The employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well being of those employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

B. The state of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana legislature enacted laws, which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001, et seq.

C. The Department of Labor fully supports these efforts and is committed to maintaining a drug-free workplace, and a workforce free of substance abuse.

D. Employees are prohibited from reporting for work or performing work for the department with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on any official state business, on duty or on call for duty.

E. To assure maintenance of a drug-free workforce, the Department of Labor shall implement a program of drug testing, in accordance with Executive Order Number MJF 98-38; R.S. 49:1001, et seq.; and all other applicable federal and state laws, as set form below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

### §103. Applicability

A. This policy shall serve as notice and shall apply to all employees and appointees of this department as well as potential employees and potential appointees. All persons having an employment relationship, whether classified, unclassified, student employees, student interns, full-time, part-time or temporary, and/or restricted job appointments, are subject to this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

### §105. Responsibility

A. All employees are responsible for reporting for duty in the physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner. All employees are responsible for promptly and cooperatively submitting to drug testing when required to do so.

B. The human resources director, after approval by the appointing authority, is responsible for administering the drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing service provider and from the medical review officer; and, collecting all appropriate documents necessary for the department's defense in the event of legal challenge. This will be done in consultation with the applicable appointing authority.

C. All supervisory personnel are responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its content.

D. The Secretary of Labor is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

### §107. Definitions

*Controlled Substance* Ca drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

*Designer (Synthetic) Drugs* Cthose chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

*Employee* Cunclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g., full-time, part-time, temporary, etc.).

*Illegal Drug* Cany drug which is not legally obtainable or which has not been legally obtained to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

*Reasonable Suspicion* Cbelief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

*Safety-Sensitive or Security-Sensitive Position* Ca position determined by appointing authorities to contain duties of such nature that the compelling state interest to keep the workplace and employee drug-free outweighs the employee's privacy interests. Such positions within the department will be determined with consideration of statutory law, jurisprudence, the practices of this agency and examples provided by the executive order and the Division of Administration. Some examples in the Department of Labor are:

1. positions with duties that are required or authorized to perform safety inspections of a structure;
2. positions with duties that are required or may be authorized to carry a firearm;
3. positions with duties that are required or are authorized to exercise any responsibility over power plant equipment;
4. positions with duties that require on the job instructing or on the job supervising of any person to operate or maintain heavy equipment or machinery;
5. positions with duties that require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

*Under the Influence* Cfor the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

*Workplace* Cany location on department property, including all property, offices and facilities (including all vehicles and equipment), whether owned, leased, or otherwise used by the department or by an employee on behalf of the department in the conduct of its business, in addition to any location from which an individual conducts department business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

### §109. Conditions Requiring Drug Tests

A. The Department of Labor shall require drug testing under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts

derived from direct observation of the employee's appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

2. Post-Accident/Incident

a. Each employee directly involved in an on duty accident shall be required to submit to drug testing if the accident:

i. involves circumstances leading to a reasonable suspicion that the accident may have involved the employee's drug use and the employee's action or inaction may have been a causative fact;

ii. results in a fatality; or

iii. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

b. Only an appointing authority shall require an employee to submit to post-accident/incident testing. This decision may be based upon the recommendation of supervisory personnel at the thoroughly reviewed the circumstances of the accident/incident. (There may also be some consultation with the department's safety officer). The supervisor will fully document the facts upon which the recommendation for testing is made as soon as it is feasible to do so.

3. Return to Duty/Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the department following an incident involving substance abuse shall be required to submit to random drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the human resource director following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

5. Promotion/Position Changes/etc. to Safety Sensitive and Security Sensitive Positions. Employees are required to undergo drug testing prior to being promoted, reassigned, temporarily detailed, or demoted, to a safety or security sensitive position. An offer of any of these actions will be withdrawn if a positive drug test is reported, and employees are further subject to disciplinary action.

6. Random Testing for Safety-Sensitive and Security-Sensitive Positions. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to a drug testing as required by the appointing authorities, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

**§111. Procedure**

A. Drug testing pursuant to this policy shall be conducted for the presence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. The Department of Labor reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

B. The human resource director shall be involved in any determination that one of the above-named conditions requiring drug testing exists. Upon such determination, the human resource director shall notify the supervisor of the employee to be tested, who shall immediately notify the employer where and when to report for the testing.

C. A provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws shall perform testing services. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimens and the privacy of the donors. The human resource director and appointing authority shall review and concur in advance with any decision by collection site person to obtain a specimen under direct observation. A same gender collection site person shall conduct observation.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. A Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratory shall perform testing.

4. The laboratory shall use a cut-off of 50 ng./ml. for a positive finding in testing for cannabinoids (marijuana metabolites).

5. All positives reported by the laboratory must be confirmed by gas chromatography/mass spectrometry.

6. The laboratory shall report all positive results of drug testing to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

**§113. Confidentiality**

A. All information, interviews, reports, statements, memoranda, and/or test results received by the Department of Labor through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

B. In compliance with R.S. 49:1011, any employee, upon learning of a confirmed positive test result, shall, upon written request, have the right of access, within seven working days, to records and other documentation relating to the drug testing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

**§115. Employee Assistance Program (EAP)**

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the department's Employee Assistance Program in the Office of Equal Opportunity and Compliance. Any such involvement will be held in strict confidence, but employees should know that supervisors, cost center managers, and/or appointing authorities will be kept abreast of the employee's treatment and leave needs.

B. Employees referred to the EAP Coordinator by supervisory personnel or who, as a condition of continued employment, participate in a substance abuse rehabilitation program will be subject to the return to duty/rehabilitation monitoring testing set forth in this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

**§117. Violation of Policy**

A. Violation of this policy, including refusal to submit to drug testing, will result in adverse actions, including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and an opportunity to respond prior to any recommended disciplinary action.

B. Illustrative examples of violations of such drug-testing policy which shall cause recommendation for disciplinary action include but are not limited to:

1. refusal to submit to a drug test;
2. failure to cooperate in any way which prevents the timely completion of a drug test;
3. submission of an adulterated or substitute sample for drug testing;
4. buying, selling, dispensing, distributing, possessing, using, any illegal or unauthorized substance;
5. operating any vehicle while on duty under the influence of drugs;
6. positive drug test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

All interested persons are invited to submit data, views, comments, or arguments, in writing, on the proposed rule to Joanna B. Wilson, General Counsel, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094, or by FAX (225) 342-7596 no later than 5 p.m. Wednesday, June 20, 2001.

**Family Impact Statement**

1. Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulate drug testing of department employees in the workplace.

2. Effect of the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules do not address education or parental supervision.

3. Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. Effect on Family Earnings and Family Budget. These rules should have no effect on the behavior and personal responsibility of children as the rules apply only to department employees.

5. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to department employees.

Dawn Watson  
Deputy Secretary

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

**RULE TITLE: Drug-Free Workplace and Testing**

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

In order to conduct drug testing for all new hires and to implement random employee testing, including any promotions to safety-sensitive positions and any suspicious accidents which may occur within the fiscal year of 2001-2002, the estimated statewide costs are \$9,024 at \$23.50 per test for all agency offices under the state contract with Section Drug Screening Company, as follows:

Projected new hire of 264 (based upon the average of the first quarter, 2001: \$6,204.

Projected random employee testing of 120, including safety-sensitive promotions (based upon 10 employees per month: \$2,820.

Total estimated implementation costs: \$9024.

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

There shall be no effect on revenue collections of state or local governmental units as the result of implementation of a rule for a drug-free workplace and drug testing.

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

The implementation of a drug testing policy shall not cause agency employees to incur any costs, other than be subject to disciplinary action for positive test results.

There shall neither be any economic benefits gained by agency employees under such policy, other than the degree of chance of hire or promotion in comparison to other competing individuals who test positive to drug testing.

No other known persons or nongovernmental groups are anticipated to economically gain from the implementations of such drug testing policy, other than the general public of the state of Louisiana shall be better assured of the safety and productivity of state government.

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

It is not anticipated that the aforementioned degree of chance of hire or promotion shall be significant.

Dawn R. Watson  
Deputy Secretary  
0105#089

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Board of Private Investigator Examiners

Application (LAC 46:LVII.501)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Louisiana Department of Public Safety and Corrections, Louisiana State Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, amending Chapter 5, Section 501, to delete the requirement for a consent for service of process to be included on the application form for out of state licensees.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Louisiana State Board of Private Investigator Examiners.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LVII. Private Investigator Examiners

#### Chapter 5. Application, Licensing, Training, Registration and Fees

##### §501. Application

A. The board shall issue a two-part application.

1. Part I shall be designated for investigative agencies; and

2. Part II shall be designated for individual investigators.

B. Applications shall be sent to all persons requesting application for licensing in the State of Louisiana.

C. The application shall contain the following information:

1. the minimum statutory requirements for obtaining a license in the state of Louisiana;

2. instructions explaining requirements of the application; and

3. a schedule of licensing fees for an agency and individual.

D. Information requested on the application shall include the following:

1. company, partnership or corporation history;

2. personal history;

3. marital status;

4. education;

5. military service;

6. employment history;

7. character references;

8. investigative history;

9. miscellaneous questions regarding:

a. involvement of overthrow by force of our government;

b. crimes involving moral turpitude;

c. felony convictions; and

d. any unfavorable background incidents the applicant should share with the board; and

10. notarized statement confirming the accuracy of the information contained in the application.

E. If the applicant is a sole proprietor, he must furnish a copy of his occupational license with the application.

F. Applicants must submit appropriate fees along with the application. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

G. No person shall make an application to the board as qualifying agent unless that person intends to maintain and does maintain supervisory position on a regular, full-time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993), amended LR 27:

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on June 9, 2001.

A copy of the rule may be obtained from the LA State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, Louisiana 70808, telephone number (225) 763-3556.

Charlene Mora  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Application

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

There will be no implementation cost for this rule change. This rule deletes a requirement that application forms for out of state licenses include a signed consent for service of process.

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

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

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

There should be no significant costs or economic benefits to any persons or groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Celia R. Cangelosi  
Attorney  
0105#020

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Board of Private Security Examiners

Firearm Training (LAC 46:LIX.301 and 405)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary gives notice that rulemaking procedures have been initiated to amend the

Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX.301 and 405, as follows.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LIX. Private Security Examiners**

**Chapter 3. Security Officer Registration**

**§301. Qualifications and Requirements for Security Officer Registration**

A. - G ...

H. An applicant who will be registered to carry a weapon must be trained in that weapon prior to carrying such on a job site and verification of training must be submitted by the licensee to the board at the time application is made. If the applicant has not been trained, then the licensee shall register the applicant as unarmed until such time as required training has been received and proof of training submitted to the board. If the training is received after 30 days, then a \$10 status change fee must be submitted in accordance with the rule for status changes.

I. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:

**Chapter 4. Training**

**§405. Firearms Training**

A. - B. ...

C. Successful completion of firearms training also includes the security officer passing the board required firearms proficiency course by achieving a minimum marksmanship qualifying score of 80 percent.

D. - F.4.c.ii.(b). ...

G Semiautomatic Handgun

1. A board-licensed semiautomatic firearms instructor must train the officer in the use of a semiautomatic handgun prior to him carrying such weapon on a job site. The board-licensed semiautomatic firearms instructor must meet the same qualifications of a firearms instructor as required by R.S. 37:3284.

2. The semiautomatic proficiency course used by the firearms instructor must be certified by the National Rifle Association, Department of Energy or P.O.S.T., and proof of such certification shall be submitted to the board for approval and verification.

H. - H.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 15, 2001, at 4:30 p.m.

to Wayne R. Rogillio, Executive Secretary, Louisiana State Board of Private Security Examiners, P.O. Box 86510, Baton Rouge, LA 70879-6510.

Wayne R. Rogillio  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Firearm Training**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Neither costs nor savings to state or local governmental units are involved in these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections of state or local governmental units is anticipated from these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No significant costs or economic benefits to directly affected persons or governmental groups are expected from these rule changes. Only those persons in the private security industry would be directly affected by the amendment of the board's existing rules and regulations, and no additional costs, workload adjustments or paperwork will be incurred.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition and employment is anticipated from these rule changes.

Wayne R. Rogillio  
Executive Secretary  
0105#055

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Operating Standards  
(LAC 42:VII.2953, 3304, 3305; IX.2922,  
3304, 3305, and XIII.2953, 3304, 3305)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt amendments to LAC 42:VII.2953, 3305, IX.2922, 2923, 3305 and XIII.2953, 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924 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 VII. Pari-Mutuel Live Racing Facility  
Slot Machine Gaming**

**Chapter 29. Operating Standards**

**§2953. Promotions**

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all

federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with Subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee, and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;
2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;
3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

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 26:768 (April 2000), amended LR 27:

#### **§2954. Tournaments**

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid

to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

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 27:

### **Chapter 33. Surveillance**

#### **§3304. Surveillance Personnel Employment Provisions**

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee.

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 27:

### **§3305. Surveillance and Division Room Requirements**

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G The division room shall be furnished with all necessary furniture and fixtures as specified by the division and shall be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 26:771 (April 2000), amended LR 27:

## **Part IX. Landbased Casino Gaming**

### **Chapter 29. Operating Standards**

#### **§2922. Promotions**

A. All promotional programs, including contests and tournaments, conducted by or on behalf of the Casino Operator or the Casino Manager shall comply with the Act and these Regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The Casino Operator or the Casino Manager conducting the promotional program is responsible for ensuring that all promotional programs of the Casino Operator and Casino Manager are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons in the official gaming establishment or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the Casino Operator or Casino Manager. If the Casino Operator or the Casino Manager intends to offer coupons, scrip, and cash equivalents as part of a promotion it shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the Division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the Casino Operator or the Casino Manager, and may not be considered a payout for purposes of calculating Gross Gaming Revenue.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;

2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the Casino;

3. no payment or purchase of anything of value, including chips or tokens from the Casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the Casino Operator or Casino Manager to respond and correct deficiencies or violations appropriate under the circumstances, the Division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:

#### **§2923. Tournaments**

A. All gaming tournaments conducted by or on behalf of the Casino Operator or the Casino Manager are subject to prior written approval by the Division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously authorized by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of a gaming tournament shall be made in writing and received by the Division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included for purposes of determining Gross Gaming Revenue. No cost incurred by the Casino Operator or Casino Manager associated with holding the tournament shall be deducted from the entry fees before calculating Gross Gaming Revenue. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating Gross Gaming Revenue. No other deductions shall be made for purposes of calculating Gross Gaming Revenue. The Casino Operator or Casino Manager shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating Gross Gaming Revenue.

5. All entry fees and cash prizes shall be reported on the daily fee remittance summaries in a manner Approved by the Division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily fee remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the Division's rules concerning record retention in Chapter 27.

B. The Division may waive the requirements of this rule upon a showing of good cause.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:

#### **§2924. Giveaways and Drawings**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), LR 27:

#### **Chapter 33. Surveillance**

##### **§3304. Surveillance Personnel Employment Provisions**

A. Surveillance department employees shall be independent of all other departments. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room are prohibited from being concurrently employed in any other capacity by that Casino Operator or Casino Manager or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the Surveillance Room from working in the same capacity at another.

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 27:

##### **§3305. Surveillance Room and Gaming Board's Controlled Space Requirements**

A. - B. ...

C. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room shall have no other gaming related duties for the Casino Operator or Casino Manager.

D. - F. ...

G. Consistent with Sections 7.2 and 9.26 of the Casino Operating Contract, the Gaming Board's Controlled Space shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality

and specifications as provided in §4205 of these Regulations.

H. Except in the event of circumstances beyond the reasonable control of the Casino Operator or Casino Manager or unless authorized by the division, the Surveillance Room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999), amended LR 27:

#### **Part XIII. Riverboat Gaming**

##### **Chapter 29. Operating Standards**

##### **§2953. Promotions**

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;

2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;

3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

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 27:

#### **§2954. Tournaments**

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with

the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

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 27:

### **Chapter 33. Surveillance**

#### **§3304. Surveillance Personnel Employment Provisions**

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate.

B. A surveillance department employee involved in monitoring gaming operations shall not be reemployed by the licensee in any other permitted capacity after the employee resigns from or is terminated by the licensee.

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 27:

#### **§3305. Surveillance Room and Division Room Requirements**

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 27:

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 June 9, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendments to LAC 42:VII.2953, 3305, IX.2922, 2923 and XIII.2953m 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924.

It is accordingly concluded that the amendments to LAC 42:VII.2953, 3305, IX.2922, 2923 and XIII.2953, 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924 would appear to have no impact on the following:

1. the effect on 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.

Hillary J. Crain  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Operating Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no implementation costs to state or local government units estimated. It is anticipated that amendments to rules regarding promotions will result in additional State Police manpower being made available to perform more important regulatory functions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no determinable 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 benefit to directly affected persons or non-governmental groups is estimated. Under the proposed rules, certain licensees with common ownership will be allowed to share surveillance personnel and thereby potentially avoid shift shortages by having more employees available to utilize.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No significant effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
0104#054

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Office of the Secretary**

File Date of Returns and Other Documents; Payment Dates  
(LAC 61:I.4911)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary proposes to adopt LAC 61:I.4911, pertaining to the delivery date and timely filing of various documents including returns, reports, and other documents and the timely delivery of payments.

The Department administers a number of taxes and fees whose returns and payments are required to be filed by a prescribed date. Other documents, including reports, are also required by various statutes to be submitted to the department. Since delivery of these documents can be accomplished by means other than the United States Postal Service, the Secretary intends these rules to provide guidelines as to what constitutes timely filed returns, reports, other documents and payments when delivered by United States Postal Service, couriers, taxpayers or their representatives or via electronic means.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 49. Tax Collection**

**§4911. File Date of Returns and Other Documents;  
Payment Dates**

A. Definitions. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this section:

*Courier*—a messenger other than the United States Postal Service that delivers parcels, packages and the like containing returns, reports, other documents or payments.

*Electronically*—by computer, telephone or internet.

*Postage*—the amount of money paid for the delivery of a piece of mail by the United States Postal Service.

*Postage Meter*—the postage printing die and postage registering mechanism of a mailing machine which must meet postal service test specifications and is subject to inspection by the United States Postal Service.

*Postmark*—an official mark made by the United States postal service on a piece of mail to cancel the stamp and to indicate the place and date of sending.

B. File Date of a Return, Report and Other Document

1. Delivery by the United States Postal Service. A return, report or other document in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed on the date postmarked by the United States Postal Service. The postmark must bear

a date on or before the last date prescribed for filing the return, report or other document in order to be considered timely filed. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the return, report or other document is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

2. Delivery by Courier. A return, report or other document delivered by courier is deemed filed on the date it is delivered to the department's headquarters or a regional office.

3. Delivery by the Taxpayer. A return, report or other document delivered by the taxpayer or a representative of the taxpayer is deemed filed on the date it is delivered to the department's headquarters or a regional office.

4. Electronically Filed. A return, report or other document filed electronically is deemed filed on the date transmitted to the department or to a third party acting as the department's agent.

5. Electronic Payment as a Substitute. In the case where a taxpayer is allowed to and has elected to have an electronic payment represent his return, the return shall be considered filed on the date the transmitted funds are posted to the State of Louisiana's bank account.

#### C. Payment Dates

##### 1. Delivery by the United States Postal Service

a. A payment made in conjunction with the filing of a tax return and submitted in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed paid on the date it is postmarked. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the payment is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

b. Any payment other than that described in paragraph (C)(1)(a) above including but not limited to payments of billing notices and unidentified payments is deemed paid on the date it is delivered to the department's headquarters or a regional office.

2. Delivery by Courier. A payment delivered by courier is deemed paid on the date it is delivered to the department's headquarters or a regional office.

3. Delivery by the Taxpayer. A payment delivered by the taxpayer or a representative of the taxpayer is deemed paid on the date it is delivered to the department's headquarters or a regional office.

4. Electronic Remittance. A payment remitted electronically is deemed paid on the date the transmitted funds are posted to the State of Louisiana's bank account. A taxpayer required by the provisions of R.S. 47:1519 (B) and

LAC 61:I.4910 to pay by electronic funds transfer must comply with the statutes and regulations governing electronic funds transfers, as well as written procedures prescribed by the department, in order to have the payment deemed timely paid.

5. Dishonored Payment. A payment remitted to the department that is later dishonored by the taxpayer's financial institution or the taxpayer's representative's financial institution is not deemed paid until the date the replacement funds are posted to the State of Louisiana's bank account or guaranteed money is delivered to the department's headquarters or a regional office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 27:

#### **Family Impact Statement**

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no 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. Implementation of this proposed rule will have no 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. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no 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. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Senior Policy Consultant, Miscellaneous Taxes & Regulatory Services, Policy Services Division, 330 North Ardenwood Drive, Baton Rouge, LA 70806 or by fax to (225) 925-3855. All comments must be submitted by 4:30, June 27, 2001. A public hearing will be held on June 28, 2001, at 1:30 p.m. in the Secretary's Conference Room on the second floor of 330 North Ardenwood Drive, Baton Rouge, LA 70806.

Cynthia Bridges  
Secretary

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

**RULE TITLE: File Date of Returns and Other  
Documents; Payment Dates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Implementation of this proposed regulation, which establishes the guidelines as to what constitutes timely filed returns, reports, other documents and payments when delivered by United States Postal Service, couriers, taxpayers or their representatives or via electronic means, will have no impact on the agency's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There should be no estimated costs and/or economic benefits
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0105#023

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the Louisiana  
State Employees' Retirement System**

Disability (LAC 58:I.2501 - 2523)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58:I.2503, 2505, 2507, 2509, 2511, 2513, 2525, 2527, and 2529, and to repeal LAC 58.I.2501, 2521 and 2523, and renumber accordingly. The proposed amendments

and enactment to the rules changes the procedures utilized for the Disability program of LASERS.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this register.

The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 by 4:30 p.m. on August 10, 2001.

Glenda Chambers  
Executive Director

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

**RULE TITLE: Disability**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No implementation cost to the state or local governmental units are anticipated because of the proposed rules. An annual anticipated savings to the System in the amount of \$287,282 is expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
These regulations will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated cost and/or economic benefits that should affect any persons or nongovernmental group as a result of these rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated impact and employment as a result of these rules.

Glenda Chambers  
Executive Director  
0105#024

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office