Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Minutes Requirement
for l/2 Carnegie Unit of Credit (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November, 1975). The content of the procedural block clarifies the number of minutes required for a one-half (1/2) Carnegie unit of credit: the minimum length of any high school class in which one-half (l/2) Carnegie unit of credit is earned shall be no less than one-half (l/2) of the total minutes required for one (1) full Carnegie unit of credit.

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

* * *

Standard 2.037.11:

The minimum length of any high school class in which one-half (1/2) Carnegie unit of credit is earned shall be no less than one-half (1/2) of the total minutes required for one (1) full Carnegie unit of credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR l:483 (November, 1975) amended by the Board of Elementary and Secondary Education LR 25:

Interested persons may submit written comments until 4:30 p.m., August 10, l999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741 Minutes Requirement for 1/2 Carnegie Unit of Credit

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

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately $60.

The implementation of changes requires no further cost or savings to state or 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 effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
9906#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Loan Guarantee Fee

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its fee schedule for loans guaranteed on or after May 5, 1999, as follows:

Loans Guaranteed before May 5, 1999	1% of loan principal
Loans Guaranteed on or after May 5, 1999	No Fee

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 1999, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Loan Guarantee Fee

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as declaration of emergency, notice, and rule is approximately $120. Currently, under federal regulations, the 1% guarantee fee is deposited in the Federal Fund, which is the property of the U.S. Department of Education.

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

There will be no effect on state revenues collected by this agency. The 1998 Reauthorization of the Higher Education Act requires the agency to maintain a reserve ratio in the Federal Fund (the ratio between the original principal of loans

outstanding and the monies in the agency's Federal Fund) of .25%. Currently, the agency's reserve ratio is .94%, or about $7.6 million more than the minimum currently required for operations to continue. If other assumptions remain equal, by eliminating the guarantee fee the Reserve Fund ratio will be maintained at above the .25% requirement.

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

Postsecondary education borrowers will benefit from the elimination of the guarantee fee by retaining the dollars for their school expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The state guarantor's operation, in competition with national guarantors who also operate in the state, benefits Louisiana citizens and students who rely on the programs administered and the training and information provided by the state agency.

Jack L. Guinn
Executive Director
9906#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI.107, 301, 307)

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 1999, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program

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

The implementation cost associated with publishing revisions to the START Program rules is approximately $100. These program revisions are not expected to impact program costs.

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

No impact on revenue collections is anticipated to result from the expanded program enrollment period. Data are not available to assess the cost of the expanded use of tuition assistance grant (TAG) monies to out-of-state educational institutions. The lost revenue to in-state institutions would be directly related to the dollar amount of TAGs that would be transported to out-of-state educational institutions.

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

These changes will make the START saving program more attractive to its participants, provide for use of a generic contract which can be used continually, save on development and printing costs, and assist in reaching the participation goals projected for the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Jack L. Guinn
Executive Director
9906#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS) (LAC 28:IV.301, 703, 803, 2115)

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

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program for Students (TOPS)

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately $100. Costs for funding for TOPS awards are not anticipated to increase as a result of this rule change.

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

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

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

TOPS applicants who are disabled or exceptional may be provided a waiver of the core curriculum requirements as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Jack L. Guinn
Executive Director
9906#016

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Emissions (LAC 33:III.5116, 5122, and 5311)(AQ193*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.5116, 5122, and 5311 (Log #AQ193*).

This proposed rule is identical to a federal regulation found in 40 CFR Parts 61 and 63, July 1, 1998, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. 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 proposed rule incorporates by reference, additional federal regulations in 40 CFR Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP program and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 112. The State of Louisiana has received delegation of authority from the EPA to implement NESHAP by "straight" delegation (incorporation into the LAC rules as promulgated by EPA without change). Louisiana incorporated certain NESHAP regulations by reference on July 20, 1998. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. The basis and rationale for this rule is to mirror the federal regulations. If the rule is not adopted, it would be a hindrance to Louisiana's authority to implement the NESHAP program. Louisiana would also fail to meet its 1998/99 EPA grant objectives related to this rulemaking and to delegation revisions.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * * [See Prior Text in Subpart A-Appendix C]	

* * *

[See Prior Text in B-C]

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 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), LR 25:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * * [See Prior Text in Subpart A-R]	
Subpart S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
* * * [See Prior Text in Subpart T]	
Subpart U	National Emission Standards for Hazardous Air Pollutant Emissions: Group 1 Polymers and Resins
* * * [See Prior Text in Subpart W-KK]	
Subpart LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
* * * [See Prior Text in Subpart OO-QQ]	

40 CFR 63	Subpart/Appendix Heading
Subpart RR	National Emission Standards for Individual Drain Systems
* * * [See Prior Text in Subpart VV]	
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
Subpart JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
* * * [See Prior Text in Appendix A-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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * * [See Prior Text in Subpart A-Subpart X]	

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ193*. Such comments must be received no later than July 26, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. 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 Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ193*.

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

Gus Von Bodungen, P.E.
Assistant Secretary

9906#051

NOTICE OF INTENT

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

Graphic Arts (Printing) by Rotogravure and Flexographic Processes (LAC 33:III.2143)(AQ192)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2143.A.1 and B (Log #AQ192).

This proposed rule will make a grammatical correction and will clarify the applicability exemption in the regulations regarding the control of volatile organic compounds for the rotogravure and flexographic processes. The basis and rationale for this proposed rule are to make a grammatical clarification and clarification of applicability.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

* * *

[See Prior Text in A]

1. The solvent fraction of ink, as it is applied to the substrate, less water and exempt solvent, contains 25 volume percent or less of organic solvent and 75 volume percent or more of water. Also acceptable as an alternative limit is ink

containing no more than 0.5 pounds of volatile organic compounds per pound of solids.

* * *

[See Prior Text in A.2-5]

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit at full production (8760 hours per year basis) a combined weight of volatile organic compounds of less than 50 TPY (in nonattainment areas) or 100 TPY (in attainment areas), calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

* * *

[See Prior Text in C-D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ192. Such comments must be received no later than August 2, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ192.

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

Gus Von Bodungen, P.E.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Graphic Arts (Printing) by Rotogravure and Flexographic Processes

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

There will be no costs or savings to state or local governmental units for this proposal.

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

There will be no effect on revenue collections of state or local governmental units as a result of this rule.

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

The rule makes technical changes which will neither exempt additional facilities from existing standards and requirements nor will preclude the use of such exemptions by these facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will have no effect on competition or employment.

Gus Von Bodungen	Robert E. Hosse
Assistant Secretary	General Government Section Director
9906#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Louisiana Environmental Regulatory Innovations Program (LERIP)(LAC 33:I.3701-3715)(OS032)

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 adopt the Office of the Secretary regulations, LAC 33:I.Chapter 37 (Log No. OS032).

The proposed rule will establish the procedures for participation in the Louisiana Environmental Regulatory Innovations Program (LERIP), as well as an Excellence and Leadership Program. The proposed rule contains application requirements, department review conditions, a priority system for ranking demonstration projects, project amendment and renewal procedures, and project termination. Facility owners and operators, in conjunction with stakeholders, are encouraged to develop and implement effective pollution prevention and/or pollution reduction strategies to achieve levels below required regulation levels. R.S. 30:2566 requires the department to promulgate regulations for the administration of the Louisiana Environmental Regulatory Innovations Programs, including the Excellence and Leadership Program. The basis and

rationale for this proposed rule are to promulgate regulations to consider regulatory flexibility as an incentive to superior environmental performance.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 37. Regulatory Innovations Programs

§3701. Purpose

This Chapter establishes procedures for voluntary participation in the Louisiana Environmental Regulatory Innovations Programs (LERIP) as provided by R.S. 30:2561 et seq. Its purpose is to provide regulatory flexibility consistent with federal guidelines in exchange for superior environmental performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3703. Definitions

Administrative Authority—the secretary of the Department of Environmental Quality or the secretary's designee.

Demonstration Project (DP)—a project containing all the elements required in LAC 33:I.3705, which shall be implemented in exchange for regulatory flexibility.

Final Project Agreement (FPA)—the final document agreed upon between the administrative authority and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

Regulatory Flexibility—exemption by the administrative authority from regulations promulgated by the department, consistent with federal law and regulation.

Stakeholders—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens.

Superior Environmental Performance—

1. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by the applicable law and regulation; or

2. improved social or economic benefits to the state, as determined by the administrative authority, while achieving protection to the environment as required by applicable law and regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3705. Application for a Demonstration Project

A. An application for a demonstration project (DP) shall be submitted to the administrative authority. The application shall, at a minimum, include:

1. a narrative summary of the DP, including the specific statutes or rules for which an exemption is being sought;

2. a detailed explanation including a demonstration that the DP:

a. is at least as protective of the environment and the public health as the method or standard prescribed by the statute or rule that would otherwise apply;

b. will provide superior environmental performance;

c. will not transfer pollution impacts into a product;

d. will identify, if applicable, any proposed transfer of pollutants between media;

e. will include verifiable measures of success for project goals;

f. will not increase or shift risk to citizens or communities;

g. is consistent with federal law and regulation, including any requirement for a federally approved or authorized program; and

h. reduces the time and money spent at the facility on paperwork and other administrative tasks that do not directly benefit the environment;

3. an implementation schedule that includes a proposal for monitoring, recordkeeping, and/or reporting, where appropriate, of environmental performance and compliance under the DP;

4. a plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the DP. The plan shall also include notice to the employees of the facility to be covered by the proposed project and a description of efforts made or proposed to achieve local community support;

5. the time period for which the exemption is sought; and

6. any other information requested from the applicant by the administrative authority during the application period.

B. The application shall be signed by the applicant or its duly authorized agent and shall certify that all information is true, accurate, and complete to the best of that person's knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3707. Demonstration Project Priority System

A. Priority will be given to projects after considering whether the technology:

1. will result in significant pollution prevention or source reduction, particularly in low income areas already burdened with pollution;

2. will reduce air emissions in a nonattainment area;

3. will maintain or improve coastal wetland environments;

4. will be transferable to other members of the regulated community; and

5. will allow the department, the applicant, and other state and local agencies to spend less time and resources over the long term to monitor and administer the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3709. Review of Application for Demonstration Project

A. Within 180 days after submittal of an application for a DP, the department will conduct a review and notify the applicant of the acceptability of the proposed project.

B. The department will consider, among other factors, the applicant's compliance history and efforts made to involve the stakeholders and to achieve local community support.

C. If the department determines the DP to be unacceptable, it will provide written reasons for the determination.

D. If the department determines the DP to be acceptable:

1. a public hearing will be held at a location near the proposed project to receive comments;

2. public comments will be received for 30 days after the hearing;

3. a response summary addressing the major issues raised during the comment period will be prepared by the department;

4. an applicant may be required to supplement or modify the application;

5. a recommendation will be made to the administrative authority to approve or deny the project; and

6. a FPA will be executed or a denial issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3711. Public Notice

A. An applicant whose DP has been approved shall publish notice of the FPA in the official journal of the parish governing authority where the project will be implemented. Notice under this Section shall, at a minimum, include:

1. a brief description of the FPA and of the business conducted at the facility;

2. the name and address of the applicant and, if different, the location of the facility for which regulatory flexibility is sought; and

3. the name, address, and telephone number of a department contact person from whom interested persons may obtain further information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3713. Amendment or Renewal

A. An application for amendment or renewal of a FPA shall be filed in the same manner as an original application under this Chapter.

B. If amendment or renewal procedures have been initiated at least 120 days prior to the FPA expiration date, the existing FPA will remain in effect and will not expire until the administrative authority has made a final decision on the amendment or renewal.

C. The administrative authority shall determine whether a public hearing will be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

§3715. Termination

A. By the Recipient

1. A party to a FPA may terminate the FPA at any time by sending notice of termination to the administrative authority by certified mail.

2. The party terminating must be in compliance with all existing statutes or regulations at the time of termination.

B. By the Department

1. Noncompliance with the terms and conditions of a FPA or any provision of this Chapter may result in the FPA being voided, except that the recipient shall be given written notice of the noncompliance and provided an opportunity, not less than 30 days from the date the notice was mailed, to show cause why the FPA should not be voided. Procedures for requesting a show cause hearing before the Division of Administrative Law shall be included in the written notice.

2. In the event a FPA becomes void, the administrative authority may specify an appropriate and reasonable transition period to allow the recipient to come into full compliance with all existing statutory and regulatory requirements, including time to apply for any necessary agency permits, authorizations, or certifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Legal Division, LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS032. Such comments must be received no later than August 2, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS032.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA

71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/olae/irdd/olaeregs.htm.

Dale Givens
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Environmental Regulatory Innovations Program (LERIP)

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

No implementation cost or savings to state or local governmental units are expected as a result of this rule. However, departmental staff time may be saved through reduction of paperwork or other administrative tasks that do not benefit the environment.

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)

The regulated community may receive some economic benefit by implementation of pollution prevention or reduction strategies that employ cheaper, more efficient or innovative technologies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

J. Dale Givens	Robert E. Hosse
Secretary	General Government Section Director
9906#050	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

90-Day Tank Rule (LAC 33:V.1909)(HW067)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.1909.D (Log #HW067).

This rule seeks to make Louisiana's hazardous waste regulations on 90-day tanks clearer and to lessen the risk of accidental releases of hazardous waste due to having to physically open and inspect the tanks every 90 days. The basis and rationale for this proposed rule are to clarify the existing rule and allow it to be more consistent with EPA and neighboring state regulations.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste
Chapter 19. Tanks
§1909. General Operating Requirements

* * *

[See Prior Text in A-C]

D. Owners or operators must provide documentation, maintained on-site, that tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied and cleaned of all residues and/or sludges at least once in each 90-day period.

1. A tank is deemed emptied and cleaned for the purposes of this Subsection if it has been emptied to the maximum extent practicable and:

a. for tanks used to store similar wastes (compatible), cleaning/rinsing or removal of hazardous waste to a level that is no more than 2.5 centimeters (one inch) of waste on the bottom of the tank or three percent by volume of the total tank capacity remains in the tank; or

b. for tanks that may be used to store dissimilar (incompatible) wastes, cleaning/rinsing by method(s) necessary to remove all hazardous wastes to a level which precludes any incompatibility reactions and is sufficient to allow visible inspection of all tank interior surfaces is required.

2. Notwithstanding the provisions of Subsection D.1 of this Section, except to the extent otherwise approved by the administrative authority, tanks subject to the exclusion of LAC 33:V.1109.E must be completely emptied and cleaned once per year to a level sufficient to allow visual inspection of all tank interior surfaces.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW067. Such comments must be received no later than August 2, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the

above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW067.

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

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: 90-Day Tank Rule (HW067)

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

No significant costs to state or local governments are anticipated as a result of the implementation of this rule.

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

There should be no significant effect on revenue collections of state or local governments as a result of the implementation of this rule.

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

The regulated community will be relieved of the requirement to shut down the tank, drain, clean, and inspect it every 90 days. This would only be required once a year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
9906#053	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

EPA Authorization Package—RCRA VII, VIII, and IX
(LAC 33:V.517, 519, 1109, 3001, and 4301)(HW069*)

(Editor's Note: A portion of the following proposed rule, which appeared on pages 919 through 921 of the May 20, 1999 *Louisiana Register* is being republished to correct typographical errors.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.517, 519, 1109, 3001, and 4301 (Log #HW069).

This proposed rule adds the requirement for a registered professional engineer who certifies specific technical data to be a Louisiana registered professional engineer. The universal wastes, lamps and antifreeze, were adopted in a previous regulatory package, but an omission of these wastes was made in LAC 33:V.4301. This rule is correcting the omission. LAC 33:V.3001 is being amended to exclude "conditionally exempt" from conditionally exempt small quantity generators, because Louisiana does not recognize conditionally exempt small quantity generators. The basis and rationale for this proposed rule are to clarify and correct specific requirements within Louisiana's regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste
Chapter 5. Permit Application Contents
Subchapter D. Part II General Permit Information Requirements
§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A - W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), LR 25:

James H. Brent, Ph.D.
Assistant Secretary

9906#074

NOTICE OF INTENT

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

Land Disposal of Prohibited Waste by Deep Well Injection
(LAC 33:V.517, 1529, 2201-2269, 2273, 4357 and 5120)
(HW062)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.517, 1529, 2201-2269, 2273, 4357, and 5120 (Log #HW062).

The proposed rule states that if land disposal by deep well injection has been exempted by the US EPA from the land disposal prohibitions; a permit has been issued for the injection well by the Louisiana Office of Conservation; and the secretary of the Department of Environmental Quality has made a determination that there are no economically reasonable and environmentally sound alternatives to the injection of such hazardous waste, then the land disposal restrictions do not apply to the disposal of the hazardous waste by injection well. The US EPA currently reviews and renders a decision on all petitions for exemption from the land disposal restrictions for hazardous waste disposal by injections wells. The Louisiana Office of Conservation is authorized to review and render a decision on applications for permits for all types of injection wells, including hazardous waste injection wells. This rule change will eliminate the department's duplication of work done by the US EPA and the Louisiana Office of Conservation. However, the department does retain the authority to grant or deny the use of injection wells for the disposal of hazardous waste based on the availability of economically reasonable and environmentally sound alternative methods of disposal. The basis and rationale for this rule is to bring the regulations in line with R.S. 30:2193.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S. 49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste
Chapter 5. Permit Application Contents
Subchapter D. Part II General Permit Information Requirements
§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A-U]

V. for land disposal facilities, if an approval has been granted under LAC 33:V.2239, a petition has been approved under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, a copy of the notice of approval or a determination is required; and

* * *

[See Prior Text in W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), LR 25:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A-B.11]

12. Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or a certification under LAC 33:V.2235 and the applicable notice required by a generator under LAC 33:V.2245.

* * *

[See Prior Text in B.13-E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), LR 25:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text A-G.1]

2. where persons have been granted an approval from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made in accordance with LAC 33:V.2273, with respect to those wastes and units covered by the petition;

* * *

[See Prior Text G.3-I.5.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), LR 24:1759 (September 1998), LR 24:1724 (September 1998), LR 25:

§2205. Storage of Prohibited Wastes

* * *

[See Prior Text in A-C]

D. The prohibition in Subsection A of this Section does not apply to hazardous wastes that are the subject of an approval under LAC 33:V.2241 or 2271, or a determination under LAC 33:V.2273, a case-by-case extension of time under LAC 33:V.2239, or a national capacity variance.

* * *

[See Prior Text in E-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), LR 25:

§2209. Waste-Specific Prohibitions Wood Preserving Wastes

* * *

[See Prior Text in A-C]

D. The requirements of Subsections A and B of this Section do not apply if:

1. an exemption or an approval has been granted in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, with respect to those wastes and units covered by the petition;

* * *

[See Prior Text in D.2-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998), LR 25:

§2211. Waste-Specific Prohibitions Dioxin-Containing Wastes

* * *

[See Prior Text in A-B.1]

2. the wastes are disposed of at a facility that has been granted an approval from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, with respect to those wastes covered by the exemption or approval or determination; or

* * *

[See Prior Text in B.3-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998), LR 25:

§2243. Administrative Procedures for Exemptions under LAC 33:V.2241 and 2271, No-Alternative Determinations under LAC 33:V.2273, and Case-by-Case Extensions of an Effective Date under LAC 33:V.2239

Before making a final decision on the exemption, determination, or extension request, the administrative authority will provide the person requesting the exemption, determination, or extension and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the exemption, determination, or extension, the opportunity to submit written comments on the request on the conditions of the exemption, determination, or extension, allowing a 45-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the comment or notice period shall begin with the

notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the exemption, determination, or extension request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

Subchapter B. Hazardous Waste Injection Restrictions

§2249. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-C.1]

2. if an approval has been granted in response to a petition filed under LAC 33:V.2271, or a determination has been made under LAC 33:V.2273, to allow injection of prohibited wastes with respect to those wastes and wells covered by the petition; or

* * *

[See Prior Text in C.3-D.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2255. Waste Analysis

Generators of hazardous wastes that are disposed into Class I injection wells, under LAC 33:V.2271, must comply with the applicable requirements of LAC 33:V.2245. Owners or operators of Class I hazardous waste injection wells must comply with the applicable requirements of LAC 33:V.2247.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2257. Waste-Specific Prohibitions Solvent Wastes

* * *

[See Prior Text in A-D.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC:V.2273; or

* * *

[See Prior Text in D.3-Table B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2259. Waste-Specific Prohibitions Dioxin-Containing Wastes

* * *

[See Prior Text in A-B.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2261. Waste-Specific Prohibitions California List Wastes

* * *

[See Prior Text in A-C.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2263. Waste-Specific Prohibitions First Third Wastes

* * *

[See Prior Text in A-F.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V. 2273; or

* * *

[See Prior Text in F.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2265. Waste-Specific Prohibitions Second Third Wastes

* * *

[See Prior Text in A-C.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2267. Waste-Specific Prohibitions Third Third Wastes

* * *

[See Prior Text in A-D.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2269. Waste-Specific Prohibitions Newly Listed Wastes

* * *

[See Prior Text in A-C.1]

2. an exemption or an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection

A. To the extent that the administrative authority has previously determined, through the issuance of an exemption under LAC 33:V.2271 or otherwise under LAC 33:V.Chapter 22, that no economically and environmentally reasonable alternatives to injection exist to the land disposal of a particular hazardous waste by injection well(s), such determination shall satisfy the requirement of and be deemed the determination by the administrative authority for purposes of R.S. 30:2193(G)(3). A formal petition in accordance with Subsection C of this Section may, but need not, be filed by the owner or operator of the injection well. The land disposal of the hazardous waste subject to the exemption shall be deemed to be excluded from the requirements of R.S. 30:2193(A)-(F), LAC 33:V.2205-2271, and any conditions of such exemption. The provisions set forth in Subsections C-L of this Section shall be applicable to such determination.

B. This Section is intended to provide the requirements to implement the exclusion provision set forth in R.S. 30:2193(G)(1)-(3). The implementation of this exclusion requires a determination from the administrative authority that there are no economically reasonable and environmentally sound alternatives to the land disposal of a hazardous waste by injection well. The requirements of R. S. 30:2193(A)-(F) and LAC 33:V.2205-2271 shall not apply to the land disposal of a hazardous waste by injection well excluded under R.S. 30:2193(G)(1)-(3).

C. Any person seeking a determination of no alternatives must submit a petition to the administrative authority that does the following:

1. the petition must show that such land disposal has been exempted by the United States Environmental Protection Agency (EPA) from land disposal prohibitions contained in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.;

2. the petition must show that a permit has been issued for such injection well or wells by the Louisiana Department of Natural Resources, Office of Conservation, in accordance with Title 30. Subtitle I. Chapter 1 of the Louisiana Revised Statutes of 1950 and the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.;

3. the petition must show that for the injected hazardous waste there are no economically reasonable and environmentally sound alternatives to disposal into an injection well. The petition submitted in accordance with this Subsection must include:

a. an analysis of alternatives considered for technical feasibility;

b. an analysis of technically feasible alternatives, if any, showing whether any are economically reasonable;

c. an assessment of the impact of those economically reasonable alternatives considered, if any, on other environmental programs and permits of the facility, including impacts on air and water discharges; and

d. where applicable and appropriate, a description of the available capacity of economically reasonable and environmentally sound alternative technologies; and

4. the petition must include:

a. a waste characterization that describes the chemical and physical characteristics of the wastes being or to be injected;

b. a copy of the decision by the EPA exempting the land disposal from the prohibitions contained in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., if issued;

c. a copy of the permit issued for such injection well or wells by the Louisiana Department of Natural Resources, Office of Conservation, in accordance with Title 30. Subtitle I. Chapter 1 of the Louisiana Revised Statutes of 1950 and the Safe Drinking Water Act, 42 U.S.C. 300(f), et seq., if issued;

d. such additional information as is required by the administrative authority to support the petition under this Section; and

e. this statement signed by a duly authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted for this petition and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

D. Following a determination under this Section, the owner or operator of the injection well must submit a report to the administrative authority, by March 1 of each calendar year during the term of the determination, describing in detail the efforts undertaken during the preceding calendar year to identify any economically reasonable and environmentally sound alternatives to disposal into an injection well for any hazardous waste injected on site.

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection I of this Section, shall apply with respect to such hazardous waste.

1. If such hazardous waste is substantially similar in potential alternative technologies to a hazardous waste subject to an existing determination under this Section issued to the same owner or operator, a new petition is not necessary, and such hazardous waste shall be included within that determination upon the owner or operator providing notice to the administrative authority. The notice must include a brief showing that the alternatives determination for the existing hazardous waste is applicable to such hazardous waste.

2. If the administrative authority determines that the condition of Subsection E.1 of this Section is not satisfied, the administrative authority shall require the owner or operator of the injection well to submit a petition under Subsection C of this Section that addresses such hazardous waste. In this circumstance such hazardous waste may be injected pending a final decision by the administrative authority on the petition.

F. If a new injection well(s) is to be used to inject a hazardous waste subject to an existing approved determination under this Section, a new petition is not necessary, provided the owner or operator submits a notice to the administrative authority. The notice shall include a copy of the EPA exemption approval for the new well(s) and a copy of the permit issued by the Louisiana Department of Natural Resources, Office of Conservation for the new well(s).

G. The administrative authority shall provide public notice and an opportunity for public comment, in accordance with the procedures in LAC 33:V.2243, of the intent to approve or deny a petition for no-alternatives determination. The administrative authority shall provide public notice of the final decision on such a petition.

H. Whenever the administrative authority determines that the basis for a determination may no longer be valid, the administrative authority may require a new petition in accordance with this Section.

I. Termination of a No-Alternatives Determination

1. The administrative authority may terminate a determination granted under this Section for any of the following causes:

a. noncompliance by the facility with any condition of the determination;

b. the facility's failure in the petition or during the review and determination to disclose fully all relevant facts or the facility's misrepresentation of any relevant facts at any time;

c. a determination that new information shows the basis for a determination of the petition is no longer valid;

d. upon the denial or termination of a Louisiana Department of Natural Resources, Office of Conservation final permit; or

e. upon the denial or termination of an EPA exemption for injection.

2. Should a determination be terminated because an economically reasonable and environmentally sound alternative exists, the administrative authority shall issue a compliance schedule authorizing continued injection for the amount of time reasonably necessary to construct and/or implement such alternative.

3. If during the review and determination of the petition, the facility willfully withholds facts directly and materially relevant to the decision, the administrative authority may terminate the determination.

4. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any determination under this Section.

J. If a petition has been submitted in accordance with this Section and the EPA and the Louisiana Department of Natural Resources, Office of Conservation have approved the land disposal of prohibited waste by injection well, the land disposal of the waste by injection well may continue until the administrative authority makes a decision on the petition.

K. If a no-alternatives determination is vacated and/or remanded, the land disposal of the waste by injection well may continue until final action on the remand is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

L. Term of the No-Alternatives Determination

1. The term of a determination granted under this Section shall be a maximum of 10 years from the date of the determination.

2. The petitioner shall submit a petition for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative authority, through no fault of the petitioner, fails to act on the petition for reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:

Chapter 43. Interim Status

§4357. Operating Record

* * *

[See Prior Text in A-B.9]

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

* * *

[See Prior Text in B.11-16]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), LR:25:

Chapter 51. Fee Schedules

§5120. Land Disposal Prohibition Petition Fees

Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	$ 10,000
Exemption	45,000
Extension	5,000
No-Alternatives Determinations	10,000
Original Petition	10,000
Renewal Petition/Request	1,000
Request for determination for addition of a hazardous waste(s) not covered by existing determination	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW062. Such comments must be received no later than August 2, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW062.

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

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Land Disposal of Prohibited Waste by Deep Well Injection

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

No significant cost (savings) to state or local governments are anticipated as a result of the implementation of this rule.

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

The revenue collections of the state will be increased $70,000 during the first fiscal year as a result of establishing a new alternative review fee for an injection well exemption petition. In 10 years when alternate submittals are made, there will be a reduction of $245,000 in revenue collected. There should be no effect on revenue collections of local governments as a result of the implementation of this rule.

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

The regulated community is currently required to submit a full petition for an injection well exemption to both the USEPA and the LDEQ. Under the proposed action, facilities will still be required to submit the full petition to the USEPA, but will have the option to submit only the alternative Section to the LDEQ. The regulated community will incur an additional expenditure of $70,000 in FY 99-2000 as a result of paying the $10,000 fee for an alternate submittal. There will be a savings in petition preparation cost and a $245,000 reduction in review fees paid in ten years when only the Alternatives Section of the petition is submitted to the LDEQ.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as a result of the implementation of this rule.

James H. Brent, Ph.D.
Assistant Secretary
9906#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

Requirements for Commercial Hazardous Waste Incinerators (LAC 33:V.529)(HW070)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.529 (Log #HW070).

The proposed regulation requires that applications for new permits and substantial modifications of existing permits for commercial hazardous waste incinerators comply with certain existing provisions of the Hazardous Waste Regulations (LAC 33:Part V), Air Quality Regulations (LAC 33:Part III), and Water Quality Regulations (LAC 33:Part IX). The basis and rational for the proposed rule are to respond to a petition for rulemaking requesting that rules be adopted to comply with R.S. 30:2011(D)(24). This rule clarifies which DEQ regulations apply to commercial hazardous waste incinerators.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste
Chapter 5. Permit Application Contents
Subchapter E. Specific Information Requirements
§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B or C of this Section.

* * *

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

E. Commercial Hazardous Waste Incinerators. The administrative authority shall issue no new permit or substantial permit modification, as defined in LAC 33:I.1503, that authorizes the construction or operation of any commercial hazardous waste incineration facility, of any type, until the permit applicant complies with:

1. all applicable hazardous waste regulations in LAC 33:V, particularly as they pertain to:
   a. design as required in LAC 33:V.Chapters 5 and 31;
   b. siting as required in LAC 33:V.Chapters 5, 7, and 15;
   c. construction as required in LAC 33:V.Chapters 7 and 31;
   d. operation as required in LAC 33:V.Chapters 3, 5, 7, and 31;
   e. emission limitations as required in LAC 33:V.Chapters 5 and 31; and
   f. disposal methods as required in LAC 33:V.Chapters 22, 31, and 35;
2. all applicable air quality regulations in LAC 33:III; and
3. all applicable water quality regulations in LAC 33:IX.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2180 and 30:2011D.24(a).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW070. Such comments must be received no later than August 2, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW070.

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

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Requirements for Commerical Hazardous Waste Incinerators

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

No significant effect of this proposed rule on state or local governmental expenditures is anticipated. This proposed rule will merely identify and clarify which of the existing departmental regulations apply to commercial hazardous waste incinerators.

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

No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.

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

No significant costs and/or economic benefits to directly affected persons or non-governmental groups is anticipated. The regulated community is already required to abide by the existing departmental regulations identified and clarified in this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed amendment on competition and employment is anticipated.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
9906#052	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Water Resources
Water Pollution Control Division

Louisiana Pollutant Discharge Elimination System (LPDES) Program (LAC 33:IX.2301, 2531, 2533)(WP032*)

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.2301, 2531, and 2533 (Log #WP032*).

This proposed rule is identical to federal regulations found in all 40 CFR sections referenced in LAC 33:IX.Chapter 23; 40 CFR 136; 40 CFR 401, 402, and 404-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. 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 update the incorporation by reference of federal regulations to refer to those regulations published in the July 1998 *Code of Federal Regulations*, unless otherwise noted. The basis and rationale for this proposed rule are to clarify which edition of the federal regulations to consult when LAC 33:IX.Chapter 23 references the federal regulations. This will assure consistent application of state and federal requirements.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Subchapter A. Definitions and General Program Requirements
§2301. General Conditions

* * *

[See Prior Text in A - E]

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1998 *Code of Federal Regulations*, unless otherwise noted.

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 23:199 (February 1997), LR 23:722 (June 1997), LR 25:

Subchapter N. Adoption by Reference

The Louisiana Department of Environmental Quality adopts by reference the following federal requirements.

§2531. 40 CFR Part 136

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1998, in its entirety.

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 23:958 (August 1997), LR 25:

§2533. 40 CFR Subchapter N

Title 40 (Protection of the Environment) CFR, chapter 1, subchapter N (Effluent Guidelines and Standards), revised July 1, 1998, parts 401 and 402, and parts 404 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of Subchapter N have been included in these regulations as Subchapter T.)

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 23:958 (August 1997), LR 25:

A public hearing will be held on July 26, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP032*. Such comments must be received no later than July 26, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to fax (225) 765-0486. 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 Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP032*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104

Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/olae/irdd/olaeregs.htm.

Linda Korn Levy
Assistant Secretary

9906#049

NOTICE OF INTENT

Office of the Governor
Board of Trustees of the State Employees Group Benefits Program

EPO Plan Document

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board hereby gives Notice of Intent to adopt an entire new Plan Document for the State Employees Group Benefits Program, designating it as the EPO Plan Document. The EPO Plan Document sets forth the terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self-insured health and accident benefits plan, designated as the EPO Plan, provided for state employees and their dependents pursuant to R.S. 42:851 et seq., as follows:

The text of this notice of intent may be viewed in its entirety at the office of the Board of Trustees for State Employees Group Benefits Program, 5825 Florida Boulevard, Second Floor, Baton Rouge, Louisiana, and the Office of the State Register, 1051 North Third Street, Baton Rouge, Louisiana.

Interested persons may present their views, in writing, to Jack W. Walker, Ph.D., Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, July 23, 1999.

Jack W. Walker, Ph.D.
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: EPO Plan Document

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

It is estimated the implementation of the benefit changes included in the EPO Plan Document of the State Employees Group Benefits Program will save approximately $30.6 million in claim cost during the period of July 1, 1999 through June 30, 2002. These savings are broken down as follows: FY 1999/2000 – $5.6 million; FY 2000/2001 – $10.0 million; FY 2001/2002 – $15.0 million. These savings will be primarily due to revisions in the current fee schedule, renegotiation of hospital contracts with mandatory pre-certification and lower per diem payments, and higher discounts among medical providers due to increased utilization.

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

Revenue collections of state or local governmental units will not be affected. This cost saving measure should result in less need for further rate increases the may have been necessary.

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

Those persons or groups that will be directly affected will be the medical providers that become a part of the SEGBP Exclusive Provider Organization. They will be accepting payment from SEGBP that are somewhat lower than they have been in the past based on these agreements. In addition, state employees choosing this option will have benefits subject to co-lower out-of-pocket expenses with the removal of an annual deductible and implementation of a co-payment design.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Jack W. Walker
Chief Executive Officer

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9906#067

NOTICE OF INTENT

Office of the Governor
Board of Trustees of the State Employees Group Benefits Program

PPO Plan Document

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board hereby gives Notice of Intent to amend and readopt the entire Plan Document for the State Employees Group Benefits Program, designating it as the PPO Plan Document. The PPO Plan Document sets forth the terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self-insured health and accident benefits plan, designated as the PPO Plan, provided for state employees and their dependents pursuant to R.S. 42:851 et seq.

The text of this notice of intent may be viewed in its entirety at the office of the Board of Trustees for State Employees Group Benefits Program, 5825 Florida Boulevard, Second Floor, Baton Rouge, Louisiana, and the

Office of the State Register, 1051 North Third Street, Baton Rouge, Louisiana.

Interested persons may present their views, in writing, to Jack W. Walker, Ph.D., Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, July 23, 1999.

Jack W. Walker, Ph.D.
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: PPO Plan Document

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

It is estimated the implementation of the benefit changes included in the PPO Plan Document of the State Employees Group Benefits Program will save approximately $59.2 million in claim cost during the period of July 1, 1999 through June 30, 2002. These savings are broken down as follows: FY 1999/2000 – $13.0 million; FY 2000/2001 – $19.4 million; FY 2001/2002 – $26.8 million. These savings will be primarily due to revisions in the current fee schedule and renegotiation of hospital contracts with mandatory pre-certification and lower per diem payments.

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

Revenue collections of state or local governmental units will not be affected. This cost saving measure should result in less need for further rate increases that may have been necessary.

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

Those persons or groups that will be directly affected will be the medical providers that become a part of the SEGBP Preferred Provider Organization. They will be accepting payments from SEGBP that are somewhat lower than they have been in the past based on these agreements. Plan members will no longer be responsible for an annual deductible on prescription drugs and an increase lifetime maximum benefit of $1,000,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Jack W. Walker	H. Gordon Monk
Chief Executive Officer	Staff Director
9906#066	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Disciplinary Procedures
(LAC 46:LXXXV.101, 105, 106, 815, 816, 1001, 1215, 1216, and 1401-1425)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.101, 105, 106, 815, 1001, and 1215 and adopt 46:LXXXV.816, 1216, and 1401-1425. These proposed changes pertain to disciplinary procedures and are offered in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 1. Operations of the Board of Veterinary Medicine

§101. Information, Agency Office, Request for Rules or Action

A. - D. ...

E. Reports to Licensees. The board shall provide a regular report, which shall include, but not be limited to, notices of changes in policy, procedure, regulations, and/or statutes by the board or other governmental entities and dispositions of disciplinary cases. Other information deemed by the board to be pertinent in its mission of protecting the public health, safety, and welfare in the practice of veterinary medicine shall be printed and mailed to all licensees and other interested parties who have requested in writing to receive this report. The report shall be published not less than one time per fiscal year and may be published more frequently as the president of the board shall order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 19:1328 (October 1993), LR 23:966 (August 1997), LR 25:

§105. Appeals and Review

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any person aggrieved by a decision of the board may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 19:345 (March 1993), LR 23:966 (August 1997), LR 23:1529 (November 1997), LR 25:

§106. Disciplinary Proceedings

Any person against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1526 and/or 37:1531 and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:940 (May 1998), LR 25:

Chapter 8. Registered Veterinary Technicians

§815. Appeals and Review

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any person aggrieved by a decision of the board, other than a holder of certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1544-1548, may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office located in Baton Rouge, Louisiana.

3. Upon receipt of such petition, the board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:26 (March 1990), amended LR 25:

§816. Disciplinary Proceedings

Any registered veterinary technician against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1544-1548 and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

Chapter 10. Rules of Professional Conduct

§1001. Purpose and Scope

A. The Rules of Professional Conduct shall govern the professional conduct of the members of the veterinary profession in the state of Louisiana. These rules of professional conduct shall be cumulative of all laws of the state of Louisiana relating to the professional conduct of veterinarians and to the practice of veterinary medicine in this state, and shall include the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines. In the event the Principles of Veterinary Medical Ethics, Policy Statements and Guidelines contradict the Louisiana Veterinary Practice Act and/or the board's rules, the latter shall govern.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:228 (March 1990), amended LR 25:

Chapter 12. Certified Animal Euthanasia Technicians

§1215. Appeals and Review

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any certified animal euthanasia technician aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1551 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 25:

§1216. Disciplinary Proceedings

Any CAET against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1551 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

Chapter 14. Disciplinary Procedures

§1401. Causes for Administrative Action

The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., may deny, revoke or suspend any license, temporary permit, or certification issued or applied for or otherwise discipline a licensed veterinarian, registered veterinary technician or certified animal euthanasia technician on a finding that the person has violated the Louisiana Veterinary Practice Act, any of the rules and regulations promulgated by the board, the Principles of Veterinary Medical Ethics, Policy Statements and Guidelines of the American Veterinary Medical Association, or prior final decisions and/or consent orders involving the licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant. Sometimes hereinafter in this Chapter, where the context allows, a licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant may be referred to as "person."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1403. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana

Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Veterinary Practice Act, the rules and regulations of the board, the Principles of Veterinary Medical Ethics, Policy Statements and Guidelines of the American Veterinary Medical Association, or prior Final Decisions and/or Consent Orders involving the veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1405. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential and shall be sent to the board office. The investigating board member, with benefit of counsel, shall decide to investigate the charges or deny the charges. If the charges are denied, a letter of denial is prepared and forwarded to the complainant and the person accused of wrongdoing. If the investigating board member decides to investigate, the person shall be notified that allegations have been made that he may have committed a breach of statute, rule and regulation, the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. The response is to be made to the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, and other pertinent information, if available, is reviewed, a determination by the investigating board member, with benefit of counsel, will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate the industry, the board through its investigating board member, may issue subpoenas to secure evidence of alleged violations of the Louisiana Veterinary Practice Act, any of the rules and regulations promulgated by the board, the American Veterinary Medical Association's Principles of Veterinarian Medical Ethics, Policy Statements and Guidelines, or prior final decisions and/or consent orders involving the licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant.

D. "Counsel" referenced in this Chapter shall mean the board's General Counsel who will be assisting in the investigation and prosecution of an administrative action. Said counsel shall not provide any legal advices or act as legal counsel to the board or its members, other than the investigating board member, regarding a pending administrative action during the investigation, prosecution and resolution of such disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1407. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the investigating board member may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be closed. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The investigating board member may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out at the conference may later be used in a formal hearing. Board members, other than the investigating board member, may not be involved in informal conferences.

3. Settlement. An Agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1409. Formal Hearing

A. The board has the authority, granted by LSA R.S. 37:1511 et seq., to bring administrative proceedings against persons to whom it has issued a license, temporary permit or certification or any applicant requesting a license, temporary permit or certification. The person has the right to appear and be heard, either in person or by counsel; the right of notice; a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board receives a complaint alleging that a person has acted in violation of the Louisiana Veterinary Practice Act, the rules and regulations of the Board, or the Principles of Veterinary Medical Ethics, Policy Statements and Guidelines of the American Veterinary Medical Association. Communications from the complaining party

shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the investigating board member or board attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than the investigating board member, may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

i. the complaint is sufficiently serious;

ii. the person fails to respond to the board's correspondence concerning the complaint;

iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary; or

iv. an informal approach is used, but fails to resolve all of the issues.

3. A sworn complaint is filed, charging the violation of one or more of the provisions of the Louisiana Veterinary Practice Act, the rules and regulations promulgated thereto, the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least twenty days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the Board, but not less than seventy-two hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding;

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person;

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary; and/or

vi. other items or things allowed into evidence by the Louisiana Evidence Code or applicable statutory law or jurisprudence.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows:

a. the board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take;

b. the person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded;

c. the board's representative presents the case against the person;

d. the person, or his attorney, cross-examines;

e. the person presents evidence;

f. the board's representative cross-examines;

g. the board's representative rebuts the person's evidence;

h. both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during

the course of the hearing may be made orally since they become part of the record of the proceeding.

11.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of the hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process:

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person; and

iii. determine whether charges brought are in violation of the Louisiana Veterinary Practice Act, rules and regulations of the board, and/or the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines.

b. Deliberation

i. The board will deliberate in closed session.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. The standard will be "preponderance of the evidence."

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, deny, revoke or suspend any license, temporary permit or certification issued or applied for or otherwise discipline a person or applicant. An affirmative vote of a majority of the quorum of the board shall be needed to deny, revoke, or suspend any license, temporary permit or certification issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a person or applicant. The investigating board member shall not be involved in or present during deliberation, nor shall he be included in the quorum or allowed to vote on the outcome of the proceeding.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusions of law determined as a result of the hearing, and will be issued by the board in accordance with applicable statutory authority. The party is notified by mail of the final decision of the Board.

d. In addition to the disciplinary action or fines assessed by the board against a licensed veterinarian or temporary permittee, the board may assess all costs incurred in connection with the proceedings, including but not limited to investigators', stenographers', attorney's fees and court costs.

e. With regards to a registered veterinary technician or a certified animal euthanasia technician, the board may, as a probationary condition or as a condition of the reinstatement of any certification suspended or revoked hereunder, require the holder to pay all costs of the Board proceedings, including investigators', stenographers', secretaries', attorney's fees and court costs.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a stay of execution of a sanction for a period of time against an applicant or licensee, temporary permittee or holder of a certificate. Such order, without a stay of execution, shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees, temporary permittees or holders of certificates of any action taken against him and may make public its orders and judgment in such manner and form as allowed by law.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

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

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

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1411. Consent Order

An order involving a type of disciplinary action may be made to the board by the investigating board member with the consent of the person. To be accepted, a consent order requires formal consent of a majority of the quorum of the board. Such quorum does not include the investigating board member. It is not the result of the board's deliberation; it is

the board's acceptance of an agreement reached between the board and the person. A proposed consent order may be rejected by the board in which event a formal hearing will occur. The consent order, if accepted by the board, is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1413. Withdrawal of a Complaint

If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the investigating board member judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1415. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the denial, revocation or suspension of his license, temporary permit or certification, or application for licensure, temporary permit or certification, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1417. Judicial Review of Adjudication

Any person whose license, temporary permit or certification, or application for licensure, temporary permit or certification, has been denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within thirty days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1419. Appeal

A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1421. Reinstatement of Suspended or Revoked License

Any person whose license is suspended or revoked may, at the discretion of the board, be relicensed or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1423. Declaratory Statements

The Board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Veterinary Practice Act, LSA R.S. 37:1511 et seq., the rules and regulations promulgated by the board and/or the Principles of Veterinary Medical Ethics, Policy Statements and Guidelines of the American Veterinary Medical Association.

A. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

1. the name and address of the petitioner;
2. specific reference to the statute, rule and regulation, or the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines to which the petitioner relates; and
3. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, Policy Statements and Guidelines by its potential application to him in which he is uncertain of its effect.

B. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

C. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1425. Injunction

A. The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit.

B. If the court finds that the person is violating, or is threatening to violate, this Chapter it shall enter an injunction restraining him from such unlawful acts.

C. The successful maintenance of an action based on any one of the remedies set forth in this rule shall in no way prejudice the prosecution of an action based on any other of the remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on July 30, 1999. If it becomes necessary

to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on July 30, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Procedures

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated $1,600). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from the amendment.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Charles B. Mann
Executive Director
9906#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Licensure and Examinations
(LAC 46:LXXXV.301 and 303)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.301 and 303 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 3. Licensure Procedures
§301. Applications for Licensure

A. ...

B. In addition to the above requirements, the board may also require that any applicant furnish the following information:

1. ...

2. a copy of the applicant's diploma from a veterinary medical school or college accredited or approved by the American Veterinary Medical Association;

3. - 8. ...

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:343 (March 1993); LR 23:964 (August 1997), LR 25:

§303. Examinations

A. ...

1. - 3. ...

4. A candidate for examination must be:

a. a graduate of a school or college of veterinary medicine accredited or approved by the American Veterinary Medical Association; or

b. - c. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 19:344 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on July 30, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on July 30, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure and Examinations

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated $160). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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. There will be no revenue impact as no increase in fees will result from the amendment.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change. The Board would anticipate that the number of graduates from approved schools who apply for licensure in this state to be minimal.

Charles B. Mann
Executive Director
9906#010

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Gifts to Children with Life-Threatening Conditions

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

The Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July of 1996 (*Louisiana Register*, Volume 22, No. 7). Section I of the Medicaid Eligibility Manual explains the eligibility factors used to determine Medicaid eligibility, including countable income and resources.

The Non-Citizen Benefit Clarification and Other Technical Amendments Act of 1998 (Public Law 105-306) was recently enacted amending section 1612 (b) income disregard, and section 1613(a) resource disregard of the Social Security Act (42 U.S.C.1382a.(b) and 1382b(a)). These amendments require the Medicaid Program to provide for gift exclusions for children who are under age 18 and have a life-threatening condition. The gift must be from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 as exempt from taxation. The Bureau proposes to amend section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P. L. 105-306, which retroactively excludes any gifts made to, or for the benefit of, children who are under age 18 and have a life-threatening condition, from consideration in the determination of Medicaid eligibility.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P.L. 105-306 which exclude from consideration as countable income and resources, any gifts made to, or for the benefit of, children who are under age 18 and have a life-threatening condition, if the gifts are from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 as exempt from taxation. This amendment is applicable to gifts made on or after October 28, 1996.

A. Income Determinations. Gifts are excluded from the income determination of Medicaid eligibility under the following circumstances:

1. in the case of an in-kind gift, it is not considered income if the gift is not converted to cash;
2. if an in-kind gift is converted to cash, the cash is counted as income in the month it is converted;
3. in the case of a cash gift, it is excluded as income only to the extent that the total amount excluded from the income under this provision does not exceed $2,000 in any calendar year;
4. cash in excess of $2,000 received in a calendar year is subject to regular income determination policy.

B. Resource Determination. Gifts will be excluded from the resource determination of Medicaid eligibility under the following circumstances:

1. in the case of an in-kind gift, it is not considered as income if the gift is not converted to cash;
2. if an in-kind gift is converted to cash, any cash remaining in the month following the month that it is converted is a resource;
3. in the case of a cash gift, it is considered as a resource only to the extent that the cash excluded does not exceed $2,000 in any calendar year;
4. retained cash in excess of $2,000 received in a calendar year is subject to regular resource determination policy.

C. A gift to a parent whose income and resources are subject to deeming is excluded (subject to the aforementioned limits) if the gift is for the benefit of a child under age 18 with a life-threatening condition.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, July 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Gifts to Children with Life-Threatening Conditions

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

Estimated costs to the state cannot be determined at this time, as no cases are currently affected by implementation of this rule. However, it is anticipated that costs, once determined, shall be minimal. In SFY 1999, $205 will be incurred for the state's administrative expense of promulgating this proposed

rule, the final rule and the Medicaid Eligibility Manual revisions.

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

The estimated effect on revenue collections cannot be determined at this time, as no cases are currently affected. However, it is anticipated that revenue collections, once determined, shall be minimal. In SFY 1999, $205 will be incurred for the federal share of promulgating this proposed rule, the final rule and the Medicaid Eligibility Manual revisions.

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

Children who are under age 18, have a life-threatening condition, and receive gifts from organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 as exempt from taxation, may have exclusions applied in considering countable income and resources during Medicaid eligibility determination. State programmatic costs cannot be determined at this time as current cases are not affected by implementation of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9906#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Louisiana Children's Health Insurance Program (LaCHIP)

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by LA. R.S. 46:153. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 4901 of the Balanced Budget Act of 1997 amended the Social Security Act to create the Children's Health Insurance Program under Title XXI to assist State efforts to initiate and expand child health assistance to uninsured, low-income children (BBA, Public Law 105-33). Under this program, child health assistance is to be provided by obtaining health benefits coverage through 1) providing coverage that meets requirements specified in the law under section 2103 of the Act; or 2) expanding coverage under the State's Medicaid Plan under Title XIX of the Act; or 3) a combination of both. The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule effective November 1, 1998 to implement the first phase of the Louisiana Children's Health Insurance Program (LaCHIP) for uninsured children, birth through age nineteen, whose family income does not exceed 133 percent of the federal poverty level by expanding coverage to these children under the Medicaid Program (*Louisiana Register*, Volume 24, No. 10).

In accordance with the recommendation of the Governor s LaCHIP Task Force and Senate Bill No. 256 of the 1999 Regular Session of the Louisiana Legislature, the Department is amending the October 20, 1998 rule in order to implement the second phase of LaCHIP which increases the family income limits for LaCHIP eligibility from 133 percent to 150 percent of the federal poverty level. All other requirements for LaCHIP eligibility will remain the same.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the second phase of the Louisiana Children's Health Insurance Program (LaCHIP) effective October 1, 1999 by expanding coverage under the Medicaid Program to uninsured children, birth through age nineteen, whose family income is between 133 percent and 150 percent of the federal poverty level (FPL). This expansion is in compliance with section 4901 of the Balanced Budget Act of 1997 which enacted Title XXI of the Social Security Act, Act 128 of the First Extraordinary Session of the 1998 Louisiana Legislature which enacted the LaCHIP Program, and Senate Bill No. 256 and the General Appropriation Act of the 1999 Regular Session of the Louisiana Legislature which authorizes the funding for the expansion. All other requirements for LaCHIP eligibility will remain the same.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, July 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Louisiana Children's Health Insurance Program (LaCHIP)

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

Implementation of the second phase of the LaCHIP will result in additional costs of approximately $2,005,107 for SFY 1999-00, $2,532,757 for SFY 2000-01, and $2,634,067 for SFY 2001-02. Included in SFY 1999 is $80 for the state's administrative expense of promulgating this proposed rule and the final rule.

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

The estimated effect on revenue collection is approximately $7,542,803 for SFY 1999-00, $9,527,990 for SFY 2000-01, and $9,909,110 for SFY 2001-02. Included in SFY 1999 is $80 for the federal share of promulgating this proposed rule and the final rule.

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

Uninsured children whose family income is between 133 percent and 150 percent of the federal poverty level and who meet the other eligibility requirements will be able to obtain Medicaid coverage under LaCHIP. In addition, the expansion of coverage under LaCHIP will increase reimbursement to providers by approximately $8,697,814 for SFY 1999-00, $11,210,651 for SFY 2000-01, and $11,659,077 for SFY 2001-02. Costs reflected are for services and do not include administrative expenditures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9906#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Presumptive Eligibility Certification Period

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

Federal regulations authorizing presumptive Medicaid eligibility for pregnant women were originally adopted by §9407(b) of the Omnibus Budget Reconciliation Act of 1986 and subsequently amended by §411(k)(16) of the Medicare Catastrophic Coverage Act of 1988, §608(d)(26)(L) of the Family Support Act of 1988, and §4605 of the Omnibus Budget Reconciliation Act of 1990. A rule was adopted in the Louisiana Medicaid Program effective January 1, 1988 (*Louisiana Register*, Volume 14, Number 12) which adopted presumptive eligibility as an optional provision of the Louisiana Medicaid Program. Presumptive eligibility is defined as temporary determination of Medicaid eligibility for a pregnant woman made by a qualified provider based on preliminary information concerning her gross family income. Under the original rule, which reflected federal requirements at that time, if a standard application for Medicaid eligibility was not filed by the pregnant woman within 45 days of the date the presumptive eligibility decision was made, presumptive eligibility expired. If an application was filed within the 45 day timeframe, the presumptive eligibility certification continued until a decision was made on the application.

The Bureau proposes to adopt the following rule concerning the length of time that presumptive eligibility determinations are effective in order to conform to amended federal guidelines.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the length of the presumptive eligibility period when the pregnant woman does not file a standard Medicaid application after being determined presumptively eligible. If a presumptively eligible pregnant woman does not file an application for Medicaid by the last day of the month following the month in which she is determined presumptively eligible, her presumptive eligibility ends on that last day. If she files an application timely, her presumptive eligibility certification stays open until a decision is made.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, July 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Presumptive Eligibility Certification Period

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

There is no estimated costs or savings to the state as a result of implementation of this proposed rule, however, $80 will be incurred in SFY 1999-2000 for the state's administrative expense of promulgating this proposed rule and the final rule.

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

There is no estimated effect on federal revenue collections. However, the federal share of promulgating this proposed rule and the final rule is $80.

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

The average length of time that a presumptively eligible pregnant woman who does not file an application for regular Medicaid eligibility is eligible will vary from thirty (30) to sixty (60) days, but will average 45 days. Therefore, some women will be eligible up to 15 days less, and others will be eligible up to 15 days more. There is no change in the average length of certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9906#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Physician Assistant Supervision

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

Physician assistants are allied health personnel considered to be useful in combating the growing shortage and geographic maldistribution of health care services. They are widely used in clinic settings to provide certain functions in an effective and productive manner in order to more appropriately utilize traditional health care personnel. Federal regulations regarding rural health clinics require that midlevel practitioners (which include physician assistants) be employed at least 50 percent of the time that the practice is open. Federally qualified health centers allow, but do not require, the employment of physician assistants.

Louisiana statutory law authorizing licensure of physician assistants was first established by Act 753 of the 1977 Louisiana Legislature, which added a new Part V of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950 containing R.S. 37:1360.21 through 37:1360.27. Among other things, Part V provided for the authorization, regulation, and certification of physician's trained assistants, including the regulation and approval of education and training programs, and the regulation and approval of physicians employing and supervising trained assistants. Subsequently, Act 662 of the 1993 Louisiana legislature amended and reenacted this Part to contain R.S. 37:1360.21 through 37:1360.38, and Act 879 of the 1995 Louisiana Legislature further amended statutory law.

The Department of Health and Hospitals, Board of Medical Examiners, pursuant to the authority vested in that agency by the Legislature, published LAC 46:XLV, Chapters 15 and 45 which contains standards for the licensing and certification and practice of physician assistants (*Louisiana Register*, Volume 22, No. 3). In particular, the rule requires that the physician who supervises a physician assistant be approved by and registered with the Board of Medical Examiners. In addition, the rule states that the supervising physician may supervise no more than two physician assistants at the same time, or a maximum of four when approved to act as a supervising physician on a *locum tenens* basis for physician assistants in addition to those for whom he or she is the primary supervising physician. According to the Board of Medical Examiners' rule, physician supervision must be conducted either on site where the physician assistant is providing services or within close proximity when there is the capability to be in contact with each other by telephone or other telecommunication device. The only exceptions are in emergencies or disasters, or when the physician assistant is volunteering unpaid services while in the presence of and under the supervision of another physician. The supervising physician is responsible for the supervision, control, and direction of the physician assistant and retains responsibility to the patient for the competence and performance of the physician assistant.

The Louisiana Medicaid Program does not enroll or reimburse physician assistants for services rendered to Medicaid recipients. However, the supervising physician may bill for the services performed by the physician assistants under his supervision if the services are provided in accordance with the provisions of Board of Examiners' rule. The Bureau proposes to adopt the following rule governing physician supervision of physician assistants.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions governing Medicaid reimbursement to a physician who supervises a physician assistant.

1. The supervising physician and the physician assistant must comply with the regulations promulgated under the Administrative Procedure Act by the Board of Medical Examiners.
2. Medicaid payment for services provided by a physician assistant is available only when the supervising physician is at the site where the service is provided or within reasonable geographic distance sufficient to ensure that appropriate intervention can be provided in case of an emergency. Under no circumstances will reimbursement be made for services provided by a physician assistant when the supervising physician is outside the continental United States.
3. Supervising physicians are to arrange for substitute supervision as defined by the Board of Medical Examiners to act on a *locum tenens* basis when the supervising physician is not within close proximity.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, July 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistant Supervision

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

There is no estimated costs or savings to the state as a result of implementation of this proposed rule. However, $80 will be incurred in SFY 1999 for the state's administrative expense of promulgating this proposed rule and the final rule.

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

There is no estimated effect on revenue collections. However, $80 will be incurred in SFY 1999 for the federal share of promulgating this proposed rule and the final rule.

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

Some supervising physicians will be required to make arrangements to have physician assistants supervised on a *locum tenens* basis rather than providing supervision from distant geographic locations. Medicaid recipients whose care is provided by a physician assistant will be assured that the supervising physician is within reasonable geographic distance in case of emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins	H. Gordon Monk
Director	Staff Director
9906#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 68—Patient Rights Under Health Insurance Coverage in Louisiana (LAC 37:XIII.Chapter 91)

In accordance with the provisions of LSA-R.S. 49:953 of the Administrative Procedure Act, LSA-R.S. 22:3, R.S. 22:2014, and R.S. 22:2021(C), the Department of Insurance is proposing to adopt the following regulation regarding the rights of patients with health insurance coverage in Louisiana. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: LSA-R.S. 22:2(G), 22:4, 22:215.9, 22:215.11, 22:215.13, 22:215.17 22:215.18, 22:215.19 22:2004, 22:2005, 22:2013, 22:2016 22:2018, 22:2020, 22:2021 and 22:2022.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 91. Regulation 68 Patient Rights Under Health Insurance Coverage in Louisiana

§9101. Purpose

A. The purpose of this regulation is to clarify the rights of insureds and requirements for health insurance coverage approved under Title 22 of the Louisiana Revised Statutes of 1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements that health insurance coverage must meet to be issued for delivery in Louisiana. The statutory requirements also establish the intent of the legislature to afford patients with health insurance coverage, basic rights to access covered benefits without undue delays or denials based on arbitrary determinations of medical necessity. The statutory requirements also establish the legislative intent to prohibit the use of a health insurance coverage requirement or procedure that impinges on the ability of the insured patient to receive appropriate medical advice and/or treatment from a health care provider.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the patient rights under health insurance coverage policies or plans issued for delivery in this state.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9103. Definitions

Emergency Medical Condition—means the sudden and, unexpected onset of a health condition that requires immediate medical attention, where failure to provide such medical attention could reasonably be expected to result in death, permanent disability, serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or could place the person's health in serious jeopardy.

Formal Managed Care Plan—basic health coverage provided by a Health Maintenance Organization licensed to operate in Louisiana. The term does not include health insurance coverage that does not meet the same quality standards that are applied to Health Maintenance Organizations. The term does not apply to any health insurance coverage or employer benefit plan that advertises or markets coverage as "managed care" but is not required to comply with the statutory consumer protections required of formal managed care plans operated by Health Maintenance Organizations in Louisiana.

Geographic Area—a Parish.

Health Care Professional—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed, certified, or registered as appropriate in Louisiana, or an acute care hospital licensed to provide medical care in this state.

Health Insurance Coverage—means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization, or health maintenance organization contract. This term shall not mean limited benefit insurance as defined in LSA-R.S. 22:6(2)(b)(i) or any short term health insurance exempt from guaranteed renewal by PL 102-191, the Health Insurance Portability and Accountability Act of 1996.

Incentive Arrangement—any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Plan—has the same meaning as set forth under LSA-R.S. 22:215.18A(3) and (4). This includes health insurance policies and health maintenance organization coverage. The term does not include supplemental insurance or limited benefit coverage for out of pocket expenses that is exempt from being classified as creditable coverage under Part of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

Service Area—the geographic area or areas of the state served by a managed care plan.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9105. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance coverage issued for delivery in the state of Louisiana that is otherwise subject to the statutory requirements of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9107. Patient Rights Under Policies or Plans of Health Insurance Coverage

A. Prohibition on the Use of Gag Clauses—Applies to HMO Coverage. Patients have a right to talk freely with health care professionals about their health, medical conditions, and any treatment options that are available, including those not covered by their health plan. LSA-R.S. 22:215.18(B) prohibits a managed care plan from adopting any requirement that interferes with the ability of a health care professional to communicate with a patient regarding his or her health care. This statutory protection also includes communications regarding treatment options and medical alternatives, or other coverage arrangements. The managed care plan is only allowed to prohibit a health care professional from soliciting alternative coverage arrangements for the purpose of securing financial gain by the health care professional.

B. Prohibition on Incentives to Restrict, Delay or Deny Medically Necessary Care—Applies to HMO and Major Medical Insurance Coverage. Patients have a right to receive medically necessary and appropriate services covered under a managed care plan. LSA-R.S. 22:215.19 prohibits managed care plans from offering any financial incentives to health care professionals to deny, reduce, limit, or delay specific, medically necessary, and appropriate services.

C. Holding Managed Care Plans Liable for their Actions, Omissions, or Activities—Applies to HMO and Major Medical Insurance Coverage. Managed care plans are responsible for their actions, activities or omissions that result in harm to the patient. LSA-R.S. 22:215.18(G) prohibits managed care plans from transferring their liability related to activities, actions or omissions of the plan to a health care professional treating the insured. This right does not relieve health care professionals of their responsibilities to appropriately practice within the scope of license, certification, or registration.

D. Guaranteed Direct Access to Obstetricians/Gynecologists—Applies to HMO and Major Medical Insurance Coverage. Women have a right to see an Obstetrician or Gynecologist for routine care. LSA-R.S. 22:215.17 requires health insurance coverage to include direct access to these health care professionals without prior authorization. In addition, health insurance coverage is required to include up to two annual routine visits and follow up treatment within sixty days of either visit if a related condition is diagnosed or treated during the visits. This requirement also applies to pregnancy related care if covered by the policy or plan.

E. Requirement for Appropriate Access to Covered Medical Services—Applies to HMO Coverage

1. Formal managed care plans operated by health maintenance organizations are required to maintain an adequate number of health care professionals to serve plan participants. Covered services must be provided within a reasonable period of time once ordered or prescribed. LSA-R.S. 22:2004, 2005, 2013, 2016, and 2021 establish requirements for HMO plans to document that their networks of primary care physicians and specialists are adequate. HMOs are allowed to use point of service options to expand networks and assure access to plan participants.

2. Other health insurance coverage is only allowed to offer managed care as a coverage option. These plans must offer traditional payment of medical claims based on the terms of the policy for deductibles and co-insurance.

F. Confidentiality of Medical Records—Applies to HMO Coverage

1. Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or potential enrollee obtained from such persons or from any provider by any formal managed care plan shall be held in confidence and shall not be disclosed to any person except:

a. to the extent that it may be necessary to carry out the purposes of operating a formal managed care plan as permitted by law;

b. upon the express consent of the enrollee or potential enrollee;

c. pursuant to statute or court order for the production of evidence or the discovery thereof;

d. in the event of a claim or litigation between such person and the formal managed care plan wherein such data or information is pertinent.

2. A formal managed care plan shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the formal managed care plan is entitled.

G. Prohibit Unreasonable Denial of Emergency Care—Applies to HMO and Major Medical Insurance Coverage

1. Any managed care plan that includes emergency medical services shall provide coverage and shall subsequently pay health care professionals for emergency medical services provided to a covered patient who presents himself/herself with an emergency medical condition.

2. No health insurance plan shall retrospectively deny or reduce payment to health care professionals for emergency medical services of a covered patient even if it is determined that the emergency medical condition initially presented is later identified through screening not to be an actual emergency, except in the following cases:

a. material misrepresentation, fraud, omission, or clerical error;

b. any payment reductions due to applicable co-payments, co-insurance, or deductibles that may be the responsibility of the covered patient;

c. cases in which the covered patient does not meet the emergency medical condition definition, unless the covered patient has been referred to the emergency

department by the insured's primary care physician or other agent acting on behalf of the health insurance plan;

H. Appeal/Grievance Procedures for Denials of Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Formal managed care plans operated by health maintenance organizations are required to have an administrative appeal or grievance process for patients. LSA-R.S. 22:2022 requires these plans to submit their appeal/grievance procedures to the Department of Insurance to verify the process or procedures used are reasonable and meet the intent of the statute.

2. In addition, where any insured patient is denied benefits under a health insurance coverage plan, a request can be made to the Department of Insurance for investigation of the denial. Where the denial is valid, the insured is so notified. Where the denial is erroneous, the health insurance coverage plan is required to institute corrective action and may be subject to fines and penalties if a statutory violation has occurred.

I. Guaranteed Continuation Of Group Insurance—Applies To HMO and Major Medical Insurance Coverage

1. LSA-R.S. 22:215.13 guarantees Louisiana residents who lose their eligibility for coverage under a group health insurance policy or plan, the right to maintain such coverage in force for up to 12 months. This guaranteed continuation of group health insurance does not include accident only coverage, specific disease coverage, limited benefit coverage for dental, vision care or any benefits provided in addition to the basic hospital, surgical, or major medical benefits of the policy. This means that additional or optional insurance coverage purchased is not guaranteed to be provided during this 12-month continuation period. This continuation of group coverage right is guaranteed for up to one year so long as the following conditions are met:

a. the individual is not eligible for any other group health coverage plan or government sponsored health plan, such as Medicare and Medicaid;

b. the individual timely pays the full monthly premium to keep coverage in force;

c. the individual was not terminated from coverage for fraud or failure to pay any required contribution for the group insurance, and continues to meet the group policy's terms and conditions other than membership in that original group;

d. all dependents covered under the group policy or plan continue to be covered;

e. the group policy has not been terminated or the employer has withdrawn participation in a multiple employer group policy; and

f. the individual continues to reside within the service area of the plan in the event that such group coverage is provided by a Health Maintenance Organization.

2. This right is not automatic and requires the employee or member who is losing coverage to make a written election of continuation on a form furnished by the group policyholder and pay for the first month's coverage prior to the date that coverage is being terminated. Written notification of termination must be provided to the individual in advance to allow election of this right.

3. Special continuation rights are provided to a surviving spouse of an individual who was covered by a group health insurance policy or plan at the time of death and is age 55 or older. Under Louisiana law the surviving spouse is guaranteed the right to continue such group coverage in effect until eligible for any other group coverage. The surviving spouse is also allowed to provide coverage to all dependents that were covered under the deceased spouse's policy or plan at the time of death so long as they remain eligible under the policy.

J. Guaranteed Renewal of Health Insurance Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Under Louisiana law, once health insurance coverage has been purchased, the insurer cannot cancel the coverage unless one of the following conditions exists:

a. failure to pay premiums or contributions in accordance with the terms of the policy;

b. failure to comply with a material plan provision relating to employer contribution or group participation rules;

c. performance of an act or practice that constitutes fraud or the intentional misrepresentation of a material fact under the terms of coverage;

d. the policyholder no longer resides, lives, or works in the service area in the event the coverage is provided under a formal managed care plan operated by a Health Maintenance Organization;

e. the policyholder's coverage is purchased through a bona-fide association plan and the policyholder is no longer eligible to participate in such association;

f. the insurance company is no longer offering the type of coverage purchased and offers to replace the policy with any other type of similar coverage being marketed within 90 days of renewal; or

g. the insurance company is leaving the market and will no longer be selling any group and/or individual health insurance products in Louisiana for a period of at least five years. In such instances the insurer must give each policyholder 180 days advance notice in writing before the policy is terminated. All termination notices must be filed and approved by the Department of Insurance prior to issuance.

K. Limits on Preexisting Medical Condition Exclusions from Coverage—Applies To HMO and Major Medical Insurance Coverage. Under Louisiana law, a health insurance plan is allowed to exclude certain medical conditions from coverage for a limited period of time. All policies now being sold are prohibited from excluding coverage for specific preexisting medical conditions for more than 12 months. Regardless of the type of coverage (group or individual), health plans are not allowed to apply an exclusion of coverage based on a preexisting medical condition for more than 12 months.

1. Group Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed or treated during the six month period prior to the day coverage begins under the policy. Any condition that was not being treated during the prior six months cannot be excluded from coverage.

2. Individual Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed, treated or reasonably should have been treated during the twelve month period prior to the day coverage begins under the policy. Any condition that was not diagnosed, treated, or reasonably should have been treated during the prior twelve months cannot be excluded from coverage.

L. Guaranteed Portability Protections—Applies to HMO and Major Medical Insurance Coverage

1. Individuals who are moving their health coverage from one employment situation to another or from one group plan to another are guaranteed the following rights provided they have enrolled in the new plan within 63 days of termination from the prior plan:

a. if the new plan imposes a 12-month preexisting exclusionary period, the individual must be given one month's credit for each month of continuous coverage under the prior plan. If the individual had 12 or more months of continuous coverage under the prior plan, the preexisting exclusionary period has been satisfied. If the individual had 6 months of continuous coverage under the prior plan, the preexisting exclusionary period is reduced by 6 months;

b. if the new employer imposes an exclusionary or waiting period for employees before coverage can begin, such periods do not count as a break in coverage for applying portability rights;

c. during any exclusionary or waiting period, no premiums can be charged to the individual;

d. during any exclusionary or waiting period the individual may maintain their prior coverage if eligible under state continuation of coverage rights, federal COBRA rights, or through purchase of an individual policy;

e. individuals, who had at least 18 months of prior coverage under a group plan, have exhausted or are not eligible for state continuation rights or COBRA rights, are guaranteed access to individual health insurance coverage through the Louisiana Health Insurance Association.

2. Any Louisiana resident who has individual health insurance coverage is guaranteed credit for prior individual coverage when replacing coverage if the insurance plan is applying the prior insurance policy's lifetime benefit usage against the replacement policy. Residents can waive credit for prior coverage to avoid any reduction in the lifetime benefit limit of the replacement coverage. However, state law no longer allows the sale of any policy of insurance that excludes coverage in excess of 12 months.

M. Prohibiting Discrimination Against Individuals Based on Health Status—Applies to HMO and Major Medical Insurance Coverage

1. State and federal law prohibit any group health coverage plan from discriminating against individuals based on their health status. This means that an individual's medical status cannot be used to determine eligibility to join a group health plan with certain exceptions. Plans are specifically prohibited from adopting any rules for eligibility or continued eligibility based on any of the following health status related factors:

a. health status;

b. medical condition, including both physical and mental illness;

c. claims experience;

d. receipt of health care;

e. medical history;

f. genetic information;

g. evidence of insurability, including conditions arising out of acts of domestic violence; and

h. disability.

2. A plan's rules for eligibility to enroll under a plan also include rules defining any applicable waiting periods for such enrollment. This means that the plan may only apply exclusionary or waiting period uniformly based on date of hire for all eligible employees. No exclusionary or waiting periods are allowed after coverage begins and premiums are being collected from the insured.

N. Prohibition on Use of Prenatal and Genetic Tests by Health Insurance Plans—Applies to HMO and Major Medical Insurance Coverage. State law prohibits health insurance plans from requiring any individual to take genetic tests or prenatal tests prior to being offered coverage. Plans are also prohibited from requesting release of any genetic or prenatal test results or using such information in the determination of benefits or rates for an insured.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9109. Patient Responsibilities

Under Louisiana law, formal managed care plans operated by health maintenance organizations are held to a higher standard than other health insurance coverage plans that include managed care options. All materials provided by a health insurance coverage plan should be carefully reviewed prior to making a purchasing decision. Managed care requirements under each health insurance coverage plan may vary significantly. For this reason, all patient requirements should be carefully reviewed to assure there is no misunderstanding regarding how medical coverage will be provided.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

A public hearing on the proposed regulation will be held on March 31, 1999 in the Plaza Hearing room of the Louisiana Department of Insurance located at 950 North Fifth Street, Baton Rouge, LA, at 9:00 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Claire Lemoine, Senior Attorney, Division of Health, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (225) 219-4771. Comments will be accepted through the close of business at 4:30 p.m., June 17, 1999.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 68 Patient Rights Under Health Insurance Coverage In Louisiana

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

It is not anticipated that Regulation 68 would result in any implementation costs or savings to local or state governmental units. The rights set forth in the regulation have already been established statutorily.

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

There should be no impact on revenue collections of state or local governmental units as a result of Regulation 68. All rights set forth in the regulation have already been established statutorily.

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

There are no anticipated benefits or costs to directly affected groups or persons, as a result of Regulation 68. The rights set forth in the regulation have already been established statutorily.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Regulation 68 is not expected to have any impact on competition and employment.

Craig S. Johnson
Deputy Commissioner
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9906#002

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Child Protection Investigation Report Acceptance
(LAC 67:V.1301)

The Department of Social Services, Office of Community Services, proposes to amend the Rule entitled Child Protection Investigation Report Acceptance published in the Louisiana Register Vol. 19, No. 4, April 20, 1993, page 503.

This proposed rule regards the acceptance of reports of child abuse and/or neglect for investigation by the Office of Community Services. The Office of Community Services will now accept for investigation all reports of suspected child abuse/neglect related deaths regardless of whether there are surviving children in the child victim s home.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 3. Child Protective Services
Chapter 13. Intake
§1301. Child Protection Investigation Report Acceptance

A. - F. ...

G.2.a. Repealed

b. - m. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:

Interested persons may submit written comments for forty days from the date of this publication to the following address: Shirley Goodwin, Assistant Secretary, P. O. Box 3318, Baton Rouge, LA 70821. She is the person responsible for responding to inquiries.

Madlyn Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Child Protection Investigation Report Acceptance

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

The only cost in FY 99/2000 will be $500 to print manual material. It is estimated that the acceptance of these child fatality reports will result in approximately twenty-five additional investigations per year statewide. Currently OCS conducts approximately 25,000 investigations. These additional 25 investigations will not result in a need for additional staff.

There will be no saving as a result of the revision to agency policy.

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 not be any costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue competition and employment.

Robert J. Hand
Director

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9906#036

NOTICE OF INTENT

Department of Transportation and Development
Office of the Secretary
Crescent City Connection Division

Bridge Toll—Crescent City Connection-Transit Lanes
(LAC 70:I.515)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 70:I.515 to allow access to the transit lanes on the Crescent City Connection Bridge No. 2, New Orleans,

Louisiana, by motorcycles and inherently low emission vehicles.

The proposed Rule Amendment is necessary in part to implement recent changes in federal law.

Title 70
TRANSPORTATION AND DEVELOPMENT
Part I. Office of the General Counsel
Chapter 5. Tolls
§515. Crescent City Connection Transit Lanes

A. Intent. It is the intent of this Rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other high occupancy vehicle (HOV) use, while minimizing transportation related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on the transit lanes of the Crescent City Connection Bridge No. 2, and the establishment of the requirements for vehicles operating on the transit lanes.

B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit, high occupancy vehicles, and other eligible vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. trucks with more than two axles or having a gross weight capacity of one ton or more;
2. vehicles towing trailers;
3. parades;
4. funeral processions;
5. pedestrians;
6. bicycles; and
7. non-motorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses;

2. school buses;

3. commercial passenger vehicles manufactured to carry seven (7) or more passengers and pre-qualified to use the transit lanes ("HOV-7");

4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-2");

5. motorcycles properly displaying a valid toll tag issued by the Crescent City Connection Division ("Authorized Motorcycles"); and

6. any vehicle certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and labeled in accordance with, section 88.312-93(c) of such title, and properly displaying a valid toll tag issued by the Crescent City Connection Division ("ILEV").

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation. There are no minimum occupancy requirements for vehicles designated as Authorized Motorcycles or for vehicles designated as ILEV during all hours of operation.

F. Qualifications

1. Eligible vehicles must be prequalified to use the transit lanes as follows.

a. Public Mass Transit Vehicles. All public mass transit vehicles shall continue to be pre-qualified to access the transit lanes toll-free during the hours of operation.

b. School Buses. All school buses shall continue to be authorized to access the transit lanes toll-free during the hours of operation upon compliance with the school buses exemption provided for under LAC 70:I.509(E).

c. HOV-7+. Eligible vehicles meeting the minimum occupancy requirement of seven or more persons must register with the Crescent City Connection Division by providing proof of:

i. current vehicle registration with the State of Louisiana or other jurisdiction;

ii. current and valid Driver's License; and

iii. current and fully-paid liability insurance coverage.

d. HOV-2+. Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

e. Authorized Motorcycles. Motorcycles displaying a valid toll tag issued by the Crescent City Connection Division.

f. ILEV. Any vehicle certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and labeled in accordance with, section 88.312-93(c) of such title, and properly displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on HOV-2 vehicles, Authorized Motorcycles, and ILEV's must be conspicuously displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G. Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and permit emblem display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 24:960 (May 1998), amended LR 25:

Interested persons may comment on this proposed Rule amendment to Mr. Alan LeVasseur, P.O. Box 6297, New Orleans, Louisiana 70174.

Alan LeVasseur
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR AMINISTRATIVE RULES
RULE TITLE: Bridge Toll Crescent City-Transit Lanes

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

There will not be any implementation costs to the State as a result of this Rule Admendment. L.R.S. 47:820.5 and L.R.S. 48:1101.2 currently allow for use of discounted toll tags for bridge crossings and for access to the transit lanes by eligible vehicles. It is not anticipated that the proposed amended Rule's expansion of eligible vehicles for transit lane access will result in a material increase in toll tag issuances.

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

It is anticipated that there will be no adverse effect on revenue collections by the Crescent City Connection Division. The Cresent City Connection currently allows for the use of regular bridge traffic by means of a discounted toll tag, as well as for the use of the transit lanes by eligible vehicles displaying a discounted toll tag. It is not anticipated that the proposed Rule Amendment will materially increase the number of toll tag issuances.

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

The expanded eligibility requirements for transit lane access could result in cost savings to motorcycles and inherently low emission vehicles which do not currently subscribe to discounted toll tags.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Kenneth E. Pickering	Robert E. Hosse
General Counsel	General Government Section Director
Cresent City Connection	Legislative Fiscal Office

9906#001

NOTICE OF INTENT

Department of the Treasury
Board of Trustees of the Teachers' Retirement System of Louisiana

Management of DROP Accounts
(LAC 58:III.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

Title 58
RETIREMENT
Part III. Teachers' Retirement System
Chapter 5. Deferred Retirement Option Plan
§503. Management of DROP Accounts

A. - B.2. …

3. Interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily. Interest will be deposited to DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement Systems' Actuarial Committee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on an interest only balance. Liquidated means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted.

B.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786 - 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998), amended LR 25:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., August 27, 1999, to Graig A. Luscombe, Assistant Director, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70808-9123.

James P. Hadley, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Management of DROP Accounts

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

There are no implementation costs to state or local government units. This amended rule explains how interest is currently calculated and added to DROP accounts.

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

There is no effect on revenue collection of state or local government units. No revenue is currently being collected and none will ever be collected in the future because of this amended rule.

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

Interest is currently being paid to eligible former DROP participants of Teachers' Retirement System of Louisiana

(TRSL). No changes are being made in how this interest is calculated or paid.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment because no changes are being made in the compensation or fringe benefits being paid to DROP participants/retirees.

James P. Hadley, Jr.	H. Gordon Monk
Director	Staff Director
9906#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Office of Fisheries

Tilapia (LAC 76:VII.903)

(Editor's Note: The following notice, which appeared on page 899 of the May 20, 1999 Louisiana Register, is being republished in its entirety to correct a typographical error in the department name.)

The Secretary of the Department of Wildlife and Fisheries does hereby give notice of its intent to amend the rule governing importation, culture, possession, disposal and sale of tilapia in Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 9. Aquaculture Exotic Species
§903. Tilapia

A. Rules and Regulations on Importation, Culture, Possession, Disposal and Sale of Tilapia in Louisiana. The following terms shall have the following meanings in this Section.

Culture—all activities associated with the propagation and nurturing of tilapia.

Culture Permittee—the individual or organization that possesses a valid Louisiana tilapia culture permit.

Culture System—shall be an approved indoor system designed such that all water containing, or that at any time might contain, tilapia (adult fish, juvenile fish, fry, or fish eggs) is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the Department.

Disposal—the business of processing, selling, or purposely removing tilapia from the culture system.

Live Holding Permittee—the individual or organization that possesses a valid Louisiana tilapia live holding permit.

Live Holding System—an approved indoor holding or display system designed such that all water containing, or at any time might contain, tilapia (adult fish, juvenile fish, fry or fish eggs) is filtered, screened and/or sterilized prior to release in such manner as the department deems adequate to prevent any possibility of escape.

Process—the act of chill killing whole tilapia in an ice slurry for a period of not less than 60 minutes, or removal of tilapia intestines followed by immersion in an ice slurry for a period of not less than two minutes or removal and proper disposal of tilapia heads in such manner as the department deems necessary to prevent any possibility of accidental release of fry or fertilized eggs.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Tilapia—eggs, fish, or body parts belonging to the genera *Tilapia, Sarotherdon,* or *Oreochromis* and their hybrids.

Tilapia Culture Permit—official document pertaining to culture that identifies the terms of, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana as approved by the secretary or his designee.

Tilapia Live Holding Permit—official document pertaining to live holding for retail sale that identifies the terms of, and allows for the possession and sale of tilapia in Louisiana as approved by the secretary or his designee.

B. Tilapia Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer or sell live tilapia in Louisiana must first request a tilapia culture or live holding permit from the secretary or his designee of the Department of Wildlife and Fisheries. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Inland Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture or live holding system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a tilapia culture or live holding permit. Department personnel will then recommend to the secretary or his designee if the applicant's request should be approved or disapproved.

* * *

C. Rules on Transport of Live Tilapia

1. The department shall be notified in writing at least 24 hours prior to shipments of live tilapia from one Louisiana culture permit holder to another Louisiana culture permit holder or live holders within the state or shipments out-of-state on a form provided by the department. Notification shall include Louisiana tilapia culture permit number, route, date and time(s) of transport, destination, owner of transport vehicle, total number of each species, permit number of resident tilapia culturer or live holder, and a copy or reference to electrophoretic certification of shipped stock by species. Anyone possessing live tilapia within the State must have a tilapia culture or live holding permit. Live tilapia showing signs of diseases shall not be transported into or within the State of Louisiana.

2. For each occurrence of tilapia being imported into Louisiana from out of state to a permitted resident culturer or live holder, the permittee must obtain, in writing, approval from the department. Procedures and necessary information for obtaining approval are:

a. requests shall be made to: Administrator, Inland Fisheries Division, Louisiana Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, Louisiana 70898-9000;

b. requests shall include:

i. Louisiana tilapia permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. electrophoretic certification made within the past thirty days identifying shipped stock(s) to species.

viii. total number of each species;

ix. identification of seller and buyer.

3. A bill of lading must accompany the live tilapia during import, export, transport, transfer or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.903.C.2. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of tilapia (culture facility);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of each species;

i. destination;

j. letter from source stating that tilapia are not showing signs of diseases;

k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

D. Rules for Security of Tilapia Culture or Live Holding Facility

* * *

4. It shall be the responsibility of the permittee to immediately notify the secretary or his designee of any tilapia that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases, theft, etc.

* * *

E. Rules of Tilapia Culture and Live Holding Site

* * *

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system or live holding system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

* * *

4. The department will require a live holding continency plan for disposal of live tilapia in the event of impending flooding or other natural disasters.

F. Rules for the Tilapia Culture and Live Holding System

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture or live holding system.

2. The tilapia culture or live holding system shall be an approved indoor system designed such that tilapia eggs, larvae, juveniles or adults cannot escape.

3. All water utilized in the culture or live holding of tilapia shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture or live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the tilapia culture or live holding system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of tilapia through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department s satisfaction a basic knowledge and understanding of the culture, biology, and potential local ecological impacts of tilapia.

G. Rules for the Processing of Tilapia

1. All tilapia and tilapia parts other than live tilapia specifically permitted by the department must be properly processed and killed prior to leaving the tilapia culture or live holding facility.

* * *

3. Records shall be kept of all tilapia processed at a culture or live holding facility and shall include the following information:

a. source of fish;

b. processed pounds;

c. date processed.

4. A copy of this information shall be sent to the Department's Baton Rouge office at the end of each year, or at anytime upon the request of Department officials.

H. General Rules for Tilapia

1. The cost of a Tilapia Culture or Live Holding Permit shall be $50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following license is required as a prerequisite:

a. a Fish Farming License for tilapia culturers;

b. a Retail Dealers License for live holders.

* * *

5. Live tilapia, may be sold within the state only to a holder of a valid tilapia culture or live holding permit. A tilapia culture permit shall be required for the possession or transport of tilapia eggs, fry or juveniles.

* * *

9. Tilapia culturers shall be required to submit an annual report to the secretary or his designee on a form provided by the department.

* * *

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the tilapia culturer shall, at the option of the department, post a $25,000 performance bond, or present a letter of credit from a financial institution stating that the $25,000 is available to the department on a certificate of deposit. Tilapia live holder permittees will be required to post a $10,000 performance bond, or present a letter of credit from a financial institution stating that the $10,000 is available to the department on a certificate of deposit.

12. If a permittee terminates tilapia production or live holding, the permittee shall notify the secretary or his designee immediately and dispose of the tilapia according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:

Interested persons may submit written comments on the proposed rule to Mr. Bennie Fontenot, Jr., Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, no later than 4:30 P.M., Wednesday, August 4, 1999.

James H. Jenkins, Jr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Tilapia

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

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

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

Sale of tilapia from live holding facilities may increase revenue collections of state or local governmental units through increased sales and subsequent tax revenues, but the increase, although inestimable, is anticipated to be minimal at best.

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

Persons who sell tilapia as live holders are subject to a permit fee and a performance bond. Live holders will be subject to providing records of sales, similar to that now maintained by tilapia culturers. Benefits to sellers would accrue from an anticipated increase of seafood sales. Seafood buyers would benefit from having an additional, fresh seafood item available to them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment can not be anticipated at this time. Employment is not expected to increase as a result of the proposed rule, since existing sales personnel will probably be utilized in the live holding and sale of tilapia.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
9906#018	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Black Bass Regulations—Lake Fausse Point/Lake Dauterive
(LAC 76:VII.189)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following rule on black bass (*Micropterus spp*.) on the Lake Fausse Point/Lake Dauterive complex located west of the West Atchafalaya Basin Protection Levee in Iberia and Upper St. Martin Parishes, Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§189. Black Bass Regulations, Lake Fausse Point/Lake Dauterive Complex

A. The harvest regulations for black bass (Micropterus spp.) on the Lake Fausse Point/Lake Dauterive complex located west of the West Atchafalaya Basin Protection Levee in Iberia and St. Martin Parishes, Louisiana are as follows.

1. Size limit: It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length.

2. Daily take: No more than 10 fish.

B. These regulations apply to all areas west of the West Atchafalaya Basin Protection Levee from Highway 3083 to the U.S. Army Corps of Engineers locks at the Charenton Drainage and Navigation Canal, north of and including the Charenton Drainage and Navigation Canal from the Corps of Engineers locks to Highway 87, north and east of Highway 87 from the Charenton Drainage and Navigation Canal to Highway 320, east of Highway 320 from Highway 87 to Highway 86, south and east of Highway 86 from Highway 320 to Highway 345, east of Highway 345 from Highway 86 to Highway 679, east of Highway 679 from Highway 345 to Highway 3083 and south of Highway 3083 from Highway 679 to the West Atchafalaya Basin Protection Levee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

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 written comments on the proposed rule to Mr. Mike Walker, Biologist Supervisor, Inland Fisheries Division, Department of Wildlife and Fisheries, 2415 Darnall Rd., New Iberia, LA 70560 no later than 4:30 p.m., Wednesday, August 6, 1999.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bass Regulations Lake Fausse Point/Lake Dauterive

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

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff.

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

The proposed rule will have no effect on revenue collections of state and local governmental units.

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

Sport fishermen who fish in the Lake Fausse Point and Lake Dauterive complex will be affected by the proposed action, since they will have to release black bass less than 14 inches in length. The implementation of a 14 inch minimum should result in an increase in black bass below or just above 14 inches and aid in sustaining the population in these waters. The proposed rule will have no effect on costs and/or economic benefits to sport fishermen at the Lake Fausse Point and Lake Dauterive complex.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment in the public and private sectors.

James L. Patton
Undersecretary
9906#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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