Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Computer/Technology Education
(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, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). BESE recently adopted new Louisiana K-12 Technology Standards, including those for Computer Education courses at the secondary level. As a result, several new course titles and descriptions for secondary courses were developed. These new courses reflect the increasing role of technology in our society and the need to have students prepared to use and adapt the technology to locate information, create quality products, and to solve problems. The broadening of the numbers of teachers who may teach these elective courses will increase the likelihood that schools will offer a variety of the course offerings as part of a computer education experience. This change in policy will allow teachers holding secondary certification in any area, with demonstrated technology proficiencies, to teach certain secondary level courses in the computer education course of study. These courses include Web Mastering, Computer Systems and Networking, among other delineated courses. Computer Science certification is maintained for computer Science I or II.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (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 in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001), LR 28:

Art

2.105.01 Art course offerings shall be as follows:

Course Title	Unit(s)	Refer to Bulletin
Art I, II, III, IV	1 each	1592

Art I is a prerequisite to Art II and Art III.

Computer/Technology Education

2.105.02 Computer/technology education course offerings shall be as follows:

Course Title	Unit(s)
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1/2
Desktop Publishing	1/2
Digital Graphics and Animation	1/2
Multimedia Productions	1
Web Mastering	1/2
Independent Study in Technology Application	1

In order to teach Computer Science I or II, Computer Science certification is required. Teachers who are identified to teach one of the other Computer Education course offerings at the high school level must hold a valid Louisiana secondary certificate in any area and demonstrate sufficient technology proficiencies to teach the course. The district and school shall ensure that teachers have appropriate and demonstrated technology knowledge and skills to teach the courses.

Interested persons may submit written comments until 4:30 p.m., August 9, 2002, to Nina A. Ford, 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 741—Louisiana Handbook For School Administrators—Computer/Technology Education

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

There is no cost to the state agency beyond that for copying and dissemination of the information to local school systems. It is estimated that $75 will be necessary for copying and mailing of the policy to LEAs. No additional costs are anticipated.

It is not possible to project costs or savings to governmental entities since we do not know if additional teachers would be hired or if existing teachers would be used for these elective courses. The additional courses are optional.

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

It is estimated that there is no impact on state or local government revenue collections.

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

Local school districts' teachers would be impacted by this rule change. Additional teachers may become eligible to teach additional elective courses as a result of the rule change. Additional courses taught by existing teachers who are already

employed should not result in additional paperwork since most teachers already teach a full day in schools.

It is conceivable that some additional teachers could be hired for additional courses and may benefit monetarily. It is not possible to project how many schools/districts would hire new teachers for these elective courses who might not otherwise have been employed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional teachers may become eligible to teach additional elective courses as a result of the rule change.

It is conceivable that some additional teachers could be hired for additional courses and may benefit monetarily. It is not possible to project how many schools/districts would hire new teachers for these elective courses who might not otherwise have been employed.

Marlyn Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0206#034

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV 301, 703, 803, 2103, and 2105)

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, R.S. 17:3042.1, and R.S. 17:3048.1).

The 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

* * *

*Full-Time Student*C

a. - f. …

g. correspondence courses may not be used to establish full time status.

* * *

*Join*Centers on active duty.

* * *

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), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:

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

§703. Establishing Eligibility

A. - A.4.a. …

b. if the student *joins* the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. …

d. if the student is eligible under the provisions of §703.A.5.d or f and has *joined* and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

4.e. - 5.a. …

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows:

A.5.a.ii. - G.2. …

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 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.4.a. …

b. if the student *joins* the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. …

d. if the student is eligible under the provisions of §803.A.5.d and has *joined* and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student

completed the home study program, or within one year from the date of discharge, whichever is earlier; and

A.5.a. - d. …

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation,

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. For students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum: …

6.a.iii - 10. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), LR 27:1854 (November 2001), LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. …

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a Dependent Student, a parent or legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - E.11.c. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), LR 27:1866, 1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:

§2105. Repayment Obligation, Deferment and Cancellation

A. - C. …

D. Procedure for Requesting a Deferment

1. The recipient should complete and submit an application for a deferment, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. The recipient must submit the application for deferment no later than three months after the date of the notice of repayment. The deadline for filing the request shall be prominently displayed on the notice of repayment. If the applicant for a deferment is a Dependent Student, a parent or legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), LR 28:775 (April 2002), LR 28:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs

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

No additional costs are anticipated to implement these changes.

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

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

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

The rule change will clarify certain provisions in rule by incorporating verbiage that more precisely conveys the practical application of the rule to aid public understanding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Badge Eldredge	H. Gordon Monk
General Counsel	Staff Director
0206#038	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs (LAC 28:IV.Chapter 15)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to repeal Chapter 15, T.H. Harris Scholarship of LAC 28:IV.

The 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 15. T.H. Harris Scholarship

§1501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:1861 (November 2001), repealed LR 28:

§1503. Maintaining Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:1862 (November 2001), repealed LR 28:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2002, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs

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

No additional costs are anticipated to result from these changes. This change is published because it was omitted from publication for actions approved on October 18, 2001, which were provided to Louisiana officials and published as notice of intent on November 20, 2001 and as final rule on March 20, 2001.

This revision repeals Chapter 15 of the program rules dealing with the defunct T. H. Harris Scholarship Program.

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)

Program administrators, schools and recipients will benefit from clarified and correct rules.

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
0206#036

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.101, 107, 301, 303, and 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
Chapter 1. General Provisions

§101. General Provisions

A. - A.2. …

3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

A.4. - B.2. …

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 23:711 (June 1997), amended LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 28:

§107. Applicable Definitions

* * *

*Earnings Enhancement*Ca payment allocated to an *education savings account*, on behalf of the *beneficiary* of the account, by the state. The amount of the annual *earnings enhancement* is calculated based upon the *account owner's* classification, annual federal adjusted gross income, and total annual deposits of principal into *education savings accounts* whether for investment in *fixed earning* or *variable earnings. Earnings enhancements*, and the interest earned thereon, may only be used to pay the *beneficiary's qualified higher education expenses*, or portion thereof, at an *eligible educational institution* and cannot be refunded.

* * *

*Fully Funded Account*Can account in which the sum of cumulative contributions, earnings on contributions, *earnings enhancements* and interest accrued thereon, has equaled or exceeded the amount which is five times the annual *qualified higher education expenses* at the highest cost Louisiana public college or university projected to the *scheduled date* of *first enrollment*. The projected *qualified higher education expenses* at each *eligible educational institution* shall be updated by the administering agency. On the date of the *beneficiary*'s first enrollment in an *eligible educational institution*, the *fully funded* amount will be fixed at five times the annual *qualified higher education expenses*

at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

* * *

Tuition—the mandatory educational charges required as a condition of enrollment.

* * *

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 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An *education savings account* is established on behalf of a designated *beneficiary* to provide the funding necessary for the *beneficiary* to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. *Education savings accounts* may offer investment options that provide either *fixed earnings* or *variable earnings.*

B. - D.1. …

2. Payment of Qualified Higher Education Expenses—that participation in the START Program does not guarantee that the full cost of the *beneficiary's qualified higher education expenses* will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

D.3. - J. …

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 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:

§303. Account Owner Classifications

A. - A.1. …

2. a person determined by the authority to be a member of the family of the *beneficiary* and, at the time of the initiation of the agreement, the person or the *beneficiary* is a resident of the state; or

A.3. - C. …

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 27:1879 (November 2001), LR 28:779 (April 2002), LR 28:

§315. Miscellaneous Provisions

A. - Q. …

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

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 23:718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2002 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

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)

Anticipated increase in spending for Earnings Enhancements is $3,700 in FY 2002-2003, $18,100 in FY 2003-04, $32,500 in FY 2004-05, $39,700 in FY 2005-06 and $46,900 in FY 2006-2007. The current annual appropriation for Earnings Enhancements will be more than sufficient to fund the additional costs associated with Act 20.

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)

These rule changes make amendments to implement Act 20 of the First Extraordinary Session of the 2002 Louisiana Legislature. START account owners will benefit because their college savings accounts that are invested in equities will be eligible for earnings enhancements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Badge Eldredge	H. Gordon Monk
General Counsel	Staff Director
0206#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Cooling Water Intake Structures for New Facilities (LAC 33:IX.2331, 2361, 2415, and 2519-2528) (WQ045*)

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 Water Quality regulations, LAC 33:IX.2331, 2361, 2415, and 2519-2528 (Log #WQ045*).

This proposed Rule is identical to federal regulations found in 40 CFR 122, 124, and 125, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This rule will add requirements applicable to cooling water intake structures for new facilities under the Louisiana Pollutant Discharge Elimination System (LPDES) regulations in LAC 33:IX.Chapter 23. Changes have been made to the federal regulations that are required to be adopted by authorized programs such as Louisiana's. The basis and rationale for this rule are to keep the LPDES program current with federal rules concerning requirements for cooling water intake structures for new facilities.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) 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 IX. Water Quality
Chapter 23. The LPDES Program
Subchapter B. Permit Application and Special LPDES Program Requirements
§2331. Application for a Permit

A. - Q.15. …

R. Applications for Facilities with Cooling Water Intake Structures

1. New Facilities with New or Modified Cooling Water Intake Structures. New facilities with cooling water intake structures, as defined in LAC 33:IX.Chapter 23.Subchapter M, must report the information required under Paragraphs R.2, 3, and 4 of this Section and LAC 33:IX.2525. Requests for alternative requirements under LAC 33:IX.2524 must be submitted with the permit application.

2. Source Water Physical Data. These include:

a. a narrative description and scaled drawings showing the physical configuration of all source water bodies used by the facility, including areal dimensions, depths, salinity and temperature regimes, and other documentation that support the determination of the water body type where each cooling water intake structure is located;

b. identification and characterization of the source water body's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's area of influence within the water body and the results of such studies; and

c. locational maps.

3. Cooling Water Intake Structure Data. These include:

a. a narrative description of the configuration of each of the cooling water intake structures and where it is located in the water body and in the water column;

b. latitude and longitude in degrees, minutes, and seconds for each of the cooling water intake structures;

c. a narrative description of the operation of each of the cooling water intake structures, including design intake flows, daily hours of operation, number of days of the year in operation, and seasonal changes, if applicable;

d. a flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; and

e. engineering drawings of the cooling water intake structure.

4. Source Water Baseline Biological Characterization Data. This information is required to characterize the biological community in the vicinity of the cooling water intake structure and to characterize the operation of the cooling water intake structures. The state administrative authority may also use this information in subsequent permit renewal proceedings to determine if the design and construction technology plan, as required in LAC 33:IX.2525.B.4, should be revised. This supporting information must include existing data (if they are available). However, the data may be supplemented using newly conducted field studies, if the owner or operator chooses to do so. The information to be submitted must include:

a. a list of the data in Subparagraphs R.4.b-g of this Section that are not available and the efforts made to identify sources of the data;

b. a list of species (or relevant taxa) for all life stages and their relative abundance in the vicinity of the cooling water intake structure;

c. identification of the species and life stages that would be most susceptible to impingement and entrainment. Species evaluated should include the forage base as well as those most important in terms of significance to commercial and recreational fisheries;

d. identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak abundance for relevant taxa;

e. data representative of the seasonal and daily activities (e.g., feeding and water column migration) of biological organisms in the vicinity of the cooling water intake structure;

f. identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at the cooling water intake structures;

g. documentation of any public participation or consultation with federal or state agencies undertaken in development of the plan; and

h. if the information requested in Subparagraph R.4.a of this Section is supplemented with data collected using field studies, supporting documentation for the source water baseline biological characterization must include a description of all methods and quality assurance procedures for sampling and data analysis, including a description of the study area, taxonomic identification of sampled and evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods. The sampling and/or data analysis methods used must be appropriate for a quantitative survey and based on consideration of methods used in other biological studies performed within the same source water body. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:

Subchapter C. Permit Conditions

§2361. Establishing Limitations, Standards, and Other Permit Conditions

A.1. - B.2. …

3. requirements applicable to cooling water intake structures at new facilities under Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 23.Subchapter M.

C. - S. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28: 469 (March 2002), LR 28:

Subchapter E. General Program Requirements

§2415. Public Notice of Permit Actions and Public Comment Period

A. - D.1.g. …

h. requirements applicable to cooling water intake structures at new facilities under Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 23.Subchapter M; and

D.1.i. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:473 (March 2002), LR 28:

Subchapter M. Criteria Applicable to Cooling Water Intake Structures Under Section 316(b) of the Act

[NOTE: This Subchapter is written in a special format to make it easier to understand the regulatory requirements. Like other department and USEPA regulations, this establishes enforceable legal requirements. For this Subchapter, *I* and *you* refer to the owner/operator.]

§2519. What Are the Purpose and Scope of this Subchapter?

A. This Subchapter establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at new facilities. The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures. These requirements are implemented through LPDES with permits issued in accordance with Section 402 of the CWA, under the assumption of the NPDES program.

B. This Subchapter implements Section 316(b) of the CWA for new facilities. Section 316(b) of the CWA provides that any standard established in accordance with Section 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

C. New facilities that do not meet the threshold requirements regarding amount of water withdrawn or percentage of water withdrawn for cooling water purposes in LAC 33:IX.2520.A must meet requirements determined on a case-by-case, best professional judgment (BPJ) basis.

D. Nothing in this Subchapter shall be construed to preclude or deny the right of any state or political subdivision of a state or any interstate agency under Section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is more stringent than those required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2520. Who is Subject to this Subchapter?

A. This Subchapter applies to a new facility if it:

1. is a point source that uses or proposes to use a cooling water intake structure;

2. has at least one cooling water intake structure that uses at least 25 percent of the water it withdraws for cooling purposes as specified in Subsection C of this Section; and

3. has a design intake flow greater than two million gallons per day (MGD).

B. Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with an independent supplier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw(s) water from waters of the state. Use of cooling water does not include obtaining cooling water from a public water system or the use of treated effluent that otherwise would be discharged to a water of the state. This provision is intended to prevent circumvention of these requirements by creating arrangements to receive cooling water from an entity that is not itself a point source.

C. The threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes must be measured on an average monthly basis. A new facility meets the 25 percent cooling water threshold if, based on the new facility's design, any monthly average over a year for the percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn.

D. This Subchapter does not apply to facilities that employ cooling water intake structures in the offshore and coastal subcategories of the oil and gas extraction point source category, as defined under 40 CFR 435.10 and 40 CFR 435.40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2521. When Must I Comply with this Subchapter?

A. You must comply with this Subchapter when an LPDES permit containing requirements consistent with this Subchapter is issued to you.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2522. What Special Definitions Apply to this Subchapter?

*Annual Mean Flow***C**the average of daily flows over a calendar year. Historical data (up to 10 years) must be used where available.

*Closed-Cycle Recirculating System***C**a system designed, using minimized makeup and blowdown flows, to withdraw water from a natural or other water source to support contact and/or noncontact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. (Some facilities divert the waste heat to other process operations.) New source water (makeup water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.

*Cooling Water***C**water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process, either before or after it is used for cooling, is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes in LAC 33:IX.2520.C.

*Cooling Water Intake Structure***C**the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the state. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

*Design Intake Flow***C**the value assigned (during the facility's design) to the total volume of water withdrawn from a source water body over a specific time period.

*Design Intake Velocity***C**the value assigned (during the design of a cooling water intake structure) to the average speed at which intake water passes through the open area of the intake screen (or other device) against which organisms might be impinged or through which they might be entrained.

*Entrainment***C**the incorporation of all life stages of fish and shellfish with intake water flow entering and passing through a cooling water intake structure and into a cooling water system.

*Estuary***C**a semi-enclosed body of water that has a free connection with open seas and within which the seawater is measurably diluted with fresh water derived from land drainage. The salinity of an estuary exceeds 0.5 parts per thousand (by mass), but is typically less than 30 parts per thousand (by mass).

*Existing Facility***C**any facility that is not a new facility.

*Freshwater River or Stream***C**a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of these regulations, a flow-through reservoir with a retention time of seven days or less will be considered a freshwater river or stream.

*Hydraulic Zone of Influence***C**that portion of the source water body hydraulically affected by the cooling water intake structure withdrawal of water.

*Impingement***C**the entrapment of all life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.

Lake or *Reservoir***C**any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than seven days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a manmade retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation. Flow-through reservoirs with an average hydraulic retention time of seven days or less should be considered a freshwater river or stream.

*Maximize***C**to increase to the greatest amount, extent, or degree reasonably possible.

*Minimum Ambient Source Water Surface Elevation***C**the elevation of the 7Q10 flow for freshwater streams or rivers, the conservation pool level for lakes or reservoirs, or the mean low tidal water level for estuaries or oceans. The 7Q10 flow is the lowest average seven consecutive day low flow with an average frequency of one in ten years determined hydrologically. The conservation pool is the minimum depth of water needed in a reservoir to ensure proper performance of the system relying upon the reservoir. The mean low tidal water level is the average height of the low water over at least 19 years.

*Minimize***C**to reduce to the smallest amount, extent, or degree reasonably possible.

*Natural Thermal Stratification***C**the naturally-occurring division of a water body into horizontal layers of differing densities as a result of variations in temperature at different depths.

*New Facility***C**any building, structure, facility, or installation that meets the definition of a *new source* or *new discharger* in 40 CFR 122.29(b)(1), (2), and (4) and LAC 33:IX.2313 and is a *greenfield* or *stand-alone facility* (as defined below), commences construction after January 17, 2002, and uses either a newly constructed cooling water intake structure or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water. New facilities include only greenfield and stand-alone facilities. A *greenfield facility* is a facility that is constructed at a site at which no other source is located or that totally replaces the process or production equipment at an existing facility [see 40 CFR 122.29(b)(1)(i) and (ii)]. A *stand-alone facility* is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site [see 40 CFR 122.29(b)(1)(iii)]. New facility does not include new units that are added to a facility for purposes of the same general industrial operation (e.g., a new peaking unit at an electrical generating station).

1. Examples of *new facilities* include, but are not limited to, the following scenarios.

a. A new facility is constructed on a site that has never been used for industrial or commercial activity. It has a new cooling water intake structure for its own use.

b. A facility is demolished and another facility is constructed in its place. The newly-constructed facility uses the original facility's cooling water intake structure, but

modifies it to increase the design capacity to accommodate the intake of additional cooling water.

c. A facility is constructed on the same property as an existing facility, but is a separate and independent industrial operation. The cooling water intake structure used by the original facility is modified by constructing a new intake bay for the use of the newly constructed facility or is otherwise modified to increase the intake capacity for the new facility.

2. Examples of facilities that would not be considered *new facilities* include, but are not limited to, the following scenarios.

a. A facility in commercial or industrial operation is modified and either continues to use its original cooling water intake structure or uses a new or modified cooling water intake structure.

b. A facility has an existing intake structure. Another facility (a separate and independent industrial operation) is constructed on the same property and connects to the facility's cooling water intake structure behind the intake pumps and the design capacity of the cooling water intake structure has not been increased. This facility would not be considered a *new facility* even if routine maintenance or repairs that do not increase the design capacity were performed on the intake structure.

*Ocean***C**marine open coastal waters with a salinity greater than or equal to 30 parts per thousand (by mass).

*Source Water***C**the water body (waters of the state) from which the cooling water is withdrawn.

*Thermocline***C**the middle layer of a thermally stratified lake or reservoir. In this layer there is a rapid decrease in temperatures.

*Tidal Excursion***C**the horizontal distance along the estuary or tidal river that a particle moves during one tidal cycle of ebb and flow.

*Tidal River***C**the most seaward reach of a river or stream where the salinity is typically less than or equal to 0.5 parts per thousand (by mass) at a time of annual low flow and whose surface elevation responds to the effects of coastal lunar tides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2523. As an Owner or Operator of a New Facility, What Must I Do to Comply with this Subchapter?

A. The owner or operator of a new facility may be required to comply with Subsection E of this Section, and must comply with the requirements of either:

1. Track I in Subsection B or C of this Section; or
2. Track II in Subsection D of this Section.

B. Track I Requirements for New Facilities That Withdraw Equal to or Greater Than 10 MGD. For these facilities, you must comply with all of the following requirements.

1. You must reduce your intake flow, at a minimum, to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system.

2. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

3. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meets the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases when the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

4. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure;

b. there are migratory and/or sport or commercial species of impingement concern to the state administrative authority or any fishery management agency(ies) that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

5. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

b. there are, or would be, undesirable cumulative stressors affecting entrainable life stages of species of concern to the state administrative authority or any fishery management agency(ies), and it is determined by the state administrative authority or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would contribute unacceptable stress to these species of concern.

6. You must submit the application information required in LAC 33:IX.2331.R and 2525.B.

7. You must implement the monitoring requirements specified in LAC 33:IX.2526.

8. You must implement the recordkeeping requirements specified in LAC 33:IX.2527.

C. Track I Requirements for New Facilities That Withdraw Equal to or Greater Than 2 MGD and Less Than 10 MGD and That Choose Not to Comply With Subsection B of This Section. For these facilities you must comply with all the following requirements.

1. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

2. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meets the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases when the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure;

b. there are migratory and/or sport or commercial species of impingement concern to the state administrative authority or any fishery management agency(ies) that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in Paragraphs C.1 and 2 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

4. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish.

5. You must submit the application information required in LAC 33:IX.2331.R and 2525.B.2, 3, and 4.

6. You must implement the monitoring requirements specified in LAC 33:IX.2526.

7. You must implement the recordkeeping requirements specified in LAC 33:IX.2527.

D. Track II. The owner or operator of a new facility that chooses to comply under Track II must comply with the following requirements.

1. You must demonstrate to the state administrative authority that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the requirements of Paragraphs B.1 and 2 of this Section.

a. Except as specified in Subparagraph D.1.b of this Section, this demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to those that would result if you were to implement the requirements of Paragraphs B.1 and 2 of this Section. This showing may include consideration of impacts other than impingement mortality and entrainment, including measures that will result in increases in fish and shellfish, but it must demonstrate comparable performance for species that the state administrative authority, in consultation with national, state, or tribal fishery management agencies with responsibility for fisheries potentially affected by your cooling water intake structure, identifies as species of concern.

b. In cases where air emissions and/or energy impacts that would result from meeting the requirements of Paragraphs B.1 and 2 of this Section would result in significant adverse impacts on local air quality, significant adverse impact on local water resources not addressed under Subparagraph D.1.a of this Section, or significant adverse impact on local energy markets, you may request alternative requirements under LAC 33:IX.2524.

2. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meet the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must submit the application information required in LAC 33:IX.2331.R and 2525.C.

4. You must implement the monitoring requirements specified in LAC 33:IX.2526.

5. You must implement the recordkeeping requirements specified in LAC 33:IX.2527.

E. You must comply with any more stringent requirements relating to the location, design, construction,

and capacity of a cooling water intake structure or monitoring requirements at a new facility that the state administrative authority deems reasonably necessary to comply with any provision of state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2524. May Alternative Requirements Be Authorized?

A. Any interested person may request that alternative requirements less stringent than those specified in LAC 33:IX.2523.A-E be imposed in the permit. The state administrative authority may establish alternative requirements less stringent than the requirements of LAC 33:IX.2523.A-E only if:

1. there is an applicable requirement under LAC 33:IX.2523.A-E;

2. the state administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to those EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources not addressed under LAC 33:IX.2523.D.1.a, or significant adverse impacts on local energy markets;

3. the alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources not addressed under LAC 33:IX.2523.D.1.a, or significant adverse impacts on local energy markets; and

4. the alternative requirement will ensure compliance with other applicable provisions of the CWA and any applicable requirement of state law.

B. The burden is on the person requesting the alternative requirement to demonstrate that the alternative requirements should be authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2525. As an Owner or Operator of a New Facility, What Must I Collect and Submit When I Apply for My New or Reissued LPDES Permit?

A. As an owner or operator of a new facility, you must submit the application information required by LAC 33:IX.2331.R and the information required in either Subsection B of this Section for Track I or Subsection C of this Section for Track II when you apply for a new or reissued LPDES permit in accordance with LAC 33:IX.2331. You must also submit to the state administrative authority a statement that you intend to comply with either:

1. the Track I requirements for new facilities that withdraw equal to or greater than 10 MGD in LAC 33:IX.2523.B;

2. the Track I requirements for new facilities that withdraw equal to or greater than 2 MGD and less than 10 MGD in LAC 33:IX.2523.C; or

3. the requirements for Track II in LAC 33:IX.2523.D.

B. Track I Application Requirements. To demonstrate compliance with Track I requirements in LAC 33:IX.2523.B or C, you must collect and submit to the state administrative authority the information in Paragraphs B.1-4 of this Section.

1. Flow Reduction Information. If you must comply with the flow reduction requirements in LAC 33:IX.2523.B.1, you must submit the following information to the state administrative authority to demonstrate that you have reduced your flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system:

a. a narrative description of your system that has been designed to reduce your intake flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system and any engineering calculations, including documentation demonstrating that your makeup and blowdown flows have been minimized; and

b. if the flow reduction requirement is met entirely or in part by reusing or recycling water withdrawn for cooling purposes in subsequent industrial processes, you must provide documentation that the amount of cooling water that is not reused or recycled has been minimized.

2. Velocity Information. You must submit the following information to the state administrative authority to demonstrate that you are complying with the requirement to meet a maximum through-screen design intake velocity of no more than 0.5 ft/s at each cooling water intake structure as required in LAC 33:IX.2523.B.2 and C.1:

a. a narrative description of the design, structure, equipment, and operation used to meet the velocity requirement; and

b. design calculations showing that the velocity requirement will be met at minimum ambient source water surface elevations (based on best professional judgment using available hydrological data) and maximum head loss across the screens or other device.

3. Source Water Body Flow Information. You must submit to the state administrative authority the following information to demonstrate that your cooling water intake structure meets the flow requirements in LAC 33:IX.2523.B.3 and C.2.

a. If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements.

b. If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements.

c. If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification and any supporting documentation and engineering calculations to show that the natural thermal stratification and turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish, you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

4. Design and Construction Technology Plan. To comply with LAC 33:IX.2523.B.4 and 5 or C.3 and 4, you must submit to the state administrative authority the following information in a design and construction technology plan:

a. information to demonstrate whether or not you meet the criteria in LAC 33:IX.2523.B.4 and 5 or C.3 and 4;

b. delineation of the hydraulic zone of influence for your cooling water intake structure; and

c. for new facilities required to install design and construction technologies and/or operational measures, a plan explaining the technologies and measures you have selected based on information collected for the source water biological baseline characterization required by LAC 33:IX.2331.R.4. (Examples of appropriate technologies include, but are not limited to, wedgewire screens, fine mesh screens, fish-handling and return systems, barrier nets, and aquatic filter barrier systems. Examples of appropriate operational measures include, but are not limited to, seasonal shutdowns or reductions in flow and continuous operations of screens.) The plan must contain the following information:

i. a narrative description of the design and operation of the design and construction technologies, including fish-handling and return systems, that you will use to maximize the survival of those species expected to be most susceptible to impingement. You must provide species-specific information that demonstrates the efficacy of the technology;

ii. a narrative description of the design and operation of the design and construction technologies that you will use to minimize entrainment of those species expected to be the most susceptible to entrainment. You must provide species-specific information that demonstrates the efficacy of the technology; and

iii. design calculations, drawings, and estimates to support the descriptions provided in Clauses B.4.c.i and ii of this Section.

C. Application Requirements for Track II. If you have chosen to comply with the requirements of Track II in LAC 33:IX.2523.D, you must collect and submit the following information.

1. Source Water Body Flow Information. You must submit to the state administrative authority the following information to demonstrate that your cooling water intake structure meets the source water body requirements in LAC 33:IX.2523.D.2.

a. If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements.

b. If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements.

c. If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification and any supporting documentation and engineering calculations to show that the natural thermal stratification and thermal or turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish, you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

2. Track II Comprehensive Demonstration Study. You must perform and submit the results of a comprehensive demonstration study (study). This information is required to characterize the source water baseline in the vicinity of the cooling water intake structure(s), characterize operation of the cooling water intake(s), and to confirm that the technology(ies) proposed and/or implemented at your cooling water intake structure reduce the impacts to fish and shellfish to levels comparable to those you would achieve were you to implement the requirements in LAC 33:IX.2523.B.1 and 2 of Track I. To meet the "comparable level" requirement, you must demonstrate that:

a. you have reduced both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that would be achieved through LAC 33:IX.2523.B.1 and 2; or

b. if your demonstration includes consideration of impacts other than impingement mortality and entrainment, that the measures taken will maintain the fish and shellfish in the water body at a substantially similar level to that which would be achieved through LAC 33:IX.2523.B.1 and 2; and

c. you must develop and submit a plan to the state administrative authority containing a proposal for how information will be collected to support the study. The plan must include:

i. a description of the proposed and/or implemented technology(ies) to be evaluated in the study;

ii. a list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed study. If you propose to rely on existing source water body data, it must be no more than five years old, you must demonstrate that the existing data are sufficient to develop a scientifically valid estimate of potential impingement and entrainment impacts, and you must provide documentation showing that the data were collected using appropriate quality assurance/quality control procedures;

iii. any public participation or consultation with federal or state agencies undertaken in developing the plan; and

iv. a sampling plan for data that will be collected using actual field studies in the source water body. The sampling plan must document all methods and quality assurance procedures for sampling and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and based on consideration of methods used in other studies performed in the source water body. The sampling plan must include a description of the study area (including the area of influence of the cooling water intake structure and at least 100 meters beyond), taxonomic identification of the sampled or evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods; and

d. you must submit documentation of the results of the study to the state administrative authority. Documentation of the results of the study must include:

i. Source Water Biological Study. The source water biological study must include:

(a). a taxonomic identification and characterization of aquatic biological resources including a summary of historical and contemporary aquatic biological resources, determination and description of the target populations of concern (those species of fish and shellfish and all life stages that are most susceptible to impingement and entrainment), and a description of the abundance and temporal/spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily activities (e.g., spawning, feeding, and water column migration) of all life stages of fish and shellfish found in the vicinity of the cooling water intake structure;

(b). an identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the proposed cooling water intake structure(s); and

(c). a description of additional chemical, water quality, and other anthropogenic stresses on the source water body.

ii. Evaluation of Potential Cooling Water Intake Structure Effects. This evaluation will include:

(a). calculations of the reduction in impingement mortality and entrainment of all life stages of fish and shellfish that would need to be achieved by the technologies you have selected to implement to meet requirements under Track II. To do this, you must determine the reduction in impingement mortality and entrainment that would be achieved by implementing the requirements of LAC 33:IX.2523.B.1 and 2 of Track I at your site; and

(b). an engineering estimate of efficacy for the proposed and/or implemented technologies used to minimize impingement mortality and entrainment of all life stages of fish and shellfish and maximize survival of impinged life stages of fish and shellfish. You must demonstrate that the technologies reduce impingement mortality and entrainment of all life stages of fish and shellfish to a comparable level to that which you would achieve were you to implement the requirements in LAC 33:IX.2523.B.1 and 2 of Track I. The efficacy projection must include a site-specific evaluation of technology(ies) suitability for reducing impingement mortality and entrainment based on the results of the source water biological study in Clause C.2.d.i of this Section. Efficacy estimates may be determined based on case studies that have been conducted in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies.

iii. Evaluation of Proposed Restoration Measures. If you propose to use restoration measures to maintain the fish and shellfish, as allowed in LAC 33:IX.2523.D.1.a, you must provide the following information to the state administrative authority:

(a). information and data to show that you have coordinated with the appropriate fishery management agency(ies); and

(b). a plan that provides a list of the measures you plan to implement and how you will demonstrate and continue to ensure that your restoration measures will maintain the fish and shellfish in the water body to a substantially similar level to that which would be achieved through LAC 33:IX.2523.B.1 and 2.

iv. Verification Monitoring Plan. You must include in the study the following:

(a). a plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or implemented technologies and operational measures. The verification study must begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the facility is reducing the level of impingement and entrainment to the level documented in Clause C.2.d.ii of this Section. The plan must describe the frequency of monitoring and the parameters to be monitored. The state administrative authority will use the verification monitoring to confirm that you are meeting the level of impingement mortality and entrainment reduction required in LAC 33:IX.2523.D and that the operation of the technology has been optimized; and

(b). a plan to conduct monitoring to verify that the restoration measures will maintain the fish and shellfish in the water body to a substantially similar level as that which would be achieved through LAC 33:IX.2523.B.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2526. As an Owner or Operator of a New Facility, Must I Perform Monitoring?

A. As an owner or operator of a new facility, you will be required to perform monitoring to demonstrate your compliance with the requirements specified in LAC 33:IX.2523.

B. Biological Monitoring. You must monitor both impingement and entrainment of the commercial, recreational, and forage base fish and shellfish species identified in either the source water baseline biological characterization data required by LAC 33:IX.2331.R.4 or the comprehensive demonstration study required by LAC 33:IX.2525.C.2, depending on whether you chose to comply with Track I or Track II. The monitoring methods used must be consistent with those used for the source water baseline biological characterization data required by LAC

33:IX.2331.R.4 or the comprehensive demonstration study required by LAC 33:IX.2525.C.2. You must follow the monitoring frequencies identified in Paragraphs B.1 and 2 of this Section for at least two years after the initial permit issuance. After that time, the state administrative authority may approve a request for less frequent sampling in the remaining years of the permit term and when the permit is reissued, if supporting data show that less frequent monitoring would still allow for the detection of any seasonal and daily variations in the species and numbers of individuals that are impinged or entrained.

1. Impingement Sampling. You must collect samples to monitor impingement rates (simple enumeration) for each species over a 24-hour period and no less than once per month when the cooling water intake structure is in operation.

2. Entrainment Sampling. You must collect samples to monitor entrainment rates (simple enumeration) for each species over a 24-hour period and no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance identified during the source water baseline biological characterization required by LAC 33:IX.2331.R.4 or the comprehensive demonstration study required by LAC 33:IX.2525.C.2. You must collect samples only when the cooling water intake structure is in operation.

C. Velocity Monitoring. If your facility uses surface intake screen systems, you must monitor head loss across the screens and correlate the measured value with the design intake velocity. The head loss across the intake screen must be measured at the minimum ambient source water surface elevation (best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in LAC 33:IX.2523.B.2 or C.1. If your facility uses devices other than surface intake screens, you must monitor velocity at the point of entry through the device. You must monitor head loss or velocity during initial facility startup and, thereafter, at the frequency specified in your LPDES permit, but no less than once per quarter.

D. Visual or Remote Inspections. You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct visual inspections at least weekly to ensure that any design and construction technologies required in LAC 33:IX.2523.B.4 and 5 or C.3 and 4 are maintained and operated to ensure that they will continue to function as designed. Alternatively, you must inspect via remote monitoring devices to ensure that the impingement and entrainment technologies are functioning as designed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2527. As an Owner or Operator of a New Facility, Must I Keep Records and Report?

A. As an owner or operator of a new facility, you are required to keep records and report information and data to the state administrative authority as described in Subsections B and C of this Section.

B. You must keep records of all the data used to complete the permit application and show compliance with the requirements, any supplemental information developed under LAC 33:IX.2525, and any compliance monitoring data submitted under LAC 33:IX.2526 for a period of at least three years from the date of permit issuance. The state administrative authority may require that these records be kept for a longer period.

C. You must provide the following to the state administrative authority in a yearly status report:

1. biological monitoring records for each cooling water intake structure as required by LAC 33:IX.2526.B;

2. velocity and head loss monitoring records for each cooling water intake structure as required by LAC 33:IX.2526.C; and

3. records of visual or remote inspections as required by LAC 33:IX.2526.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2528. What Must the State Administrative Authority Do to Comply with the Requirements of this Subchapter?

A. Permit Application. The state administrative authority must review materials submitted by the applicant under LAC 33:IX.2331.R.3 and 2525 at the time of the initial permit application and before each permit renewal or reissuance.

1. After receiving the initial permit application from the owner or operator of a new facility, the state administrative authority must determine applicable standards in LAC 33:IX.2523 to apply to the new facility. In addition, the state administrative authority must review materials to determine compliance with the applicable standards.

2. For each subsequent permit renewal, the state administrative authority must review the application materials and monitoring data to determine whether requirements or additional requirements for design and construction technologies or operational measures should be included in the permit.

3. For Track II facilities, the state administrative authority may review the information collection proposal plan required by LAC 33:IX.2525.C.2.c. The facility may initiate sampling and data collection activities prior to receiving comment from the state administrative authority.

B. Permitting Requirements. Section 316(b) of the CWA requirements are implemented for a facility through an LPDES permit. The state administrative authority must determine, based on the information submitted by the new facility in its permit application, the appropriate requirements and conditions to include in the permit based on the track (Track I or Track II) the new facility has chosen to comply with. The following requirements must be included in each permit.

1. Cooling Water Intake Structure Requirements. At a minimum, the permit conditions must include the performance standards that implement the requirements of LAC 33:IX.2523.B.1, 2, 3, 4, and 5, C.1, 2, 3, and 4, or D.1 and 2. In determining compliance with proportional flow requirement in LAC 33:IX.2523.B.3.b, C.2.b, and D.2.b, the state administrative authority must consider anthropogenic factors (those not considered "natural") unrelated to the new

facility's cooling water intake structure that can influence the occurrence and location of a thermocline. These include source water inflows, other water withdrawals, managed water uses, wastewater discharges, and flow/level management practices (i.e., some reservoirs release water from below the surface, close to the deepest areas).

a. For a facility that chooses Track I, the state administrative authority must review the design and construction technology plan required in LAC 33:IX.2525.B.4 to evaluate the suitability and feasibility of the technology proposed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In the first permit issued, the state administrative authority must put a condition requiring the facility to reduce impingement mortality and entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the state administrative authority must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In addition, the state administrative authority must consider whether more stringent conditions are reasonably necessary in accordance with LAC 33:IX.2523.E.

b. For a facility that chooses Track II, the state administrative authority must review the information submitted with the comprehensive demonstration study information required in LAC 33:IX.2525.C.2 and evaluate the suitability of the proposed design and construction technologies and operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. If the state administrative authority determines that restoration measures are appropriate at the new facility for consideration of impacts other than impingement mortality and entrainment, the state administrative authority must review the evaluation of proposed restoration measures and evaluate whether the proposed measures will maintain the fish and shellfish in the water body at a substantially similar level to that which would be achieved through LAC 33:IX.2523.B.1 and 2. In addition, the state administrative authority must review the verification monitoring plan in LAC 33:IX.2525.C.2.d.iv and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies, operational measures, and restoration measures meet the requirements in LAC 33:IX.2523.D.1. Under subsequent permits, the state administrative authority must review the performance of the additional and/or different technologies or measures used and determine that they reduce the level of adverse environmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of LAC 33:IX.2523.B.1 and 2.

2. Monitoring Conditions. At a minimum, the permit must require the permittee to perform the monitoring required in LAC 33:IX.2526. The state administrative authority may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The state administrative authority may require continued monitoring based on the results of the verification monitoring plan in LAC 33:IX.2525.C.2.d.iv.

3. Recordkeeping and Reporting. At a minimum, the permit must require the permittee to report and keep records as required by LAC 33:IX.2527.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on July 25, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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 WQ045*. Such comments must be received no later than July 25, 2002, 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 or by e-mail to patsyd@deq.state.la.us. 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 WQ045*.

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

0206#065

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Definition of Major Source (LAC 33:III.502)(AQ227)

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 regulations, LAC 33:III.502 (Log #AQ227).

The revised definition of "major source" in LAC 33:III.502 removes the provisions that Louisiana must require that sources in categories subject to standards under Section 111 or 112 of the Clean Air Act (Act), which were promulgated after August 7, 1980, include fugitive emissions in determining major source status under Section 302 or Part D of Title I of the Act. It also removes the phrase "but only with respect to those pollutants that have been regulated for that category," which previously existed in the definition of "major source". On November 27, 2001, the Environmental Protection Agency (EPA) promulgated revisions to its definition of "major source" in 40 CFR 70.2. These changes are effective November 27, 2001. As provided at 66 FR 59162 and at 40 CFR 70.4(i)(1), states whose program includes the language "but only with respect to those pollutants that have been regulated for that category" must revise and submit their program revisions by November 27, 2002. The basis and rationale for this rule are to be consistent with the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) 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

§502. Definitions

A. - A.*Major Source*.b.i. …

ii. for all other stationary source categories, which as of August 7, 1980, are being regulated by a standard promulgated under Section 111 (NSPS) or 112 (Hazardous Air Pollutants) of the Clean Air Act.

A.*Major Source*.c. - A.*Title I Modication*.d. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:

A public hearing will be held on July 25, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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 AQ227. Such comments must be received no later than August 1, 2002, 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 or by e-mail to patsyd@deq.state.la.us. 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 AQ227.

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: Definition of Major Source

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

There are no known implementation costs or savings to state or local governmental units.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. This rule simply mirrors federal regulations, which industry already has to follow.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
0206#067	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Radiation Protection
(LAC 33:XV.455, 573, 575, 577, 587, 588, 590, 605, 1329, and 2013)(RP030)

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 Radiation Protection regulations, LAC 33:XV.455, 573, 575, 577, 587, 588, 590, 605, 1329, and 2013 (Log # RP030).

This Rule makes amendments to clarify the Radiation Protection regulations in LAC 33:XV.Chapters 4, 5, 6, 13,

and 20. Amendments to Chapters 4 and 13 correct references. Amendments to Chapter 5 clarify the minimum number of qualified or approved crew present when performing industrial radiographic operations, require annual refresher safety training of all radiographers and radiographer assistants and trainees, require all crew members to wear personal monitoring devices and designate when personal monitoring devices must be replaced. require that a physical radiation survey be performed on radiation machines or sealed sources immediately upon exposure, and require maintenance of records of daily checks of equipment. Amendments to Chapter 6 correct an error concerning a unit of measure for exposure rates. Chapter 20 is amended to require that calibrated operable radiation survey equipment is maintained at a temporary job site. The basis and rationale for this Rule are to clarify the Radiation Protection Regulations.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) 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 XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter G. Precautionary Procedures

§455. Procedures for Receiving and Opening Packages

A. - D. …

1. removable radioactive surface contamination exceeds the limits of LAC 33:XV.1512.B.9; or

2. external radiation levels exceed the limits of LAC 33:XV.1512.B.10.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 28:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§573. Conducting Industrial Radiographic Operations

A. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or, if the radiographer is a qualified instructor, a qualified radiographer trainee or assistant, as required by Subsection D of this Section. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

B. - E.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:1234 (August 2001), amended LR 28:

§575. Training and Testing

A. - C. …

D. The licensee or registrant shall provide annual refresher safety training to all radiographers, radiographer assistants, and radiographer trainees at intervals not to exceed 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, radiographer assistant, or radiographer trainee unless, at all times during radiographic operations, each such individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge, an optically-stimulated luminescence dosimeter (OSL), or a thermoluminescent dosimeter (TLD), except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

B. …

C. Each film badge, TLD, or OSL shall be assigned to and worn by only one individual. Film badges, TLDs, and OSLs must be replaced at periods not to exceed one month. After replacement, each film badge, OSL, or TLD must be processed as soon as possible.

D. - H.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:

Subchapter C. Precautionary Procedures in Radiographic Operations

§587. Radiation Surveys and Survey Records

A. …

B. A physical radiation survey shall be made after each radiographic exposure utilizing radiation machines or sealed sources to determine that the machine is "off" or that the sealed source has been returned to its shielded position immediately upon completion of exposure. The entire circumference or perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall also include the entire length of the guide tube.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1236 (August 2001), LR 28:

§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations

A. - A.7. …

8. records of daily checks of equipment as required in LAC 33:XV.547;

A.9. - 11. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:1236 (August 2001), LR 28:

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

A. - D.2. …

3. the radiographer's direct observation of the assistant's or trainee's performance of the operations referred to in this Section.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001), LR 28:

Chapter 6. X-Rays in the Healing Arts

§605. Fluoroscopic X-ray Systems

A. - A.3.a.i.(a). …

(b). when an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 roentgens (1.29 mC/kg) per minute at the point where the center of the useful beam enters the patient, unless high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed; or

(c). when optional high level control is provided on equipment manufactured after May 19, 1995. When so provided, the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 10 roentgens (2.58 mC/kg) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level control shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator and the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 20 roentgens (5.16 mC/kg) per minute at the point where the useful beam enters the patient. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

A.3.a.ii. - A.10.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2270 (October 2000), LR 26:2586 (November 2000), LR 28:

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter C. Technical Requirements for Land Disposal Facilities

§1329. Requirements for Waste Classification and Characteristics

Refer to LAC 33:XV.Chapter 4, Appendix E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2013. Radiation Survey Instruments

A. The licensee or registrant shall maintain sufficient calibrated operable radiation survey instruments at each field station and temporary job site to make physical radiation surveys as required by this Chapter and by LAC 33:XV.426 and 430. Instrumentation shall be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 26:2771 (December 2000), LR 28:

A public hearing will be held on July 25, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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 RP030. Such comments must be received no later than August 1, 2002, 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 or by e-mail to patsyd@deq.state.la.us. 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 RP030.

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: Radiation Protection

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

No implementation costs or savings to state or local governmental units are expected as a result of this Rule.

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 the implementation of this Rule.

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

This Rule will have no economic impact on affected owners or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not expected to be affected as a result of the implementation of this Rule.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
0206#066	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Waste Tires C Fraudulent Takings
(LAC 33:VII.10505,10519, 10525, and 10537) (SW033)

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 Solid Waste regulations, LAC 33:VII.10505, 10519, 15025, and 10537 (Log #SW033).

Act 134 of the 2002 Extraordinary Session of the Legislature added language to the Environmental Quality Act, at R.S. 30:2418.M, to require penalties for "fraudulent takings" in the Waste Tire Program. This rule adds definitions and provides descriptions of and penalties for fraudulent takings. Fraudulent takings refers to the value gained from processing waste tires that are not eligible for the Waste Tire Program. Waste tires are coming from out-of-state into the Waste Tire Program. No fees are collected on these tires, but they enter the system and make their way to waste tire processors who are paid for the processing and marketing of these out-of-state tires. This Rule will place the new wording from the Act into the Solid Waste Regulations to make it conspicuous to departmental staff and the regulated commu nity, who are accustomed to referring to the department's regulations for waste tire requirements. The basis and rationale for this rule are to protect the Waste Tire Management Fund from fraudulent payments.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) 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 VII. Solid Waste
Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

*Fraudulent Taking*C the value gained from acts committed by an offender in violation of LAC 33:VII.10537.E.

* * *

*Program Eligible Waste Tires*C those waste tires generated within Louisiana.

* * *

*Waste Tire Generation*C the replacement of an unserviceable tire with a serviceable tire. The sorting, collection, exchange, trade, or transportation of waste tires is not waste tire generation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - I.2. …

3. no more than 150 tires shall be stored at the generator's place of business at one time, unless stored in a transportable collection container.

J. - O. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:

§10525. Standards and Responsibilities of Waste Tire Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible for verifying the number of waste tires in each shipment by actually counting each waste tire or weighing the shipment to determine passenger tire equivalents. The processor shall sign each waste tire manifest upon receiving waste tires.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:

§10537. Enforcement

A. - D. …

E. Fraudulent Takings

1. No person shall, with the intent to defraud, prepare, submit, tender, sign, make an entry upon, or certify any invoice, report, manifest, request for payment, claim, or other document in connection with the origin, transportation, storage, transfer, assignment, sale, or disposal of waste tires as defined by LAC 33:VII.10505.

2. Penalties for a violation of Paragraph E.1 of this Section shall be based on the value of the fraudulent taking. When the fraudulent taking results from a number of distinct acts by the offender, the aggregate amount of the payments, subsidies, credits, other disbursements, or things of value obtained shall determine the grade of the offense. Penalties shall be as follows.

a. If the fraudulent taking amounts to a value of $500 or more, the offender shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than $3,000, or both.

b. When the fraudulent taking amounts to a value of $300 or more, but less than $500, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than $2,000, or both.

c. When the fraudulent taking amounts to less than $300, the offender shall be imprisoned for not more than six months, or may be fined not more than $500, or both. However, if such a conviction is the offender's third or subsequent conviction for violation of this Subsection, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than $2,000, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:

A public hearing will be held on July 25, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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 SW033. Such comments must be received no later than August 1, 2002, 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 or by e-mail to patsyd@deq.state.la.us. 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 SW033.

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: Waste Tires C Fraudulent Takings

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

There will be no implementation costs or savings to state or local governmental units. The Rule may result in marginal savings to the Waste Tire Management Fund due to the fact that out-of-state tires will not be brought into the Louisiana system.

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

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

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

Violators of the proposed rule are subject to imprisonment and fines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
0206#068	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Statewide Reporting Accounting Policy

Collection Policy and Procedure (LAC 4:XIII.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Act 904 of Regular Session 2001, the Division of Administration hereby gives notice of intent to adopt a collection policy and procedure for use by state agencies.

Title 4
ADMINISTRATION
Part XIII. Statewide Reporting Accounting Policy
Chapter 1. Collection Policy and Procedure

§101. Introduction

A. Overview

1. The following policies and procedures are presented in a broad format to be used by state agencies/departments within the Executive branch of government, including colleges and universities, to create their own detailed, agency-specific procedures, subject to approval by the Cash Management Review Board.

2. Implementation of these policies and procedures are mandated by Act 904 of Regular Session 2001 which enacts subpart E of Part II of Chapter I of Title 39 of the Louisiana Revised Statutes, to be comprised of R.S. 39:88.1 through 39:88.4, and cited as the "Louisiana Collection and Procedure Act." Its purpose is to provide a comprehensive collection policy and procedure for collection of obligations due to the state be established for use by all state agencies.

3. Act 904 of Regular Session 2001 states: "The Commissioner of Administration shall prescribe and cause to be implemented a comprehensive collection policy and procedure to be used in all state agencies. … The policy and procedures manual shall include rules and regulations to assist state agencies in the identification and collection of delinquent accounts. … Each state agency shall comply with the provisions of collection policy and procedure manual and is authorized to establish and maintain internal controls not inconsistent with the provisions included in the manual. The Cash Management Review Board shall oversee the development of and implementation of the collection policies and procedures manual in each state agency and is authorized to adopt rules and regulations in furtherance of this responsibility."

B. Purpose

1. To establish guidelines for accounts that are considered to be uncollectible.

2. To establish authoritative approval process for uncollectible accounts to be written off for financial reporting purposes only.

3. To establish guidelines for agencies/departments to use for implementation of internal control policy and procedure of accounts receivable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

§103. Accounts Receivable Process Overview and Objectives

A. Billing Process Overview and Objectives

1. To provide accurate and timely billing for amounts owed to the state.

2. To provide a means of tracking accounts receivable.

3. To provide billing capabilities for various types of receivables.

4. To provide the capabilities of monitoring the aging of accounts receivable, creating customer billings and statements based on the age of the receivable.

5. To provide internal control procedures and accountability.

6. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13.4 and 13.5, Accounts Receivable Recognition Overview and Recording Revenue Recognition Overview.

B. Billing Event Overview and Objective

1. Recording of the billing event will be performed by the agency/department. Agency/department will initiate the data entry, obtain approvals and process the billing.

2. Invoices and statements are printed at the agency/department location and sent to the customer on a timely basis. Agency/department shall provide statements at least monthly.

3. Once a receivable has been incurred, an invoice should be prepared and sent to debtor on a timely basis.

4. Agency/department are responsible to track their own receivables. Keep records of and all correspondences pertaining to the account.

5. The agency/department will obtain complete and accurate information on each debtor in the event of default.

6. Each month a report is prepared to review the accounts for further action. The agency/department shall provide a report relating to accounts that are over 30 days, 60 days, 90 days, and older.

7. Agency/department shall inform and notify the debtor of additional fees, charges, and cost that may be incurred for failure to pay a debt:

a. fee that will be charged for NSF checks;
b. interest on unpaid balance per month;
c. attorney or collection agency fees;
d. late penalty fees.

8. Agency/department whose collections are based on taxpayers' records, and therefore do not issue invoices, are not subject to items 1, 2, and 3 above.

C. Billing Receipts Overview and Objective

1. Agency/department receives the money. Credit the appropriate customer's account.

2. Compliance with Louisiana Revised Statutes 39:372 and the Louisiana Constitution Article VII, Section 9 (A) requires "all monies received by the State or by any state board, agency, or commission shall be deposited immediately upon receipt in the State Treasury, except for certain listed therein." ("Immediately" is defined as within 24 hours of receipt. The State Treasury cash management practices require state-depositing entities to deposit receipts in the State's central depository account or designated regional depository accounts. The depositing agency is responsible for revenue classification in the accounting system.)

3. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 6, Cash Receipts.

D. Accounting Procedures Overview and Objective

1. Agency/department should maintain a proper segregation of duties such as opening the mail, recording the receipt, and maintaining the accounts receivable records. If not feasible, implement supervisory review and controls.

2. A monthly Aged Trial Balance of all accounts should be checked and verified that the amount equals the balance in the General Ledger, if applicable.

3. Obtain all necessary information on the debtor in the event of default such as:

a. current home and work address and phone number;

b. social security and/or federal employer identification number;

c. name of address of nearest relative or guardian;

d. date of birth;

e. credit references;

f. any other relevant information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

§105. Collection Process Overview, Objective, and Policy Guidelines

A. The following procedures are very general and broad for the purposes of identifying area of concerns and general concentration.

1. Collection Process Objectives

a. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

b. To identify delinquent accounts.

c. To pursue delinquent accounts by creating collection letters that are tailored to the agency/department's need.

d. To apply late charges and interest to delinquent accounts.

e. To interface with other software to enhance the intercepting of payments.

f. To provide an updated customer account balance for any collection activity:

i. payments or NSF checks.

g. To provide the ability to write off uncollectible accounts with proper authority and documentation—debt is still owed to the state.

h. To establish and maintain Internal Controls.

2. Collection Process

a. Begins when the debt is recognized or the service is completed. The agency/department shall provide an invoice or statement in a timely manner to the debtor.

b. Different messages would appear on the statement according to the status of the account to remind the customer of the amount owed to the state, any payments and/or adjustments made since the last printed statement.

c. Apply interest and/or late charges as statutorily prescribed.

d. With the proper documentation and approval, write off from the financial statements any account that is deemed uncollectible after following the procedures outlined in §107.B. The debt is still owed to the state.

3. Collection Follow-up Procedures

a. Policies and procedures are established and implemented at the agency/department that were approved by the Cash Management Review Board.

b. Send a minimum of one follow-up billing statement to debtor. The scheduled billing cycle shall be designated by agency/department.

c. Send second billing statement to debtor with a warning (dunning) message explaining the action that will be taken within a scheduled billing cycle from the first statement.

d. Third billing statement notifies the debtor that the account has been forwarded to a collection agency or attorney general's office within a scheduled billing cycle from the second statement.

e. Course of Action after the Third Billing Statement

i. Discontinue service and notify debtor by letter that service has been discontinued, if applicable to the agency/department.

ii. The agency/department will continue to collect amounts by all available means—private collection agency, debt offset, etc.

f. Further Action (Discretion of agency/department policies and procedures approved by Cash Management Review Board)

i. Agency/department's secretary or undersecretary may approve the account to be written off or continue to collect (agency's discretion).

ii. Agency/department may continue its collection process or assign the account to a collection agency.

iii. Follow-up with the Attorney General's office or collection agency on the status of the account.

g. If appropriate, contact past due customers by telephone at any time during the collection process to ensure collection.

4. Allowance for Doubtful Accounts

a. Each agency/department should establish an allowance for doubtful accounts to ensure that the agency/department's receivables are not overstated for financial reporting purposes.

b. The allowance method used shall be established by the agency/department with the Cash Management Review Board approval. However, the amount should be based upon historical data or other pertinent information relative to the receivable. Sound accounting theory must be used at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

§107. Write-Off of Uncollectible Accounts Process Overview, Objective, and Policy Guidelines

A. Write-Off Objectives

1. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

2. An authorization to write-off an account does not constitute a forgiveness of indebtedness.

3. Debtor remains obligated to the state.

4. Write-off authorizes a state agency to:

a. transfer an account to a dormant file;

b. discontinue incurring the expense involved in collecting the account;

c. discontinue reporting the amount as a receivable on the General Ledger.

5. To encourage proper write-offs on a fiscal year end basis.

6. The agencies/departments will have the ability to write-off an account from their financial statements when it is evident that it is uncollectible.

7. To establish and authorize the board and/or committee within each state agency/department to recommend any write offs when the accounts are deemed uncollectible.

a. The board and/or committee shall be managerial level personnel within the appropriate department.

8. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13C Accounts Receivable.

B. Write-off Process

1. Agency/department must request an account to be written off through their respective board/committee.

2. Amounts over a specific designation require additional approval from the agency/department's secretary or undersecretary as recommended by the committee.

3. The request to write off a receivable by the agency/department must include the following information:

a. the name and address of the debtor;

b. the age of the account;

c. the nature of the amounts owed;

d. the collection efforts that have been made;

e. any other pertinent information to give a full understanding of the request such as debtor's employment status, debtor financial status, debtor's accessibility, etc.

4. Approved write-off must be reported on the Quarterly Accounts Receivable Report and retained in a dormant file and removed from current records.

5. For payments received on an account written-off, record the amount received as revenue, do not re-establish the receivable.

C. Write-Off Criteria

1. The amount is deemed uncollectible C age of the account.

2. The write-off will not prejudice the position of the state.

3. All reasonable collection efforts have been exhausted C private collection agency, Attorney General's office and/or state's debt offset process.

4. The debtor cannot be located or a discharge of bankruptcy has occurred.

5. The applicable statute of limitations for collection of debt has expired.

6. The debtor is deceased and there is no estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

§109. Debt Intercept or Offset Process Overview, Objective, and Policy Guidelines

A. Warrant Intercept

1. Vendor/debtor is receiving a payment from the state, a request is made by a state agency to intercept the payment for a past due amount, the system automatically applies the payment to the past due amount, and the difference is sent to the vendor.

2. State legislation will be required to enforce this type of intercept.

B. Revenue Recapture

1. Past due amounts can be recaptured through tax refund.

2. Other means of recapture are lottery or gaming winnings.

3. Both recapture programs are administered through the Department of Revenue.

C. Offsets

1. Current offset allowed by R.S. 47:299.2 against income tax refunds are specifically used by:

a. Department of Justice Collections Section;

b. Louisiana Student Financial Assistance Commission's Student Loan Collection Section;

c. Division of Support Enforcement of the Office of Family Support in the Department of Social Services and any other office or facility of DSS;

d. Department of Health and Hospitals;

e. Department of Public Safety and Corrections;

f. Department of Labor.

2. Offset program could be greatly expanded to include other state agencies/departments and all tax refunds, not just income taxes, unemployment benefits, or any other payments made by the state.

3. Additional legislation will be required to expand the offset program.

D. Garnishments, Liens, and Judgments

1. When such measures are deemed cost effective.

2. Used by most state agencies/departments through private collection firms or Attorney General's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

§111. Quarterly Reporting of Accounts Receivable Overview and Policy Guidelines

A. Objectives

1. To establish a report that shows each state agency/department's accounts receivable balances and activities during the quarter as mandated by R.S 39:79.

2. To establish guidelines and procedures for the quarterly reporting as stated by Memorandum SA 96-45.

3. To ensure the quarterly reports are consistent and as accurate as possible.

4. To have uniformity of reporting for all state agencies/departments.

5. To ensure the timely reporting of the quarterly report as stated by Memorandum SA 96-45.

B. Procedures for Quarterly Reporting

1. Quarterly Activity (Form AR–1)

a. Gross Receivables and Debt at end of quarter

b. Estimated Uncollectible for the quarter

c. Net Receivable for the quarter

d. Write-offs for the quarter

2. Aging of Receivables (Form AR–2)

a. Current Receivables-do not include those past due

b. Past Due Receivables: 1–30 days

c. Past Due Receivables: 31–90 days

d. Past Due Receivables: 181 days–1 year

e. Past Due Receivables: Over One year

f. Total Receivables Past Due

g. Total Gross Receivable

h. Total Gross Receivables must equal Gross Receivables and Debt at end of quarter reported on Form AR-1.

3. Collections Activity for Receivables over 180 days (Form AR–3)

a. Amount over 180 Days Past Due

b. Collections within the agency

c. Collections with Attorney General's office

d. Collections with Private Collection Firm

e. Collections–Other (specify the type)

f. Collections–Under Protest

g. Amount over 180 Days Past Due must equal 181 days–1 year and over 1 year total amount reported on Form AR–2.

4. Write – Off Disclosure (Form AR–4)

a. Number of accounts–if applicable

b. Amount of the write-offs

c. Reason for the write-off

d. The total write-off must equal Write-off Disclosure reported on Form AR–1.

5. Annual Comparison of Receivables (Form AR–5)

a. Major Revenue Source

b. Amount Past Due–Prior Year Ending Balance

c. Amount Past Due–Current Year Ending Balance

d. Increase/Decrease

e. Percentage of Change

f. Explanation given for each comparison variance on the bottom of the page designated as "Explanation" for each category.

C. Accounts Receivable Quarterly Reports

1. Quarterly reports starting with September 30, 2000 is available on OSRAP website: http://www.state.la.us/osrap/index.htm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:

Family Impact Statement

In accordance with Act 1183 of 1999, the Division of Administration, Office of Statewide Reporting and Accounting Policy hereby issues its Family Impact Statement. This Notice of Intent may have a minimal impact on the six criteria set forth under R.S. 49:972.B, which may have the effect of providing additional revenue to the state and possibly increasing state service to families.

Interested persons may submit written comments on the proposed action to F. Howard Karlton, Director, Office of Statewide Reporting and Accounting Policy, P.O. Box 94095, Baton Rouge, LA 70804-9095 or fax to (225) 342-1053. All written comments must be received by Friday, July 5, 2002.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Collection Policy and Procedure

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

There will be no implementation cost to state or local governmental units with this proposed action.

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

This action shall enhance each agency's ability to manage the collection process, collection follow-up procedures, and uncollectible accounts. This policy and procedure manual shall also provide a uniform method for reporting accounts receivable balances. This action may enhance collection of outstanding debt owed to the State of Louisiana, which may provide additional revenues to the state.

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

This action will have no cost to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment to result from this action.

Whitman J. Kling, Jr.	H. Gordon Monk
Deputy Undersecretary	Staff Director
0205#072	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

Net Slot Machine Proceeds (LAC 35:III.5737)

The Louisiana State Racing Commission hereby gives notice that it intends to adopt LAC 35:III.5737 "Net Slot Machine Proceeds," (modifying the previous Notice of Intent) because the commission finds it necessary to expand on the statutes involving slot machines housed at racing associations, specifically R.S. 27:353, R.S. 27:354 and R.S. 27:361, and specify certain provisions thereof. This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35
HORSE RACING
Part III. Personnel, Registration and Licensing
Chapter 57. Associations' Duties and Obligations
§5737. Net Slot Machine Proceeds

A. The commission, pursuant to R.S. 27:354, finds that it is in the best interests of licensed associations, breeders associations, horsemen, and the state that the annual payments provided for in R.S. 27:361 be paid in monthly installments.

B. The definitions set forth in R.S. 27:353 are incorporated herein by reference.

C. Not later than the date on which an association installs slot machines at its facility, it shall open three separate checking accounts as provided for herein. One

account shall be a control bank account into which not less than 18 percent of the net slot machine proceeds for the activity month shall be deposited in sufficient time to be distributed or disbursed not later than the twentieth day of the following month as required by these rules. The association shall also open two distinct interest bearing accounts, one for thoroughbred purse proceeds and one for quarter horse purse proceeds, into which the association shall make its deposits for purse supplements totaling 15 percent of net slot machine proceeds and from which funds, including interest earned, such purse supplements shall be made available as provided by law and these rules.

D. While an association is conducting live racing, the monies due to be paid pursuant to R.S. 27:361.B.(4)(a) shall be made available monthly for use as purses prior to the twentieth day of the month following the month in which they are earned, during the current race meeting.

E. While an association is not conducting live racing, the monies due to be paid pursuant to R.S. 27:361.B.(4)(a) shall be deposited in the appropriate breed account either:

1. for accrual until the first day of the next live race meeting conducted by that association for that breed, at which time such accumulated monies, including interest, shall be used to supplement appropriate purses during that race meeting; or

2. with prior written agreement of the Louisiana HBPA for reimbursement to the association for actual funds advanced to supplement purses at a preceding race meeting in anticipation of the revenue to be earned from slot machines. However, an association shall not be reimbursed except from proceeds earned during the same annual period during which it advanced the purse supplements.

F. The monies due to be paid by an association pursuant to R.S. 27:361.B.(4)(b) and (c) shall be remitted monthly to the appropriate breeders association and the monies due to be paid by an association pursuant to R.S. 27:361.B.(4)(a)(i) and (ii) shall be remitted monthly to the HBPA, prior to the twentieth day of the month following the month in which they are earned.

G. Each racing association conducting slot machine gaming shall file with the commission a complete report, on a form acceptable to the commission, not later than the twentieth day of each month, setting forth the amounts deposited and payments made from the net slot machine proceeds earned the preceding month, as well as payments for purses and payments to breeders associations and to the HBPA. Copies of those bank accounts required to be maintained by Subsection C of this Rule shall be submitted to the commission along with the monthly report.

H. Each racing association, after conducting slot machine gaming for 12 months, shall file an annual report with the commission, on forms acceptable to the commission, not later than the twentieth day of the following month, and on that date each following year, which report shall certify under oath by a responsible officer the association's compliance with all requirements under R.S. 27:361.B.(4) and under this Rule. Each such 12-month period shall constitute an annual period for the purposes of this Rule.

I. All records and reports pertaining to slot machines, including checking accounts, maintained by an association shall be subject to inspection, reporting procedures and audits by the commission. All records and reports on revenues and expenses from slot machines shall be included as part of the association's annual C.P.A. opinion audit submitted to the commission.

J. Before receiving any payments provided by R.S. 27:361.B.(4)(b) or (c), the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission the schedule or formula and within a time period which it has established for the distribution of such funds. Any amendments or modifications to such distribution schedule or formula shall be filed with the commission within 30 days of its adoption by the Executive Committee. A true and complete copy of each such filing with the commission shall be delivered to each racing association and the filing shall so certify delivery. Each Executive Committee shall also file a monthly report with the commission of revenue received, payments made, and the bank balance on hand along with a copy of the bank statement.

K. After the expiration of one year from the filing of its first distribution schedule or formula with the commission but within 20 days thereafter, and on that date each following year, the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission a report which shall certify under oath by a responsible officer the association's compliance with its applicable distribution schedule or formula and within a time period which it has established for the distribution of such funds.

L. An association shall publicly disclose its schedule for the distribution of funds for purse supplements to be made pursuant to R.S. 27:361.B.(4)(a). Excluding those funds statutorily dedicated to races restricted to accredited Louisiana breds, the remaining funds shall be distributed proportionately according to the conditions of the races in which the remaining funds are used to insure parity among restricted and non-restricted races.

M. Whenever it appears to the executive director of the commission that a violation may have occurred, he shall furnish the apparent violator with a warning letter, sent by ordinary mail and by fax, affording the party 15 days from the date of the transmission of the letter to correct the violation.

N. If the apparent violation has not been timely corrected, the executive director, or his designee, shall within 10 days give written notice, by certified mail, to the party that its responsible officers are to appear before him for an informal conference to determine whether a violation has occurred and, if so, whether the violation can be corrected in the absence of imposing a fine or indefinitely suspending the license of the party, or refusing to allow the party to receive payments under this rule. Such informal hearing shall be conducted in accordance with the Administrative Procedures Act applicable to such hearing.

O. If the executive director, or his designee, determines after affording the party an opportunity for an informal conference that a violation has occurred and that a fine, license suspension, or other appropriate action should be taken, he shall file a *rule to show cause* with the commission for the notified party and its responsible officers to appear

before the commission and show cause why disciplinary action or sanctions should not be imposed. The *rule to show cause* shall be forwarded by certified mail and by fax to the party. The cited party shall have 10 days from transmission, excluding holidays and weekends, to file with the commission a written response, under oath, and to submit a list of the names and addresses of all witnesses it desires to be subpoenaed for the hearing, including those to produce documents and other things. The failure to timely file a verified response may, in the commission's discretion, result in the cited party being refused to participate in the hearing on the *rule to show cause*.

P. At the conclusion of the hearing, the commission shall take action appropriate to the violation if it finds that one has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:353, R.S. 27:354 and R.S. 27:361.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or C.A. Rieger, assistant director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through July 10, 2002, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Net Slot Machine Proceeds

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.

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

This action benefits racing associations and breeder associations by stipulating distribution of proceeds already provided for in R.S. 27:354 and 361, and penalties for violations thereof.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If a party's license is suspended indefinitely, the result could negatively affect competition and employment.

Charles A. Gardiner III	Robert E. Hosse
Executive Director	General Government Section Director
0206#023	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Practical Nurse Examiners

Discipline, Licensure, and Temporary Permits
(LAC 46:XLVII.303, 306, 1703, 1705, 1707)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed rule changes to §§303 and 306, matters of discipline, is to delete unnecessary and redundant language and to make affected sections clearer. The purpose of the proposed rule changes to §§1703 and 1707, licensure by examination, is to allow applicants for licensure unlimited attempts at passing the examination while providing for compliance with existing rules related to clinical competence. Testing methodology currently in use by the board ensures that test-retest exposure will not falsely inflate scores. Proposed changes to §1705, temporary permits, maintains the board's authority to issue temporary permits while making it clear that exercise of this power is optional.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 1. Practical Nurses
Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. - A.2. …

3. determine the passing score for the practical nursing licensure examination of initial licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:

§306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - B. ...

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed

settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.

F. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be scheduled before a hearing officer designated by the board. A decision to initiate a formal complaint by the board expressing the allegation(s) and specific violation(s) of R.S. 37:961-979 may be made if one or more of the following conditions exist:

1. the allegation(s) are sufficiently serious;

2. the licensee fails to respond to the board's correspondence concerning the allegation(s);

3. the licensee's response to the board's correspondence is insufficient, unsatisfactory, or fails to be convincing that no action is warranted;

4. an informal proceeding has failed to resolve all of the issues or allegation(s).

G. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of R.S. 37:961 et seq., and/or rules involved;

4. A short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or

3. waive his/her right to a hearing.

J. If the licensee waives his/her right to a hearing or does not respond in writing within the time allotted, the hearing officer shall decide the case forthwith. The hearing officer shall make specific findings of fact, conclusions of law, and make recommendations to the board.

K. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least five days prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and be relevant for due process.

M. Discovery

1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and

b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. the information requested is reasonable in terms of amount; and

ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §306.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness's testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

N. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has

been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

P. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

Q. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

R. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

S. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

T. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. being guilty of a crime;

3. being unfit, or incompetent by reason of negligence, habit or other causes;

4. being habitually intemperate or is addicted to the use of habit-forming drugs;

5. being mentally incompetent;

6. practicing practical nursing without being duly licensed to do so by the board;

7. using in connection with his name any designation tending to imply that he is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. failure to practice practical nursing in accordance with the standards normally expected;

b. failure to utilize appropriate judgment in administering nursing practice;

c. failure to exercise technical competence in carrying out nursing care;

d. violating the confidentiality of information or knowledge concerning a patient;

e. performing procedures beyond the authorized scope of practical nursing;

f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

g. improper use of drugs, medical supplies, or patients' records;

h. misappropriating personal items of an individual or the agency;

i. falsifying records;

j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;

k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

l. leaving a nursing assignment without properly notifying appropriate personnel;

m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal

proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. being guilty of moral turpitude;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty, to include making application for employment;

r. possess a physical or psychological impairment which interferes with the judgment, skills or abilities required for the practice of practical nursing;

s. refusal to cooperate with employer's request to submit to a drug screen;

t. has violated any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aid or abet therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.2. ...

3. complete a board approved refresher course if a passing score is not attained within four years of program completion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued as follows.

1. A temporary permit may be issued to graduates of approved or accredited practical nursing programs in Louisiana before the first writing of the licensure examination which permit shall expire upon the date of licensure of that examination and which shall not be subject to extension or renewal under any circumstances - including reentry and completion of a program in practical nursing, providing the application for licensure and the specified fee have been submitted by the applicant and an official transcript has been submitted by the institution from which he/she graduated.

A.2 - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of 1703 Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:65 (March 1979), LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:

§1707. Retirement from Practice

A. - B.3. ...

C. Review Courses. Licensees or applicants for licensure in Louisiana who have been out of practice for four or more years shall be required to successfully complete a refresher course approved by the board. Said course shall have a clinical component of a minimum of 60 hours. Special student permits may be issued by the board to participants in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978 and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2614 (November 2000), LR 28:

Family Impact Statement

The proposed amendments, to Part XLVII.Subpart 1., should not have any impact on the family as defined by R.S. 49:972. There should not be any effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., June 10, 2002, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 203, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Discipline, Licensure, and Temporary Permits

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

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at $500.

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

The proposed rule will have no financial effect upon state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano	H. Gordon Monk
Executive Director	Staff Director
0206#022	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Adult Services

Adult Administrative Remedy Procedure (LAC 22:I.325)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:1171 et seq., Corrections Administrative Remedy Procedure, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend the Adult Administrative Remedy Procedure to provide for a period of 90 days from the date of the incident to file the request for remedy rather than 30 days as currently required.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult and Juvenile Services
Subchapter A. General
§325. Adult Administrative Remedy Procedure

A. - A.1. …

2. Inmates are encouraged to continue to seek solutions to their concerns through informal means, but in order to insure their right to use the formal procedure, they should make their request to the warden in writing within a 90 day period after an incident has occurred. If, after filing in the formal procedure an inmate receives a satisfactory response through informal means, the inmate may request (in writing) that the warden cancel his formal request for an administrative remedy.

A.3. - G.1. …

a. The inmate commences the process by writing a letter to the warden, in which he briefly sets out the basis for his claim, and the relief sought (refer to section "Procedure-Initiation of Process" [Subsection F] for the requirements of the letter). The inmate should make a copy of his letter of complaint and retain it for his own records. The original letter will become a part of the process, and will not be returned to the inmate. The institution is not responsible for furnishing the inmate with copies of his letter of complaint. This letter should be written to the warden within 90 days of an alleged event. (This requirement may be waived when circumstances warrant. The warden, or his designee, will use reasonable judgment in such matters.) The requests shall be screened by the ARP Screening Officer and a notice will be sent to the inmate advising that his request is being processed or is being rejected. The warden may assign another staff person to conduct further fact-finding and/or information gathering prior to rendering his response. The warden shall respond to the inmate within 40 days from the date the request is received at the First Step.

G.1.b. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 28:857 (April 2002), LR 28:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of this amendment to the Rules of the Department of Public Safety and Corrections, Corrections Services, to the Administrative Remedy Procedure for Adult Offenders in the custody of the department will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., July 20, 2002.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Administrative Remedy Procedure

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

There are no estimated implementation costs or savings to state or local governmental units. The department is merely amending the procedures to require that a request for administrative remedy be filed by the offender within 90 days of the incident as opposed to 30 days as previously required.

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

There is no estimated effect on revenue collections.

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 since this is merely a change in procedures for an existing grievance procedure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard L. Stalder	Robert E. Hosse
Secretary	General Government Section Director
0206#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Adult Services

Juvenile Administrative Remedy Procedure (LAC 22:I.326)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:1171 et seq., Corrections Administrative Remedy Procedure, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend the Administrative Remedy Procedure to provide for a period of 90 days from the date of the incident to file the request for remedy rather than 30 days as currently required.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult and Juvenile Services
Subchapter A. General
§326. Juvenile Administrative Remedy Procedure

A. - E.1. …

2. Informal Resolution. Offenders are encouraged to resolve their problems within the institution informally, before initiating the formal ARP process. This informal resolution may be sought by talking to his case manager, counselor, or other staff member. An attempt at informal resolution does not affect the timeframe for filing an ARP; therefore, the offender and staff member assisting with informal resolution must be alert to the 90 calendar day filing timeframe so that the opportunity to file an ARP is not missed when it appears that the situation will not be informally resolved before the expiration of the filing period.

3. - 3.a. …

b. The offender has 90 calendar days after the incident occurred in which to file a complaint. The ARP is considered "filed" upon receipt by the ARP Coordinator or designee. This includes those ARPs placed in the ARP or grievance box over the weekend or on a legal holiday. The ARP forms shall be available at designated sites at each institution and from case managers.

c. - d. …

e. Offenders released from secure care prior to filing their ARP should send the ARP directly to the ARP Coordinator. The ARP must be postmarked within 90 days or received within the 90 calendar day timeframe, if not mailed.

4. - 4.b. …

c. There has been a time lapse of more than 90 calendar days between the event and receipt of the initial request.

d. The date of the event is not on the form. In this case, the form will be returned to the offender to have the correct date noted, however, the original 90 day time limit will still apply.

E.4.e. - F. …

1. The offender will begin the process by completing the first part of a Juvenile ARP Form, which will briefly set out the basis for the claim and the relief sought. The form must be submitted within 90 calendar days of the incident which caused the grievance. The 90-day requirement may be waived by the warden when circumstances warrant, i.e., if the offender is ill for an extended period of time or if a significant, unusual event affects the offender's ability to file the ARP. The offender may also request a five calendar day extension from the ARP Coordinator if additional time is needed to prepare the ARP.

F.2. - J.2. …

3. The offender shall then have the normal 90 calendar day deadline from the date the incident occurred or seven calendar days from the date he receives the rejection (whichever is longer) to submit his request through regular channels beginning with step one.

K. - L.2. …

3. Discharged Offenders. If an offender is discharged before the review of an ARP, or if he files an ARP after discharge, the institution will complete the processing and will notify the offender at his last known address. (The 90 calendar day timeframe in which to file an ARP applies regardless of whether the offender has been discharged from secure care.)

L.4. - M. …

N. Juvenile ARP Form

DPS&C**C**CORRECTIONS SERVICES Number: _____-_____-____
JUVENILE ARP FORM Date Received:_____
Name: _____ JIRMS Number:_____
Institution: _____ Housing Unit:_____

"THIS IS A REQUEST FOR ARP"
(You may ask your case manager or other staff members for help completing this form.)
State your problem (WHO, WHAT, WHEN, WHERE AND HOW) and the remedy requested (what you want to solve the problem):

Problem: _____
_____
_____
_____

Remedy requested: _____
Date of Incident:_____ Today's Date: _____

This form must be completed within 90 calendar days of the date of the incident and given to the ARP Coordinator or placed in the ARP/grievance box.

Step One**C**ARP Coordinator's Review and Warden's Response
(Maximum Time For Processing: 21 calendar days)

_____ Denied _____Rejected _____Returned _____ Accepted Date: _____
Reason: _____
_____ Handled Informally By _____
AC's Recommendation:
Sent to Warden on: _____AC's Signature: _____
Warden's response to your ARP Step One request: _____
_____
_____
_____
Date: _____ Warden's Signature: _____

If you are not satisfied with this response, you may go to Step Two. The ARP Coordinat or must submit your request to the Secretary within 10 calendar days after you receive the Step One response.

Received Step One on: _____ Juvenile's Signature: _____
Request Step Two: __yes ___no Reason for Step Two request: _____
_____
Date Step Two request received by AC: ____ Date Sent to Secretary: _____
AC's Signature: _____

Step Two**C**Secretary's Response
(Maximum Time For Processing: 21 calendar days)

Date Received:
Secretary's response to ARP Step Two request: _____
_____
_____
_____
Date: _____ _____
Secretary's Signature

Date received Secretary's response:_____ _____

Juvenile's Signature

If you are not satisfied with this response, you may seek judicial review. A request for judicial review must be submitted to the court within 30 calendar days after receiving the Step Two decision.

O. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 28:861 (April 2002), amended LR 28:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of this amendment to the Rules of the Department of Public Safety and Corrections, Corrections Services, to the Administrative Remedy Procedure for Juveniles in the custody of the department will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., July 20, 2002.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Juvenile Administrative Remedy Procedure

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

There are no estimated implementation costs or savings to state or local governmental units. The department is merely amending the procedures to require that a request for administrative remedy be filed by the offender within 90 days of the incident as opposed to 30 days as previously required.

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

There is no estimated effect on revenue collections.

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 since this is merely a change in procedures for an existing grievance procedure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard L. Stalder	Robert E. Hosse
Secretary	General Government Section Director
0206#064	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Corporation Franchise Tax—Surplus and Undivided Profits (LAC 61:I.305)

Under the authority of R.S. 47:605.A, 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, Policy Services Division, proposes to amend LAC 61:I.305 relative to adjustments by regulated companies for depreciation sustained but not recorded.

Louisiana Revised Statute 47:605.A states that "When, because of regulations of a governmental agency controlling the books of a taxpayer, the taxpayer is unable to record on its books the full amount of depreciation sustained, the taxpayer may apply to the collector of revenue for permission to add to its reserve for depreciation and deduct from its surplus the amount of depreciation sustained but not recorded, and if the collector finds that the amount proposed to be so added represents a reasonable allowance for actual depreciation, he shall grant such permission." By amending LAC 61:I.305, the Department of Revenue will provide guidance concerning the conditions under which adjustments for depreciation sustained but not recorded can be made.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 3. Corporation Franchise Tax
§ 305. Surplus and Undivided Profits

A. - B.3. …

C. Adjustment by regulated companies for depreciation sustained but not recorded. When, because of regulations of a governmental agency controlling the books of a taxpayer, the taxpayer is unable to record on its books the full amount of depreciation sustained, the taxpayer may apply to the collector of revenue for permission to add to its reserve for depreciation and deduct from its surplus the amount of depreciation sustained but not recorded, and if the collector finds that the amount proposed to be so added represents a reasonable allowance for actual depreciation, he shall grant such permission.

1. Permission to add to depreciation reserves and reduce surplus must be requested in advance and shall be granted only in those instances in which a governmental agency requires that the books of the corporation reflect a depreciation method under which the total accumulated depreciation reflected on the books is less than would be reflected if the straight-line method of depreciation had been applied from the date of acquisition of the asset. The period over which depreciation shall be computed shall be the expected useful life of the asset.

2. The amount of adjustment shall be the amount of accumulated depreciation which would be reflected on the books if the straight-line method had been applied from the date of acquisition of the asset, less the amount of accumulated depreciation actually reflected on the books.

3. Permission granted by the secretary shall be automatically revoked upon a material change in the facts and circumstances presented by the taxpayer.

4. Permission granted by the secretary shall be for a period of six years, at which time the taxpayer must reapply for permission to continue making the adjustment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), LR 28:

Family Impact Statement for Administrative Rules

The proposed amendment of LAC 61:I.305, regarding adjustments by regulated companies for depreciation sustained but not recorded 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. The implementation of this proposed rule will have 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 budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., July 29, 2002. A public hearing will be held on July 30, 2002, at 2:30 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Franchise Tax-Surplus and Undivided Profits

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

The implementation of this proposed regulation, which provides guidance concerning the conditions under which adjustments for depreciation sustained but not recorded can be made, will have no impact on the agency's costs.

The implementation of this proposed regulation will have no impact upon any local governmental units.

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

There should be no effect on revenue collections for the state as a result of this proposed regulation.

There should be no effect on revenue collections of 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 costs or economic benefits that directly affect persons or non-governmental groups as a result of this proposed regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges	H. Gordon Monk
Secretary	Staff Director
0206#043	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Levels of Foster Care
(LAC 67:V.3505)

The Department of Social Services, Office of Community Services (OCS) proposes to change the method of compensation to foster parents for the time, attention, and tasks required to address the special needs of the foster children in their homes. The proposed compensation method called Levels of Care will have five rate components: basic, initial placement, special needs, positive outcome and administrative. The method will be piloted in the OCS Covington Region before it is implemented statewide. The OCS staff met with foster parents, OCS contracted private providers of therapeutic family care (TFC) and private foster care (PFC) in that region to introduce Levels of Care.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 5. Foster Care
Chapter 35. Payments, Reimbursables, and Expenditures

§3505. Levels of Care

A. The Department of Social Services, Office of Community Services (DSS/OCS) is implementing a new method of compensation to foster parents. The new method, called Levels of Care, will establish a rate of compensation for caring for each individual foster child that is based on five components, as applicable:

1. basic;
2. initial placement;
3. special needs;
4. positive outcome; and
5. administrative.

B. *Basic*—a standard board rate of compensation based upon a child's age.

C. *Initial Placement*—a one-time rate based upon the unique adjustment needs of children as they come into foster care. This rate is approximately 50 percent of the basic board rate and is applied for the first 30 days that a child is in custody and placed in a foster home.

D. *Special Needs*—a customized rate which is based upon a child's individual needs across five assessment categories. There are five daily rate intervals. This rate is intended to approximate the time and attention required of foster parents to nurture a child's relationship with his biological family and to attend to the child's individualized treatment needs.

E. *Positive Outcome*—a rate which would follow a reduction in the special needs rate when an improvement in the foster child's problems/behaviors is attributable to the foster parent's contributions. The positive outcome rate lessens the reduction in the special needs rate for a specific period of time.

F. *Administrative*—a rate to be paid to private child placing agencies relative to foster children placed in foster homes which they supervise. Private child placing agencies' current two-tiered administrative rate for therapeutic foster care and private foster care will be combined and provider service expectations generalized under the administrative rate component of Levels of Care.

G. With the exception of diagnostic and assessment foster homes, DSS/OCS will utilize Levels of Care to determine the rate of compensation for all foster parents caring for children in its custody. For children already placed in therapeutic foster care homes, alternative foster care homes, and specialized foster homes, parents will be offered a choice of having their compensation determined by the Levels of Care method or being grandfathered for two years under the existing system of compensation. However, compensation relative to care of new children entering homes electing to be grandfathered will be determined under the Levels of Care method.

H. Levels of Care will be piloted in the DSS/OCS Covington Region before being implemented statewide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477.C.(1).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services LR 28:

Family Impact Statement

1. The effect on the stability of the family. The proposed rule has no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding education and supervision of their children. The proposed rule has no effect on the authority and rights of parents regarding education and supervision of their children.

3. The effect on the functioning of the family. The proposed rule has no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed rule has no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. The proposed rule has no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed rule. The proposed rule has no effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 4:30 p.m., July 26, 2002, to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries. A public hearing will be held on July 29, 2002, at the Office of Community Services state office in the Commerce Building, 333 Laurel Street, Baton Rouge, LA 70801, Room 652, at 9:30 a.m.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Levels of Foster Care

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

Implementation of the Levels of Care (LOC) system will cost $12,153 to implement in Fiscal Year 01/02 and $109,784 in 02/03 and 03/04. We will be able to project the cost of full implementation after implementation in the Covington Region.

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

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

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

It is estimated that approximately 75 percent of the Office of Community Services (OCS) foster homes and the private provider foster homes will either receive an increase (58 percent) in special board or will stay the same (17 percent). Approximately 25 percent of the general foster homes will receive a decrease. Most decreases will be under $100 per month. The specialized homes—Alternative and Therapeutic foster homes—will be assessed to assure that when the subsidy is discontinued and replaced by the LOC special board rates, each foster home will be incorporated into the new system with the least negative economic impact. When the LOC assessment is less than the subsidy, the foster home may choose to remain in the current system for two years or until the foster child leaves the home.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue and competition and employment.

Gwendolyn P. Hamilton	Robert E. Hosse
Secretary	General Government Section Director
0206#051	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Low-Income Home Energy Assistance and Weatherization Assistance Programs (LAC 67:V.Chapters 5 and 9)

The Department of Social Services, Office of Community Services proposes to amend the Louisiana Administrative Code, Title 67, Part V, Subpart 2, Chapter 5 and Chapter 9, to delete the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program from its array of administered programs. Act 702 of the 2001 Regular Legislative Session transferred authority to administer the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program from the Department of Social Services, Office of Community Services, to the Louisiana Housing Finance Agency. This became effective on July 1, 2001. This action should have no impact on

family formation, stability and autonomy as described in R.S. 49:972, as the programs themselves are not being repealed, but moved under a different governmental entity.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 2. Community Services

Chapter 5. Low Income Home Energy Assistance Program

Repealed.

Chapter 9. Weatherization Assistance Program

Repealed.

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed rule has no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding Education and Supervision of Their Children. The proposed rule has no effect on the authority and rights of parents regarding education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule has no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule has no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule has no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule has no effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Written comments may be addressed to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821 and must be received by July 28, 2002, at close of business.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Low-Income Home Energy Assistance and Weatherization Assistance Programs

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

There will be no implementation costs or savings to state or local governmental units.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Debbie Johnson	H. Gordon Monk
Budget Manager	Staff Director
0206#053	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Teen Pregnancy Prevention Program
Expanding Targeted Groups
(LAC 67.III.5403 and 5404)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 14, Teen Pregnancy Prevention. These amendments are necessary to further the goal of *Keeping It R.E.A.L.*, Louisiana's Teen Pregnancy Prevention Program, to reduce the number of unwed pregnant and parenting teens.

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency proposes expanding the targeted groups of participants from 11-19 years to 8-21 years.

Teen pregnancy has been shown to reduce the probability that the parent will complete school. It increases the chance that the parent and child will live in poverty. While progress in reducing the number of unwed and parenting teens has been made in some parishes, Louisiana continues to experience a high rate of births to teenage mothers. In 2000, 17 percent of the children born in Louisiana were born to pre-teen and teen mothers between the ages of 10 and 19 years. By expanding the age groups serviced by the Teen Pregnancy Prevention Program, the agency hopes to reduce this number, thereby increasing the likelihood that this population will complete school and not grow up in poverty.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5403. Strategy

A. - B.3 ...

C. There are three target groups involved in reducing teen pregnancy:

1. 8-21 year old students and non-students;

2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:

§5405. Goals and Objectives

A. The program objective is to create community, faith- and school-based programs which will present age-

appropriate educational material to a targeted population ranging in age from 8-21 years. This includes elementary, middle, high school, and college students and others in this age group who are no longer in school. All services are provided by contracted providers.

B. To reduce the number of births, intermediate goals are established according to age groups.

1. For the children aged 8-13 (grades 3-8), the following intermediate goals have been set:

a. - 2.g. …

3. For teenagers and young adults aged 17-21 (upper high school, college, non-students, current teen parents), the same goals in §5405.B.2 will apply with the addition of the following:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule could have a positive impact on the stability of the family by decreasing the number of teenage pregnancies, increasing parental involvement with the child, and increasing the educational levels, training, and employability of teenage parents.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have little effect on parental authority.

3. What effect will this have on the functioning of the family? This rule could have a positive impact on the functioning of the family by reducing the emotional and financial strain that may occur as a result of a teenage pregnancy.

4. What effect will this have on family earnings and family budget? Although this program does not provide direct cash benefits to the family, it could have a positive impact on the family's budget and earnings secondary to the increased education level, training, and employability of teens as well as the decreased birth rate.

5. What effect will this have on the behavior and personal responsibility of children? The primary focus of this program is to positively impact the behavior and personal responsibility of teens.

6. Is the family or local government able to perform the function as contained in this proposed rule? Although the family (parents) should be the primary teacher, the program aims to reinforce values and practices, and/or to actually assist the family when consent is given for active participation.

Interested persons may submit written comments by July 25, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She will be the responding authority to inquiries regarding this proposed rule. A public hearing on the proposed rule will be held on July 25, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Teen Pregnancy Prevention ProgramC Expanding Targeted Groups

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

The cost of expanding the targeted age groups in the Teen Pregnancy Prevention Program will be kept within the program's annual budget of $7,500,000. Although the annual budget will not change, the agency now proposes to extend program services to a broader population (8-21 years old) but through a smaller number of contractors. Thus, the cost of this expansion will be absorbed with no increase in program costs. The immediate implementation cost to state government is the minimal cost of publishing the rule at a projected cost of $320. Funds for such actions are included in the agency's annual budget. There are no costs or savings to local governmental units.

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

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

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

There are no estimated costs to any persons or non-governmental groups. A long-term objective of the program is that the targeted groups will benefit economically if goals are met. If individuals in these groups can improve their economic position, then their families, and the agencies which otherwise might have to assist them, will spend less on those individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Gwendolyn P. Hamilton
Secretary
0206#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury

Credit Card Acceptance by State Agencies
(LAC 71:I.903 and 911)

Under the authority of R.S. 49:316.1, the Department of the Treasury advertises its intention to amend §903 and §911 of the Credit Card Acceptance in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 71
TREASURY
Part I. Treasurer
Chapter 9. Credit Card Acceptance by State Agencies
§903. Definitions

* * *

State Charge—a fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001), amended LR 28:

§911. State Charge

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve reasonable fees that reflect the economies of scale achieved by negotiation. The fees may be composed of a percentage and/or a specific dollar amount as determined by treasury and the card providers.

B. The state charges shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charges shall be in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities. The state charges will be revised from time to time and the treasurer shall notify state entities of the revised state charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), amended LR 28:

Interested persons may submit written comments until 4:30 p.m., July 11, 2002, to Ron Henson, First Assistant State Treasurer, Box 44154, Capitol Station, Baton Rouge, LA 70804-4154.

Family Impact Statement

This proposed amendment: will not effect the stability of the family; will not effect the authority and rights of parents regarding the education and supervision of their children; will not effect the functioning of the family; will not effect family earnings, but may positively effect family budgets in that it will allow families to continue to use credit card, debit card, or other similar devices to pay state agencies sums due; will not effect the behavior and personal responsibility of children; and, will not effect the ability of the family or a local government to perform the function as contained in the proposed rule.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Credit Card Acceptance by State Agencies

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

This proposed rule creates no direct implementation costs or savings to the state or local governmental units that already accept payments by credit card.

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)

The rule change will insure that persons or entities wishing to pay a state agency by credit card, debit card, or similar payment device are able to do so, for without the change to the state charge, many credit card, debit card, and other similar device providers would be unwilling to contract with the State and state agencies would be unable to accept many credit card, debit card, or similar payment devices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment by adoption of this proposed rule.

Ron J. Henson	H. Gordon Monk
First Assistant State Treasurer	Staff Director
0206#028	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Coastwide Nutria Control Program (LAC 76:V.123)

The Wildlife and Fisheries Commission does hereby advertise its intent to establish a coastwide nutria control program.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§123. Coastwide Nutria Control Program

A. The Department of Wildlife and Fisheries does hereby establish regulations governing participation in the coastwide nutria control program. The administrative responsibility for this program shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

1. The coastwide nutria control program objective is to provide economic incentive, by payment of $4 per nutria tail to participants, to encourage the harvest of up to 400,000 nutria annually from coastal Louisiana. For the purpose of this program, coastal Louisiana is bounded on the north by Interstate 10 from the Louisiana-Texas line to Baton Rouge, Interstate 12 from Baton Rouge to Slidell, and Interstate 10 to the Louisiana-Mississippi line.

2. Participant Application Process

a. Participants must acquire a valid Louisiana trapping license.

b. Participants must submit a completed nutria control program participant application to the department or its contractor.

c. To be considered complete, the application must contain the following information: name, address, telephone number, social security number, and trapping license number of applicant; tax receipt and a description of property to be trapped/hunted (acres, parish, township, range, section);

name, address, and telephone number of landowner (private or public); signature of participant; and signature of landowner or designated representative indicating permission to hunt or trap nutria on the described property.

d. For applications determined to be complete and valid, the participant will be notified by mail that his/her registration is finalized and a nutria control program registration number will be issued.

e. The participant must indicate if an assistant will be delivering tails on his behalf to a collection center and the participant must provide the name of the assistant(s) on the application.

f. Applications submitted to the department or its contractor by October 1 shall be processed by the opening of trapping season. Applications submitted to the department or its contractor after October 1 shall be processed in the order received.

g. Applications listing only waterbodies, without signature of an adjacent landowner or designated representative, shall be considered incomplete.

h. Applications determined to be incomplete or invalid will be returned to the applicant with an explanation as to why registration could not be finalized.

3. Harvest of Nutria

a. Participants must possess a valid trapping license and a nutria control program registration number.

b. Only nutria harvested during the open trapping season, from coastal Louisiana and taken from property permitted can be included in this program.

c. Nutria may be taken by any legal method except that if taken with a shotgun, steel shot must be used.

4. Collection of Nutria Tails for Payment

a. Collection stations will be established across coastal Louisiana by the department or its contractor.

b. Evidence of nutria harvested shall be in the form of delivering severed nutria tails to a collection station during a designated period. Collections will begin on or about November 20. Specific dates and times of collections will be established and advertised for each station.

c. Participant or a designated assistant must present the nutria control registration number and proper identification to the department contractor.

d. Participant or designated assistant shall present to the department contractor only fresh or well-preserved (iced, frozen, salted) nutria tails in a manner that allows counting of individual tails (e.g., tails cannot be frozen together in a block). Only whole tails, greater than 7 inches in length will be accepted.

e. Participant shall declare parish, section, township, and range in coastal Louisiana where animals were taken and indicate method of take and carcass use. Tails from animals taken from outside of the participants permitted property shall not qualify for payment in this program.

f. Participant shall sign the receipt/voucher provided by the department contractor to acknowledge number of tails presented and accuracy of information provided.

5. Violation of any part of these regulations is a class 2 violation and conviction may result in disqualification from the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

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

Interested persons may submit comments relative to the proposed Rule to Brandt Savoie, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, August 5, 2002.

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

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Coastwide Nutria Control Program

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

The Coastwide Nutria Control Program will cost up to $2.2 million annually. Funding for this program will come from the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) Program through an interagency agreement between the Department of Natural Resources and the Department of Wildlife and Fisheries. A contractor will be hired to implement the program as well as two additional Wildlife and Fisheries Department employees. The department employees will monitor the progress and manner in which the program is being implemented, conduct an annual nutria vegetative damage survey and prepare an annual program assessment report. Local government units will not be impacted.

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

The program is estimated to increase the Department of Wildlife and Fisheries annual revenue collections by $37,500 from the increase sale of trapping licenses.

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

Participating trappers will receive an incentive payment of $4 per nutria tail. The number of nutria harvested by each participant will determine the benefits each individual receives. Coastal landowners may experience in workload from having to monitor the program on their properties, but will benefit from the reduction in the nutria population and related vegetative damage to their property.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment in the animal specialties industry related to harvesting and processing of fur bearing animals should increase.

James H. Jenkins, Jr.	Robert E. Hosse
Secretary	General Government Section Director
0206#042	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules governing white-tailed deer importation.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§117. Deer and Elk Importation

A. Definitions

White-Tailed Deer—any animal of the species *Odocoileus virginianus.*

Mule Deer or Black-tailed Deer—any animal of the species Odocoileus hemionus.

Elk or Red Deer—any animal of the species *Cervus elaphus.*

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any imposition of quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1-800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with LWFC and Department of Wildlife and Fisheries Rules and Regulations.

C. This Rule shall be in effect until May 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:

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

Interested persons may submit comments relative to the proposed Rule to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, August 5, 2002.

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

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Deer and Elk Importation

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

Implementation of the proposed Rule is estimated to increase program costs by $5,000 for fiscal year 02-03. Cost in subsequent years is estimated at $2,500 per year. Local governmental units will not be impacted.

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

No effect on revenue collections of state or local governmental units is anticipated.

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

Some deer farmers and supplemented hunting preserve operators may experience undetermined economic costs as a result of this Rule. However, as a whole these operations are not highly dependent on imported deer. Deer produced within Louisiana should be sufficient to meet the needs of deer farmers and supplemented hunting preserves. Persons dependent upon recreation associated with wild deer and wild deer hunting may benefit if the Rule is effective in preventing a Chronic Wasting Disease (CWD) outbreak in Louisiana. It is estimated that deer hunting in Louisiana generates an economic impact of $604 million annually and supports over 8,500 jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

James H. Jenkins, Jr.	Robert E. Hosse
Secretary	General Government Section Director
0206#041	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Disposal of Illegal Live Deer and Elk (LAC 76:V.121)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules governing disposal of confiscated deer and elk.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§121. Disposal of Illegal Live Deer and Elk

A. Definitions

Elk or Red Deer—any animal of the species *Cervus elaphus.*

Mule Deer or Black-tailed Deer—any animal of the species *Odocoileus hemionus.*

White-Tailed Deer—any animal of the species *Odocoileus virginianus.*

B. White-tailed deer, mule deer, black-tailed deer, elk, or red deer imported into Louisiana in violation of Louisiana Wildlife and Fisheries Commission (LWFC) rules or state statutes shall be euthanized by the Louisiana Department of Wildlife and Fisheries (LDWF), or its designee, in a manner conforming to the *2000 Report of the AVMA Panel on Euthanasia*. At the discretion of the LDWF, white-tailed deer originating from within Louisiana and possessed in violation of LWFC rules or state statutes, may be euthanized in a manner conforming to the *2000 Report of the AVMA Panel on Euthanasia*, or placed with a licensed game breeder in accordance with LDWF guidelines. Certainty of origin, confinement history, and age will be among the factors considered by LDWF in making a determination regarding disposition of white-tailed deer originating from within Louisiana. White-tailed deer placed with licensed game breeders shall remain in confinement for their entire lives and shall not be released into the wild.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

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

Interested persons may submit comments relative to the proposed Rule to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, August 5, 2002.

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

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disposal of Illegal Live Deer and Elk

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

Implementation of the proposed rule is estimated to increase program costs by $2,500 for fiscal year 02-03 and subsequent years. Local government units will not be impacted.

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

No effect on revenue collections of state or local governmental units is anticipated.

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

Individuals who illegally possess deer or illegally import deer/elk will be affected. This rule will have no impact on deer hunters or deer farmers who abide by the importation rules. Recreation associated with wild deer and wild deer hunting has a significant impact in Louisiana. Deer hunting in Louisiana is estimated to generate $605 million in spending annually while supporting over 8,500 jobs. Many landowners receive income from land leased for deer hunting. Deer hunters and non-consumptive users receive benefits from participating in wildlife related activities. The substantial economic benefits currently enjoyed by state residents, hunters and deer farmers will be maintained if this rule helps prevent the introduction of Chronic Wasting Disease into Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

James H. Jenkins, Jr.	Robert E. Hosse
Secretary	General Government Section Director
0206#040	Legislative Fiscal Office