

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Repeal of Rules for Watchmaking (LAC 46:LXXXVII)

In accordance with La. R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Economic Development intends to repeal, in its entirety, Louisiana Administrative Code Title 46, Professional and Occupational Standards, Part LXXXVII, Watchmakers.

Acts 1991, No. 64 §1 repealed La. R.S. 36:106(E)(6) and Chapter 19 of Title 37 of the Louisiana Revised Statutes (R.S. 37:1581 through 1612) relative to the practice of watchmaking, the regulation of the practice of watchmaking and repealing the Board of Examiners in Watchmaking and its powers, duties, functions, and responsibilities. The repeal of this legislation renders the Louisiana Department of Economic Development without the authority to administer the rules pertaining to the practice and regulation of watchmaking.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVII. Watchmakers

Chapters 1-13. Repealed.

The proposed repeal of these rules is scheduled to become effective upon Final promulgation, or as soon thereafter as is practical, upon publication in the *Louisiana Register*. Interested persons may submit written comments until 30 days from the date of this publication, to Kevin P. Reilly, Sr. Secretary, Department of Economic Development, P.O. Box 94185, Baton Rouge, Louisiana 70804.

Kevin P. Reilly, Sr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Repeal of Rules for Watchmaking

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

There are no significant implementation costs or savings to state or local governmental units anticipated due to the repeal of these rules because the Board of Examiners in Watchmaking was repealed in its entirety by Acts 1991, No. 64, §1.

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

No effect on revenue collections is anticipated.

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

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of repealing this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Ron J. Henson
Undersecretary
9908#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School
Administrators and Bulletin 746 Louisiana
Standards for State Certification of School
Personnel Employment of School Superintendents
(LAC 28:I.901 and 903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), and an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment to Bulletin 741 adds Standard 1.016.01 which will enable a school district with a K-12 population in excess of 45,000 students (Orleans, East Baton Rouge, Jefferson and Caddo Parishes), through its locally authorized governing board, to select a superintendent who does not hold a valid state issued teaching certificate provided that the district appoints a chief academic officer whose primary and substantial job description consists of governing academics including curriculum and instruction. This chief academic officer must hold a valid teaching certificate, meet all BESE criteria set forth for superintendents, and must be appointed no later than 120 days after the superintendent's appointment. The proposed addition to Bulletin 746 references Bulletin 741 for allowable circumstances for waivers of the above requirements.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations
A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:

Bulletin 741 Louisiana Handbook for School Administrators

1.016.01 In the event that a school district in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not hold a valid state issued teaching certificate, such school district may appoint the candidate provided that:

a) the district appoint a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;

b) the chief academic officer possess a valid state issued teaching certificate;

c) the chief academic officer also meet all criteria required of a superintendent set forth in existing SBESE policy;

d) this shall only effect districts with a K-12 population in excess of 45,000 students;

e) provide that the chief academic officer be appointed no later than 120 days after the appointment of the superintendent candidate.

* * *

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 25:

Bulletin 746 Louisiana Standards for State Certification of School Personnel

Addition to Bulletin 746:

Allowable circumstances for waiver of these requirements are addressed in Bulletin 741, Louisiana Handbook for School Administrators.

Interested persons may submit comments until 4:30 p.m., October 11, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Employment of School Superintendents

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

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

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

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

This policy will have no effect on revenue collections.

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

There will be no additional costs or economic benefits as a result of this policy revision for persons seeking employment as school superintendent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will result in a larger pool of individuals who are eligible for employment as school superintendent in the specified districts.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9908#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Policy on Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an addition to be added to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds the policy on suspension, revocation, and reinstatement of certificates for persons who have been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense.

Title 28

EDUCATION

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

B. - D.3. ...

E.l.a. - e. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:193, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1998), LR 24:1091 (June 1998), LR 25:

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever.

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgement of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

F. A teacher may contact the office of the Board of Elementary and Secondary Education and request a hearing prior to the date set for the revocation consideration by the Board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, set aside, or vacated, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:44, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. For other final convictions rendered 0 to 3 years prior to revocation, reinstatement will not be considered for at least 3 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An individual may apply to the Board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions/requirements of parole and/or probation (the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc. and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (VIII.A.1 and 2) and below (VIII.C.1 through 6);

3. request a reinstatement hearing.

C. Evidence of rehabilitation shall include but not be limited to:

1. letter of support from a local district attorney;

2. letter of support from a local judge;

3. letter of support from the applicant's parole/probation officer, local police chief, or local sheriff

4. letter of support from a local school superintendent;

5. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

6. other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

E. If the Board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Note: The Administrative Procedure Act shall be applied where applicable (R.S. 49:950, et seq.).

Interested persons may submit comments until 4:30 p.m., October 9, 1999 to: Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

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

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

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

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

This policy will have no effect on revenue collections.

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

This policy requires that any person who holds a teaching certificate and has been convicted of any offense listed in R.S. 15:587.1 or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of certificate reinstatement, if reinstatement is possible, after suspension and revocation of the certificate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9908#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566 Guidelines for Pupil Progression
(Title 28:XXXIX.307)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, Guidelines for Pupil Progression. The amendment changes the approval and submission process of plans to the Department of Education. Plans will no longer be approved by the Department of Education.

Title 28 EDUCATION

Part XXXIX. Bulletin 1566 Guidelines for Pupil Progression

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§307. Submission Process

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

B.1. - 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25, amended LR 25:

Interested persons may submit written comments until 4:30 p.m., October 9, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1566 Guidelines
for Pupil Progression**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no estimated cost 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 collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups; although schools and students should have better accountability.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9908#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301, 2303, 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to amend provisions of the Tuition Payment Program for Medical School Students.

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., September 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 Payment Program for Medical
School Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with promulgating these rules is the routine *Louisiana Register* publication charge for the emergency declaration, notice and rule of approximately \$140.
- 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)
Students who receive tuition payments from this program will be required to serve two years, rather than four years in health shortage areas as a result of this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment should result from this rule change.

Jack L. Guinn
Executive Director
9908#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

1998 Revisions to Surface Water Quality Standards
(LAC 33:IX.1105, 1111, 1113,
1115, 1117, 1121, 1123)(WP033)

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.1105, 1111, 1113, 1115, 1117, 1121, and 1123 (Log #WP033).

The water quality standards establish provisions for the protection of instream water quality and consist of policy statements, designated water uses, and numerical and narrative criteria, which sets limits for various water quality parameters. This proposed revision to the current water quality standards includes: addition of new language that states the use of clean or ultra clean techniques may be necessary in some situations; revision of several numerical criteria with current data; addition of updated and new references for biomonitoring; revision of numerical criteria and designated uses table; and addition of language to clarify the links between dissolved oxygen and the designated uses

for fish and wildlife propagation. The water quality standards are applicable to the ambient surface waters of streams and other waterbodies of the state and do not apply to groundwater. The basis and rationale for this proposed rule are to comply with federal law governing water quality standards that requires states to review and revise, as appropriate, their water quality standards every three years [Water Quality Act of 1987 PL 100-4 Section 303(c)].

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

[See prior text]

Clean Techniques those requirements (or practices for sample collection and handling) necessary to produce reliable analytical data in the microgram per liter (µg/L) or part per billion (ppb) range.

* * *

[See prior text]

Ultra-Clean Techniques those requirements or practices necessary to produce reliable analytical data in the nanogram per liter (ng/L) or part per trillion (ppt) range.

* * *

[See prior text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3 (LAC 33:IX.1123) and not to any tributaries and distributaries to such water body which are typically contained in separate subsegments. A description of each designated use follows.

* * *

[See prior text in A-B]

C. Fish and Wildlife Propagation. Fish and wildlife propagation includes the use of water for aquatic habitat,

food, resting, reproduction, cover, and/or travel corridors for any indigenous wildlife and aquatic life species associated with the aquatic environment. This use also includes the maintenance of water quality at a level that prevents damage to indigenous wildlife and aquatic life species associated with the aquatic environment and contamination of aquatic biota consumed by humans. The subcategory of "limited aquatic life and wildlife use" recognizes the natural variability of aquatic habitats, community requirements, and local environmental conditions. Limited aquatic life and wildlife use may be designated for water bodies having habitat that is uniform in structure and morphology with most of the regionally expected aquatic species absent, low species diversity and richness, and/or a severely imbalanced trophic structure. Aquatic life able to survive and/or propagate in such water bodies include species tolerant of severe or variable environmental conditions. Water bodies that might qualify for the limited aquatic life and wildlife use subcategory include intermittent streams and man-made water bodies with characteristics including, but not limited to, irreversible hydrologic modification, anthropogenically and irreversibly degraded water quality, uniform channel morphology, lack of channel structure, uniform substrate, lack of riparian structure, and similar characteristics making the available habitat for aquatic life and wildlife suboptimal. Limited aquatic life and wildlife use will be denoted in Table 3 (LAC 33:IX.1123) as an "L."

* * *

[See prior text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1113. Criteria

* * *

[See prior text in A-C.2]

3. Dissolved Oxygen. The following dissolved oxygen (DO) values represent minimum criteria for the type of water specified. Naturally occurring variations below the criterion specified may occur for short periods. These variations reflect such natural phenomena as the reduction in photosynthetic activity and oxygen production by plants during hours of darkness. However, no waste discharge or human activity shall lower the DO concentration below the specified minimum. These DO criteria are designed to protect indigenous wildlife and aquatic life species associated with the aquatic environment and shall apply except in those water bodies that qualify for an excepted water use as specified in LAC 33:IX.1109.C or where exempted or excluded elsewhere in these standards. DO criteria for specific state water bodies are contained in LAC 33:IX.1123.

a. Fresh Water. For a diversified population of fresh warmwater biota including sport fish, the DO concentration shall be at or above 5 mg/L. Fresh warmwater biota is defined in LAC 33:IX.1105.

* * *

[See prior text in C.3.b-6.e]

f. The use of clean or ultra-clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA method 1669 for metals) or to assess

such pollutants when numeric or narrative water quality standards are not being attained. Clean and ultra-clean techniques are defined in LAC 33:IX.1105.

Table 1 Numerical Criteria for Specific Toxic Substances (In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)						
Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Freshwater		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
Pesticides and PCB's * * *						
[See prior text in Aldrin – DDE]						
Dieldrin	0.2374	0.0557	0.710	0.0019	0.05 ng/l	0.05 ng/l
Endosulfan	0.22	0.0560	0.034	0.0087	0.47	0.64
Endrin	0.0864	0.0375	0.037	0.0023	0.26	0.26
* * *						
[See prior text in Heptachlor - 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) ⁹]						
Metals and Inorganics						
Arsenic	339.8	147.9	69.00	36.00	50.0	--
Chromium III (Tri) ^{7,8}	310	103	515.00	103.00	50.0	--
	537	181				
	980	318				
Chromium VI (Hex)	16	11	1.10 mg/L	50.00	50.0	--
Zinc ^{7,8}	64	58	90	81	5.0 mg/L	--
	117	108				
	205	187				
Cadmium ^{7,8}	15	0.62	45.34	10.00	10.0	--
	32	1.03				
	67	1.76				
Copper ^{7,8}	10	7	3.63	3.63	1.0 mg/L	--
	18	12				
	35	22				
Lead ^{7,8}	30	1.2	209	8.08	50.0	--
	65	2.5				
	138	5.31				
Mercury ⁸	2.04	0.012 ¹¹	2	0.025 ¹¹	2.0	--
Nickel ^{7,8}	788	88	74	8.2	--	--
	1397	160				
	2,495	279				
* * *						
[See prior text in Cyanide]						

* * *

[See prior text in Notes 1 - 6]

⁷ Hardness-dependent criteria for freshwater are based on the following natural logarithm formulas multiplied by conversion factors (CF) for acute and chronic protection (in descending order, numbers represent criteria in µg/L at hardness values of 50, 100, and 200 mg/L CaCO₃, respectively):

$$\text{Chromium III: acute} = e^{(0.8190[\ln(\text{hardness})] + 3.6880)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8190[\ln(\text{hardness})] + 1.5610)} \times \text{CF}$$

$$\text{Zinc: acute} = e^{(0.8473[\ln(\text{hardness})] + 0.8604)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8473[\ln(\text{hardness})] + 0.7614)} \times \text{CF}$$

$$\text{Cadmium: acute} = e^{(1.1280[\ln(\text{hardness})] - 1.6774)} \times \text{CF}$$

$$\text{chronic} = e^{(0.7852[\ln(\text{hardness})] - 3.4900)} \times \text{CF}$$

$$\text{Copper: acute} = e^{(0.9422[\ln(\text{hardness})] - 1.3844)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8545[\ln(\text{hardness})] - 1.3860)} \times \text{CF}$$

$$\text{Lead: acute} = e^{(1.2730[\ln(\text{hardness})] - 1.4600)} \times \text{CF}$$

$$\text{chronic} = e^{(1.2730[\ln(\text{hardness})] - 4.7050)} \times \text{CF}$$

$$\text{Nickel: acute} = e^{(0.8460[\ln(\text{hardness})] + 3.3612)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8460[\ln(\text{hardness})] + 1.1645)} \times \text{CF}$$

⁸ Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor (CF). The CF represents the EPA-recommended conversion factors found in 60 FR 68354-68364 (December 10, 1998) and shown in Table 1A.

⁹ ppq = parts per quadrillion

¹⁰ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

¹¹ If the four-day average concentration for total mercury exceeds 0.012 µg/L in freshwater or 0.025 µg/L in saltwater more than once in a three-year period, the edible portion of aquatic species of concern must be analyzed to determine

whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the state must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury

criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

Metal	Conversion Factor Freshwater Acute Criteria	Conversion Factor Freshwater Chronic Criteria	Conversion Factor Marine Water Acute Criteria	Conversion Factor Marine Water Chronic Criteria
Arsenic	1.00	1.00	1.00	1.00
Chromium III (Tri)	0.316	0.86	NA	NA
Chromium VI (Hex)	0.982	0.962	0.993	0.993
Zinc	0.978	0.986	0.946	0.946
Cadmium ^b	0.973	0.938	0.994	0.994
Copper	0.960	0.960	0.830	0.830
Lead ^b	0.892	0.892	0.951	0.951
Mercury	0.85 ^c	N/A ^d	0.85 ^c	N/A ^d
Nickel	0.998	0.997	0.990	0.990

^aThe conversion factors are given to three decimal places because they are intermediate values in the calculation of dissolved criteria. Conversion factors for the marine water chronic criteria are not yet available.

^bConversion factors are hardness dependent. The values shown are with a hardness of 50 mg/L as CaCO₃. Conversion factors for any hardness can be calculated using the following equations:

Cadmium Acute CF = 1.136672-[(ln hardness)(0.041838)]
 Cadmium Chronic CF = 1.101672-[(ln hardness)(0.041838)]

Lead Acute and Chronic CF = 1.46203-[(ln hardness)(0.145712)]

^cConversion factor from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

^dNot appropriate to apply CF to chronic value for mercury because it is based on mercury residues in aquatic organisms rather than toxicity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1115. Application Of Standards

* * *

[See prior text in A-C.3]

4. A mixing zone shall not be allowed to adversely impact a nursery area for aquatic life species, habitat for waterfowl or indigenous wildlife associated with the aquatic environment, or any area approved by the state for oyster propagation. Mixing and mixing zones shall not include an existing drinking water supply intake if they would significantly impair the drinking water intake.

* * *

[See prior text in C.5-13.a]

b. the diffused discharge must not adversely impact nursery areas for aquatic life species or indigenous wildlife associated with the aquatic environment, propagation areas, zones of passage for aquatic life (see Subsection C.10 of this Section), wildlife uses, recreational uses, or drinking water supply intakes;

* * *

[See prior text in C.13.c-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November, 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1117. References

A. The following references were used in developing LAC 33:IX.1101–1115 or are referred to in those Sections:

1. Chabreck, R.H., and R.G. Linscombe. 1978. Vegetative Type Map of the Louisiana Coastal Marshes. New Orleans: Louisiana Department of Wildlife and Fisheries.

2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Assessment, Environmental Evaluation Division.

3. National Academy of Sciences, National Academy of Engineering. 1974. Water Quality Criteria, 1972. Environmental Protection Agency, Ecological Research Series, EPA R3.73:033. Washington, D.C.:U.S. Government Printing Office.

4. U.S. Environmental Protection Agency. 1976. Quality Criteria for Water. Washington, D.C.:EPA.

5. U.S. Environmental Protection Agency. 1983. Water Quality Standards Handbook. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

6. U.S. Environmental Protection Agency. 1983. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

7. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA Series No. 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

8. U.S. Environmental Protection Agency. 1989. Establishment of Ambient Criteria to Limit Human Exposure to Contaminants in Fish and Shellfish. Guidance Document. Washington, D.C.: Office of Water Regulations and Standards, EPA.

9. U.S. Environmental Protection Agency. (continuous). Ambient Water Quality Criteria. EPA Series No. 440/5-80-84-85, 86. Washington, D.C.: EPA.

10. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

11. U.S. Environmental Protection Agency. December 22, 1992. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance. Federal Register: Vol. 57, No. 246. WH-FRL-4543-9. Washington, D.C.: Office of Science and Technology, EPA.

12. U.S. Environmental Protection Agency. April, 1995. Method 1669: Sampling Ambient Water for Trace Metals At EPA Water Quality Criteria Levels. EPA 821-R-95-034.

13. Webster's II New Riverside University Dictionary, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company. Boston, MA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1121. Regulation of Toxic Substances Based on the General Criteria

* * *

[See prior text in A - B.3.a]

b. Both acute toxicity and chronic toxicity tests may be required. Test methods found in the following sources or their updated versions should be followed: "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," 4th Edition, EPA/600/4-90/027F, EPA, 1993; "Short-Term Methods for Estimating the Chronic Toxicity of Effluents And Receiving Waters To Freshwater Organisms," 3rd Edition, EPA/600/4-91/002, EPA, 1994; and "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," 2nd Edition, EPA/600/4-91/003, EPA.

* * *

[See prior text in B.3.b.i - iii]

(a). for receiving water bodies with salinities less than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (a)(i) - (vi)]

(b). for receiving water bodies with salinities equal to or greater than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (b)(i) - C.5]

D. References. The following references were used in developing or were cited in this Section:

1. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

2. U.S. Environmental Protection Agency. 1991. Methods for Aquatic Toxicity Identification Evaluations: Phase I, Toxicity Characterization Procedures. EPA/600/6-91/003. Washington, D.C.: EPA.

3. U.S. Environmental Protection Agency. 1991. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. 2nd Edition. EPA/600/4-91/003.

4. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

5. U.S. Environmental Protection Agency. 1993. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. 4th Edition. EPA/600/4-90/027F.

6. U.S. Environmental Protection Agency. 1994. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. 3rd Edition. EPA/600/4-91/002.

E. Additional Toxicity Testing Guidance. The following references are cited as guidance documents that are used for biomonitoring:

1. U.S. Environmental Protection Agency. 1994. Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates. EPA/600/R-94/024.

2. U.S. Environmental Protection Agency. 1994. Methods for Assessing the Toxicity of Sediment Associated Contaminants with Estuarine and Marine Amphipods. EPA/600/R-94/025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1123. Numerical Criteria and Designated Uses

* * *

[See prior text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

- A- Primary Contact Recreation
- B- Secondary Contact Recreation
- C- Propagation of Fish and Wildlife
- L- Limited Aquatic Life and Wildlife Use
- D- Drinking Water Supply
- E- Oyster Propagation
- F- Agriculture
- G- Outstanding Natural Resource Waters

Numbers in brackets (e.g. [1])—refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
* * *									
[See prior text in 010101-040910]									
040911	Grand Lagoon - Grand Lagoon and Associated Canals (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
* * *									
[See prior text in 041001 - 041302]									
041401	New Orleans East Leveed Waterbodies (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
* * *									
[See prior text in 041501 - 041807]									
041808	New Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
* * *									
[See prior text in 041901 - 050101]									
050102	Bayou Joe Marcel - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
050103	Bayou Mallet - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
* * *									
[See prior text in 050201 - 050302]									
050303	Castor Creek - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
050304	Bayou Blue - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
* * *									
[See prior text in 050401 - 050501]									
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	10	[16]	6.0 - 8.5	1	32	400
* * *									
[See prior text 050602 - 060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	40	30	5.0	6.0 - 8.5	1	32	220
060206	Indian Creek and Indian Creek Reservoir	A B C D	10	5	5.0	6.0 - 8.5	1	32	100
* * *									
[See prior text in 060207 - 060212]									
060301	Bayou Teche - Headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	40	30	5.0	6.0 - 8.5	1	32	220
* * *									
[See prior text in 060401 - 060903]									
060904	New Iberia Southern Drainage Canal - origin to Weeks Bay (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A

060906	Intracoastal Waterway - New Iberia Southern Drainage Canal to Bayou Sale (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
* * *									
[See prior text in 060907 - 061104]									
061105	Marsh Island (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	4	35	N/A
* * *									
[See prior text in 061201 - 080911]									
080912	Tisdale Brake/Staulkinghead Creek - from origin to Little Bayou Boeuf	B L	500	200	[13]	6.0 - 8.5	2	32	1,500
* * *									
[See prior text in 081001 - 081002]									
081003	Deer Creek - Headwaters to confluence with Boeuf River	B L	105	45	[13]	6.0 - 8.5	2	32	430
* * *									
[See prior text in 081101 - 081301]									
081401	Dugdemonia River - Headwaters to junction with Big Creek	A B C	250	750	[14]	6.0 - 8.5	1	32	2,000
* * *									
[See prior text in 081501 - 100304]									
100305	Mahlin Bayou/McCain Creek – origin to confluence with Twelve Mile Bayou	B L	175	75	[13]	6.0 - 8.5	2	32	500
* * *									
[See prior text in 100306 - 100401]									
100402	Red Chute Bayou - from Cypress Bayou junction to Flat River	A B C	250	75	[13]	6.0 - 8.5	1	32	800
* * *									
[See prior text in 100403 - 101606]									
101607	Bayou Cocodrie - Highway 15 to Little Cross Bayou	B L	250	75	[13]	6.0 - 8.5	2	32	500
* * *									
[See prior text in 110101 - 120509]									
120601	Bayou Terrebonne - Houma to Company Canal (Estuarine)	A B C	445	105	4.0	6.0 - 9.0	1	32	1,230
* * *									
[See prior text in 120602 - 120806]									

Endnotes:

[See prior text in Notes 1 - 2]

[3] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5.0 mg/L December - February, 3.0 mg/L March - November

[See prior text in Notes 4 - 16]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 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 WP033. Such comments must be received no later than October 4, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP033.

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

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: 1998 Revisions to Surface Water Quality
Standards**

**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. Some local municipal sewage treatment plants may experience slight increases in upgrade or operating costs, depending on the significance of industrial discharges into their systems. Costs incurred as a result of this rule may be conveyed to industrial facilities through increased user fees. Most costs required to meet the proposed water quality standards limits have already been required by the US Environmental Protection Agency (EPA) to meet current water quality-based and/or technology-based permit limits.

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

No significant effect on state or local governmental revenue collections is anticipated. State or local municipal sewage treatment plants may raise user fees charged to industrial customers to cover their costs, if any costs are incurred. Increases in user fees resulting from this rule are site-specific, are determined by the individual sewage treatment plant's circumstances, and cannot be estimated at this time.

**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 are anticipated. Members of the regulated community subject to these revised water quality standards may incur some additional costs due to increased controls on toxic substances to protect aquatic life and beneficial uses. However, it is not anticipated that these standards will impose a significant increase in costs beyond that attributable to existing state and federal permit requirements. Increases in costs beyond present state and federal requirements can be reduced by practicing the use of source reduction or pollution prevention. Business and industrial customers using municipal sewage treatment plants may experience a slight increase in user fees; however, these costs are site-specific, are determined by the individual sewage treatment plant's circumstances, and cannot be estimated at this time. One very important benefit is the enhanced protection of Louisiana's seafood industry through the possible decrease in exposure to toxic substances within the ambient waters of the state.

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

No significant effect on competition and employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
9908#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Incorporation by Reference of 40 CFR Parts 60, 61, and 63
(LAC 33:III.3003, 5116, and 5122)(AQ194*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.3003, 5116, and 5122 (Log #AQ194*).

This proposed rule is identical to a federal regulation found in 64 FR 7463-7468, February 12, 1999, No. 29, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates revisions to 40 CFR Part 60, Subparts A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA, and SSS; Part 61, Subparts A, L, and N; and Part 63, Subpart A as published in the Federal Register, February 12, 1999, volume 64, number 29, pages 7457 and 7463-7467. Also, revisions are made to clarify the date of the revised standards incorporated by reference in Chapters 30 and 51.

The Department of Environmental Quality has program delegation authority from the US Environmental Protection Agency for 40 CFR Parts 60, 61, and 63. To obtain delegated authority for individual federal standards, the state must adopt the federal regulations into the Louisiana Administrative Code. Such action is taken at this time so that existing state and federal standards will reflect the same recordkeeping requirements. The basis and rationale for this proposed rule are to mirror the federal regulations.

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

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

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

Subchapter A. Incorporation by Reference (IBR)

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

Part 60

* * *

[See Prior Text in A-Table 1.A]

B. Final regulations published in the *Federal Register* on February 12, 1999, and specified below in Table 2 are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart /Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	64 FR 7463	February 12, 1999
Subpart D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	64 FR 7464	February 12, 1999
Subpart Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	64 FR 7464	February 12, 1999
Subpart Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units	64 FR 7464	February 12, 1999
Subpart Dc	Standards of Performance for Small Industrial - Commercial-Institutional Steam Generating Units	64 FR 7465	February 12, 1999

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart /Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and on or Before September 20, 1994	64 FR 7465	February 12, 1999
Subpart J	Standards of Performance for Petroleum Refineries	64 FR 7465	February 12, 1999
Subpart CC	Standards of Performance for Glass Manufacturing Plants	64 FR 7466	February 12, 1999
Subpart NN	Standards of Performance for Phosphate Rock Plants	64 FR 7466	February 12, 1999
Subpart XX	Standards of Performance for Bulk Gasoline Terminals	64 FR 7466	February 12, 1999
Subpart AAA	Standards of Performance for New Residential Wood Heaters	64 FR 7466	February 12, 1999
Subpart SSS	Standards of Performance for Magnetic Tape Coating Facilities	64 FR 7467	February 12, 1999

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:

**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)

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as promulgated February 12, 1999, 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	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions
Subpart L	64 FR 7457	February 12, 1999	National Emission Standard for Benzene Emissions from Coke By-Products Recovery Plants
Subpart N	64 FR 7457	February 12, 1999	National Emission Standards for Inorganic Arsenic Emissions From Glass Manufacturing Plants

C. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Technical Support Section Program Manager, Permits Division, Office of Environmental Services, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

D. Copies of documents incorporated by reference in this Chapter are available for review at the Office of Environmental Services, Environmental Assistance Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), 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

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated February 12, 1999, 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	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 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 AQ194*. Such comments must be received no later than September 27, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. 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 Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ194*.

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

James H. Brent, Ph.D.
Assistant Secretary

9908#051

NOTICE OF INTENT

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

Lists of Hazardous Wastes
(LAC 33:V.Chapter 49)(HW068P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW068P).

DuPont Dow Elastomers L.L.C. has petitioned to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste, known as Dynawave Scrubber Effluent, resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on the supporting documentation found in the 17-volume set dated and received on December 15, 1998, titled "Hazardous Waste Delisting Petition for Dynawave Scrubber Effluent" by DuPont Dow Elastomers L.L.C. of LaPlace, Louisiana. DuPont, the generator of the waste stream, has demonstrated through extensive sampling and analyses that this material, the Dynawave Scrubber Effluent, does not exhibit the hazardous properties that originally justified its listing as a hazardous waste.

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

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste
Chapter 49. Lists of Hazardous Wastes
Appendix E - Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded	
Facility	Address
DuPont Dow Elastomers L.L.C.	LaPlace, LA
Waste Description	
Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid: (1) - Testing: Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.	

(1)(A) - Inorganic Testing: During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B) - Subsequent Inorganic Testing: Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.
(1)(C) - Organic Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.
1)(D) - Dioxins and Furans Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.
(2) - Waste Handling: Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.
(3) - Delisting Levels: The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):
(3)(A) - Inorganic Constituents: Chromium - 2.0; Nickel - 2.0; Zinc - 200.

(3)(B) - Organic Constituents:
 Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14;
 Ethylbenzene - 14; recommends corrective action measures. The
 department shall determine the necessary corrective action and shall notify
 DuPont Dow of the corrective action needed. DuPont Dow shall implement
 the corrective action and resume sampling and analysis for the constituent
 per the schedule in condition (1). Within 30 days after receiving written
 notification, DuPont Dow may appeal the corrective action determined by
 the department. During the full period of corrective action determination
 and implementation, the Methylene Chloride - 0.1; Styrene - 2.0; Toluene -
 20; Xylenes - 200.

(3)(C) - Dioxins and Furans
 The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846
 Method 8290 - Monitor only.

(4) - Changes in Operating Conditions or Feed Streams:
 If DuPont Dow either significantly changes the operating conditions
 specified in the petition or adds any previously unspecified feed streams and
 either of these actions would justify a Class 3 modification to their
 combustion permit, DuPont Dow must notify the department in writing.
 Following receipt of written acknowledgement by the department, DuPont
 Dow must collect a grab sample and analyze it for the full universe of
 constituents found in 40 CFR part 264, appendix IX - Ground Water
 Monitoring List (LAC 33:V.3325). If the results of the appendix IX analyses
 identify no new hazardous constituents, then DuPont Dow must reinstitute
 the testing required in condition (1)(A) for a minimum of 12 monthly
 operating periods. During the full period described in this condition, the
 delisting of the Dynawave Scrubber Effluent shall remain in force unless a
 new hazardous constituent is identified or the waste volume exceeds 25,000
 cubic yards per year; at this time the delisting petition shall be reopened.
 DuPont Dow may eliminate feeding any stream to the combustion unit at
 any time without affecting the delisting of the Dynawave Scrubber Effluent
 or the sampling schedule.

(5) - Data Submittal:
 DuPont Dow must notify the department in writing at least two weeks prior
 to initiating condition (1)(A). All data obtained to fulfill condition (1) must
 be submitted to the Assistant Secretary of the Office of Environmental
 Services, LDEQ, 7290 Bluebonnet Blvd, Baton Rouge, LA 70810, within
 60 days after each sampling event.

Records of operating conditions and analytical data from condition (1) must
 be compiled, summarized, and maintained on site for a minimum of three
 years. These records and data must be furnished upon request by the
 department and made available for inspection. Failure to submit the
 required data within the specified time period or failure to maintain the
 required records on-site for the specified time shall be considered by the
 department, at its discretion, sufficient basis to revoke the exclusion. All
 data must be accompanied by a signed copy of the following certification
 statement to attest to the truth and accuracy of the data submitted:

"I certify under penalty of law that I have personally examined and am
 familiar with the information submitted in this demonstration 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 fine and imprisonment. In the event that any of this
 information is determined by the department, in its sole discretion, to be
 false, inaccurate, or incomplete, and upon conveyance of this fact to the
 company, I recognize and agree that this exclusion of waste will be void as
 if it never had been in effect or to the extent directed by the department and
 that the company will be liable for any actions taken in contravention of the
 company's environmental obligations under the Louisiana Environmental
 Quality Act premised upon the company's reliance on the void exclusion."

* * *

[See Prior Text in Marathon Oil Co.]

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 20:1000 (September 1994),
 amended LR 21:944 (September 1995), LR 22:830 (September

1996), amended by the Office of Waste Services, Hazardous Waste
 Division, LR 23:952 (August 1997), amended by the Office of
 Environmental Assessment, Environmental Planning Division, LR
 25:

A public hearing will be held on September 27, 1999, at
 1:30 p.m. in the Trotter Building, Second Floor, 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 HW068P. Such
 comments must be received no later than October 4, 1999, at
 4:30 p.m., and should be sent to Patsy Deaville, Regulation
 Development Section, Box 82178, Baton Rouge, LA 70884-
 2178 or to fax (225) 765-0486. Copies of this proposed
 regulation can be purchased at the above referenced address.
 Contact the Regulation Development Section at (225) 765-
 0399 for pricing information. Check or money order is
 required in advance for each copy of HW068P.

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

James H. Brent, Ph.D.
 Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Lists of Hazardous Wastes

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

DuPont Dow Elastomers L.L.C. is requesting delisting of
 its Dynawave Scrubber Effluent. Approving or disapproving
 this delisting will not affect state agency staffing levels. There
 are no costs or savings associated with implementation of this
 rule.

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

The state will collect \$6,390/yr less in hazardous waste
 disposal tax revenue when the Dynawave Scrubber Effluent is
 delisted.

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

DuPont Dow Elastomers L.L.C. will pay \$6,390/yr less in
 Hazardous Waste Disposal Tax but will pay approximately
 \$1,000/yr more in analytical lab costs. The result is a net saving

of \$5,390/yr for DuPont. The lab that performs DuPont Dow's testing will receive \$1,000/yr more because the delisting conditions require additional analytical testing. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible.

James H. Brent, Ph.D.
Assistant Secretary
9908#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision Subchapter A (LAC 4:VII.Chapter 11)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective November 20, 1999. The purpose of the proposed rule change is to update existing policies governing the Office of Elderly Affairs. This rule complies with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, R.S. 49:2010.4, R.S. 40:2802(D), Public Law 89-73 the Older Americans Act (OAA) of 1965 as amended, and 45 CFR 1321. The Louisiana Executive Board on Aging has had an opportunity to review and comment on these changes.

Preamble

Federal Regulations (45 CFR 1231.11) require GOEA to develop and enforce policies governing all aspects of programs operated under the Older Americans Act, whether operated directly by the State agency or under contract. R.S. 46:932 (8) requires GOEA to adopt and promulgate rules and regulations deemed necessary to implement the provisions of Chapter 7 of the Louisiana Revised Statutes. The policies, rules and regulations must be developed in consultation with other appropriate parties in the State. Accordingly, GOEA convened an ad hoc task force in October 1997. The task force is composed of individuals from throughout the State, representing area agencies on aging, parish councils on aging and other service providers. The task force's mission is to review proposed rule changes and recommend additional/alternative rules to enhance the development of service delivery systems for older Louisianans. To date, the Task Force has completed twenty-eight Sections of the GOEA Policy Manual.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. Authority, Organization, Functions

§1101. Office of Elderly Affairs

A. Authority, Organization and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. Executive Order MJF 99-14 established and provided for the operation of the Office of Community Programs to consolidate the following agencies and/or divisions within the Office of the Governor that provide services for the citizens and local governments of the state of Louisiana:

- a. the Office of Elderly Affairs (R.S. 46:931, et seq.);
- b. the Office of Disability Affairs (R.S. 46:2581 et seq.);
- c. the Office of Indian Affairs (R.S. 46:2301, et seq.);
- d. the Office of Municipal Affairs;
- e. the Louisiana Interagency Coordinating Council for Child Net [R.S. 17:1979 and 36:4(R)];
- f. the Office of Rural Development (R.S. 3:314, et seq.);
- g. the Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);
- h. the Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);
- i. the Office of Urban Affairs and Development (Executive Order No. MJF 96-47); and
- j. the Office of Women's Services (R.S. 46:2521, et seq.).

3. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole State agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers several statewide programs including the Long Term Care Assistance Program, the Adult Protective Services Program for the Elderly and the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:
 - a. to administer the Older Americans Act and related programs;
 - b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;
 - c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;
 - d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;
 - e. to conduct hearings and to subpoena witnesses;
 - f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;
 - g. to coordinate the services of all agencies in the state serving the aging and require reports from such state agencies and institutions including carrying out the provisions of R.S. 46:935;
 - h. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

i. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

j. to perform the functions of the state which are designed to meet the social and community needs of Louisiana residents sixty years of age or older, including but not limited to the provision of such comprehensive social programs as homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, protective services under R.S. 14:403.2, and health related outreach; but excluding the transportation program for the elderly administered by the Department of Transportation and Development under Section 16(b)(2) of the Federal Mass Transportation Act of 1964 as amended and other such programs and services assigned to departments of state government as provided in Title 36 of the Louisiana Revised Statutes;

k. to administer the Louisiana Senior Citizens Trust Fund;

l. to administer the Long Term Care Assistance Program;

m. to operate the Office of the State Long Term Care Ombudsman;

n. to serve as the "Adult Protection Agency" for any individual sixty years of age and over in need of adult protective services as provided in R.S. 14:403.2(E).

o. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Social Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

p. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, as provided in §1233 of this Manual; and

q. to provide meeting space and staff support for the Executive Board on Aging (R.S. 46:934(G)).

2. Strategic Planning

a. In accordance with R.S. 39:31, GOEA shall engage in strategic planning and produce a strategic plan to guide ongoing and proposed activities for five years, to be updated at least every three years. A schedule will be provided by the Commissioner of Administration with guidance for the timely preparation, revision and submission of strategic plans.

b. Content of the Strategic Plan:

i. mission statements for each program funded through GOEA;

ii. goals that reflect the expected results the agency plans to achieve on behalf of the elderly;

iii. objectives that support each goal;

iv. strategies that GOEA will use to achieve its objectives;

v. measurable performance indicators for each objective, including at a minimum, indicators of input, output, outcome, and efficiency;

vi. statements identifying the principal clients and users of each program; and

vii. potential external factors beyond the control of GOEA that could affect the achievement of goals and objectives.

c. Each goal shall have the statutory requirement of authority.

d. Program evaluations shall be used to develop objectives and strategies.

e. GOEA shall maintain documentation as to the reliability and appropriateness of each performance indicator and the method used to verify the performance indicators. GOEA shall also indicate how each performance indicator will be used in GOEA's management decisions.

f. The strategic plan shall be used in the construction of the annual operational plan for budget development purposes. Information taken from the strategic plan or operational plan for inclusion in the executive budget or supporting documents shall be included at the discretion of the Commissioner of Administration.

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions:

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources;

d. to recruit, train and supervise qualified staff to perform responsibilities; and

e. to procure necessary supplies, equipment and services.

2. Advocacy Functions:

a. to review, monitor, evaluate and comment on all Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;

b. to provide technical assistance and training to agencies, organizations, associations or individuals representing older persons;

c. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;

d. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and

e. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development Functions:

a. to develop and administer the state plan on aging;

b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all State activities related to the objectives of the Older Americans Act;

c. to divide the State into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;

d. to designate for each planning and service area after consideration of the views offered by the unit or units

of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the State of funds received under Title III of the Older Americans act that takes into account:

i. the geographical distribution of older individuals in the State; and

ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;

f. to submit its formula developed under §1105.C.6 to the Administration on Aging for approval; and

g. to establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to:

i. revoke the designation of the AAA under §1111.C.3.d;

ii. designate an additional planning and service area in the State;

iii. divide the State into different planning and service areas; or

iv. otherwise affect the boundaries of the planning and service areas in the State.

D. Governor's Office of Elderly Affairs Administration

1. Staffing

a. GOEA shall be administered by an executive director, who shall be recommended by the Louisiana Executive Board on Aging to the governor to serve at his pleasure, subject to confirmation by the Senate. The executive director shall be qualified by education and experience to assume leadership of the State Agency on Aging.

b. The GOEA executive director shall employ an adequate number of qualified staff to carry out the duties and functions of the State agency as provided by law.

c. GOEA shall have within the State agency an Office of the State Long-Term Care Ombudsman, with a full-time State ombudsman and such other staff as are appropriate.

d. GOEA shall provide an individual who shall be known as a State legal services developer, and other personnel, sufficient to ensure:

i. state leadership in securing and maintaining legal rights of older individuals;

ii. state capacity for coordinating the provision of legal assistance;

iii. state capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

iv. state capacity to promote financial management services for older individuals at risk of conservatorship.

e. GOEA may contract with other parties for the performance of certain functions and responsibilities.

f. Subject to the requirements of the Louisiana Department of Civil Service:

i. GOEA will give preference to persons aged sixty or over for any staff positions (full-time or part-time) for which such persons qualify; and

ii. GOEA shall give special consideration to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging for any staff positions (full time or part time) for which such individuals qualify.

g. All GOEA personnel matters shall be governed by state law and the rules of the Louisiana Department of Civil Service.

2. Policies

a. GOEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

b. GOEA shall:

i. draft proposed policies and/or policy changes;

ii. submit proposed policies and/or policy changes to the Louisiana Executive Board on Aging for review and comment;

iii. publish proposed policies/policy changes in the Louisiana Register in order to solicit public input;

iv. conduct public hearings to obtain oral and/or written comments from interested parties; and

v. consider all comments in establishing final policies.

c. GOEA shall take into account, in connection with matters of general policy arising in the development and administration of the State plan, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan.

d. GOEA shall establish and maintain a manual to which shall include current policies promulgated by the State agency in the Louisiana Administrative Code. GOEA shall make copies of said manual available to all GOEA contractors and subcontractors. Copies may be provided at cost.

3. Reports

a. GOEA shall submit to the U.S. Administration on Aging, the governor, and the legislature any reports that they require.

b. GOEA shall establish and maintain administrative records and reports for its total operation to satisfy legal requirements and for use as a management tool.

c. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

4. Confidentiality and Disclosure of State Agency Information

a. The Governor's Office of Elderly Affairs shall ensure that any agency providing services with funds administered by GOEA shall not disclose any information about or obtained from an older person, in a form which identifies the person, without his informed, written consent or that of his authorized representative.

b. All information related to problems identified in the process of monitoring and evaluating area agencies on aging and/or service providers shall be considered confidential information until such time as problems are resolved or final action is taken in accordance with GOEA policy. Such information may be disclosed to persons or organizations outside GOEA only if authorized by the executive director.

c. In the conduct of monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long term care facility, shall be available only to the executive director of the Office of Elderly Affairs and one other senior manager of the Office of Elderly Affairs designated by the executive director for this purpose. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 307(a)(12) of the Older Americans Act shall be strictly observed.

d. Subject to the confidentiality requirements of this paragraph, the GOEA executive director will make available at reasonable times and places to all interested parties information and documents developed or received by GOEA in carrying out its responsibilities.

e. In administering the Elderly Protective Services Program, all information in case records regarding elderly victims of abuse, neglect and exploitation shall be confidential as outlined in R.S. 14:403.2(E)(8).

5. Program Monitoring

a. GOEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness in order to:

i. identify performance problems as a basis for determining an area agency's need for technical assistance and training;

ii. measure an area agency's progress toward developing a comprehensive and coordinated service delivery system in the planning and service area (PSA), and to guide the GOEA in providing resources and technical support to enhance the development of such systems;

iii. to ensure compliance with applicable federal and state laws, regulations and other requirements; and

iv. to ensure cost-effective use of available resources for the elderly.

b. Performance Indicators:

i. extent to which proposed service output (as specified in the area plan) is being provided, including:

(a). number of persons served, by service;

(b). units of service provided; and

(c). expenditures by source and service;

ii. extent to which each objective, and tasks related thereto, were completed as compared to the area plan;

iii. extent to which AAA responsibilities and requirements are being carried out;

iv. extent to which required services are being provided;

v. extent to which federal and state laws, regulations and other requirements are being followed; and

vi. extent to which the AAA is fostering the development of a comprehensive and coordinated service delivery system in the PSA, including:

(a). encouraging the development by other agencies of access services, community services, in-home services, and services to residents of care providing facilities, beyond those funded by the AAA; and

(b). providing for service management mechanisms which link clients with appropriate services and permit ease of movement by clients from one type of care and provider to another, as necessary.

c. Monitoring Procedures:

i. review AAA program and fiscal reports relative to the performance indicators, and for the purposes stated in this paragraph;

ii. conduct on-site performance evaluations of each AAA;

iii. share the results of all monitoring activities with the AAA governing body and director along with:

(a). recommendations for correcting problems; and

(b). remedial actions the State agency will take to assist the AAA and actions which must be taken by the AAA, including time frame for completion of such actions.

6. Program Evaluation

a. Program evaluation is designed to measure the extent to which the operation of programs resulted in the lessening of need for service for older persons. It is intended to support decision-making by the state and area agencies in the areas of resource allocation to services and program design, by showing which service delivery models are effective and result in program outcomes which are consistent with the goals of the Older Americans Act.

b. GOEA may carry out its evaluation responsibilities through -- or in consultation with -- institutions of higher learning, or other organizations with demonstrated competence in the field of evaluation research. Priority will be given to the evaluation of new programs and services as a basis for modification, expansion or termination.

c. Termination or suspension of the area plan, withholding funds, or other punitive actions may be effected by GOEA if the AAA fails to take actions and correct problems specified by GOEA.

7. Resource Development

a. GOEA shall identify resources potentially available for services for the aging at the federal and state levels, and from both public and private sources.

b. GOEA shall prepare applications, or facilitate such preparation on the part of AAAs or others, to secure identified funds.

c. GOEA shall provide information for use in justifying the allocation of funds for programs on aging, by such sources.

8. Coordination

a. Because state and federal funds administered by GOEA support only a small fraction of services available for the aging, and since one of the primary purposes of GOEA is to foster coordination among the many disparate programs for the elderly, the following activities shall be carried out:

i. identification of programs administered at the national and state level which impact on the well-being of older persons;

ii. establishment and use of common service nomenclatures to facilitate interagency communication and analysis;

iii. collection and analysis of information about the types of services allowable and actually provided, eligible/actual clientele, location of service providers/recipients, sources and amounts of expenditures by service;

iv. participation in joint planning and program design efforts at the state level for the purpose of:

(a). sharing of facilities and equipment (e.g., school buildings, community centers, transportation vehicles, etc.);

(b). centralizing functions common to several delivery programs for the aging (e.g., case management, information and referral, long term care ombudsman activities, etc.);

(c). collocating services in support of AAA focal point development;

(d). developing consensus among as many agencies as possible on a continuum of needed services, the geographic locations for such services, and assigning service development and delivery responsibilities among agencies; and

(e). entering into cooperative written agreements with the Louisiana Department of Health and Hospitals for the administration of the Adult Protective Services Program pursuant to R.S. 14:403.2, and with agencies administering Title XIX and Title XX of the Social Security Act, state transportation agencies, foundations, United Way agencies, and other private organizations for the purpose of carrying out these activities, and supplying copies of these interagency agreements to area agencies.

b. To carry out its responsibility to develop a comprehensive and coordinated service delivery system, GOEA shall make special efforts to coordinate with agencies administering the following programs:

i. the Job Training Partnership Act;

ii. Title II of the Domestic Volunteer Service Act of 1973;

iii. Titles XVI, XVIII, XIX, and XX of the Social Security Act;

iv. Sections 231 and 232 of the National Housing Act;

v. The United States Housing Act of 1937;

vi. Section 202 of the Housing Act of 1959;

vii. Title I of the Housing and Community Development Act of 1974;

viii. Title I of the Higher Education Act of 1965 and the Adult Education Act;

ix. Sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964;

x. the Public Health Service Act including block grants under Title XIX of such Act;

xi. the Low-Income Home Energy Assistance Act of 1981;

xii. Part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons;

xiii. the Community Services Block Grant Act;

xiv. demographic statistics and analysis programs conducted by the Bureau of the Census under Title 13, United States Code;

xv. the Rehabilitation Act of 1973;

xvi. the Developmental Disabilities and Bill of Rights Act; and

xvii. the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750-3766(b)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1103. The Louisiana Executive Board on Aging

A. Composition, Appointment and Tenure

1. The Louisiana Executive Board on Aging, hereafter referred to as "the board," shall consist of fifteen members appointed as follows:

a. the President of the Senate shall appoint five members, one from each of the five districts of the Public Service Commission;

b. the Speaker of the House shall appoint five members of Representatives, one from each of the five districts of the Public Service Commission; and

c. the governor shall appoint five members, one from each of the five districts of the Public Service Commission. Each appointment by the governor shall be submitted to the Senate for confirmation.

2. Qualifications

a. Members of the board shall have a recognized interest in and knowledge of the problems of aging. None of the members of the board shall be elected officials or paid employees of the state of Louisiana. Preference shall be given to persons sixty years of age and older.

b. A person is not eligible for appointment to the board if the person or the person's spouse either:

i. is employed by a business entity or other organization regulated by or receiving funds from GOEA; or

ii. owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from GOEA.

3. Nominations and Appointments

a. Nominations for the board shall be solicited from:

i. the Louisiana Association of Councils on Aging, the Louisiana State Medical Society;

ii. the Louisiana State Bar Association;

iii. the National Association of Social Workers - Louisiana Chapter;

iv. the American Association of Retired Persons;

v. the Louisiana Association of Business and Industry;

vi. the AFL-CIO;

vii. the Louisiana Geriatric Education Center;

viii. the Louisiana Interchurch Conference; and

ix. other entities as appropriate.

b. Appointments shall be made from the list of names submitted in accordance with §1111.A.3.

4. Terms of Office

a. The terms of office of members of the board shall be five years except that the appointing authority shall appoint the original members as follows:

- i. five members for a term of one year;
- ii. five members for a term of two years; and
- iii. five members for a term of three years.

b. Vacancies shall be filled by appointment by the governor only for the remainder of the unexpired terms.

B. Functions of the Louisiana Executive Board on Aging

1. To advise and report to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly in Louisiana.

2. To advise the GOEA executive director on matters of policy and on all rules and regulations promulgated by the office.

3. To review and recommend the revocation of the charter of any parish voluntary council on aging for noncompliance with law, policies and/or regulations.

C. Organization of the Board

1. The board shall meet and organize immediately after appointment of the members and shall elect from its membership a slate of officers other than chairperson, whom the governor shall appoint. The board shall elect any officers, other than the chairperson, it deems necessary. The duties of such officers shall be those customarily performed by such officers.

2. The board shall meet at least once per quarter of the fiscal year, and as often thereafter as deemed necessary by the chairperson. A majority of members of the board shall constitute a quorum.

3. The board shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations.

D. Duties and Responsibilities

1. The board shall adopt rules governing the functions of the Governor's Office of Elderly Affairs (GOEA), including rules that prescribe the policies and procedures followed by the board and GOEA in the administration of its programs, all in accordance with the Administrative Procedure Act.

2. The board shall review and make recommendations to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state.

3. The board shall approve matters of policy and all rules and regulations promulgated by the board or GOEA which pertain to elderly affairs and voluntary parish councils on aging.

4. The board shall prepare and submit an annual report to the legislature and to the governor sixty days prior to the legislative session.

5. The board by rule or its order may delegate any portion of its rights, powers, and duties to the executive director of the office.

6. The board may recommend discharge of the GOEA executive director.

E. Compensation

1. Members shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings.

2. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Sections 305(a)(1) and 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1105. State Plan on Aging

A. Definition

The state plan on aging is the document submitted to the Administration on Aging to obtain the State's allotment of federal funds allocated under the Older Americans Act of 1965, as amended. It identifies the actions which the Governor's Office of Elderly Affairs (GOEA) will take in carrying out federal and state responsibilities. GOEA shall not make expenditures under a new plan or amendment requiring approval until it is approved.

B. Content of the State Plan

1. Identification by the State of the sole State agency that has been designated to develop and administer the plan;

2. Statewide program objectives to implement the requirements under Title III and Title VII of the Older Americans Act and any objectives established by the Administration on Aging through the rulemaking process;

3. A resource allocation plan indicating the proposed use of all Title III funds administered by GOEA, and the distribution of Title III funds to each planning and service area;

4. Identification of geographic boundaries of each planning and service area and of area agencies designated for each planning and service area;

5. Provision of prior Federal fiscal year information related to low income minority and rural older individuals as required by Section 307 of the Older Americans Act; and

6. Each of the provisions and assurances required in Sections 305 and 307 of the Older Americans Act, and provisions that the State meets the requirements under 45 CFR Part 1321.

C. Development and Amendment of the State Plan

1. The state plan may be developed for a two-, three-, or four-year period, determined by the State agency, with such annual updates and/or amendments as are necessary. GOEA shall use its own judgement as to the format to use for the plan, and how to collect information for the plan. The plan's resource allocation, including allotments to area agencies, shall be prepared annually and as available allotments change.

2. In the process of developing the state plan, GOEA shall reevaluate the configuration of planning and service areas (PSAs) in the state. Applications for PSA designation will be accepted in accordance with §1107.A.2 of this manual at that time.

3. GOEA shall amend the state plan whenever necessary to reflect:

- a. new or revised Federal statutes or regulations;

b. a material change in any law, organization, policy or State agency operation, or;

c. information required annually by the Older Americans Act.

4. GOEA shall promulgate the state plan and all amendments in the Louisiana Administrative Code in accordance with the Administrative Procedure Act.

5. GOEA shall submit the state plan and all amendments requiring approval to the Administration on Aging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1107. Planning and Service Area Designation

A. General Rules

1. In accordance with Section 305 of the Older Americans Act (the Act), GOEA shall divide the State into distinct planning and service areas (PSAs) after considering the geographical distribution of individuals aged sixty and older in the State; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance; the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older Indians residing in such areas; the distribution of resources available to provide such services or centers; the boundaries of existing areas within the State that were drawn for the planning or administration of supportive service programs; the location of units of general purpose local government within the State; and any other relevant factors.

2. Starting with the state plan on aging beginning October 1, 2002, GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.

3. GOEA may include in any planning and service area such additional areas adjacent to the unit of general purpose local government, region, metropolitan area, or Indian reservation so designated as GOEA determines to be necessary for, and will enhance the effective administration of the programs authorized by Title III of the Older Americans Act.

4. GOEA may include the area covered by the appropriate economic development district involved in any planning and service area designated and may include all portions of an Indian reservation within a single planning and service area.

B. Eligible Applicants

The governing body of any unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation may apply for its geographical area of jurisdiction to be a designated planning and service area.

C. Application Procedure for PSA Designation

1. Eligible applicants requesting PSA designation shall submit applications based upon a uniform format prescribed by GOEA. Each such application shall include:

a. a signed resolution by the governing body of the applicant organization authorizing the request for designation of the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation as a planning and service area;

b. a narrative and statistical description of:

i. the number of individuals aged sixty and older in the proposed PSA;

ii. the number of older individuals who have the greatest economic need (including low-income minority individuals) residing in the proposed PSA;

iii. the number of older individuals who have the greatest social need (including low-income minority individuals) residing in the proposed PSA;

iv. the number of older individuals who are Indians residing in the proposed PSA;

c. the incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance in the proposed PSA;

d. the distribution of resources available to provide such services or centers in the proposed PSA;

e. the boundaries of existing areas within the proposed PSA drawn for the planning or administration of supportive and/or nutrition services programs;

f. the location of units of general purpose local government within the proposed PSA; and

g. a list of multipurpose senior centers and agencies providing supportive and/or nutrition services in the proposed PSA including services supported by Title III of the Older Americans Act.

2. If the proposed PSA's boundaries are either a combination or subdivision of existing planning and service areas, the application shall address the basis of need for the merger or separation.

3. Applications from units of general purpose local government shall include a statement of whether the unit desires to exercise the right to first refusal of an area agency on aging designation. If the unit chooses not to exercise this right, the application shall include a statement of preference for another agency or organization to be the designated area agency on aging for the proposed PSA.

4. Applications for PSA designation shall be signed by the chief elected official representing the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation.

D. Criteria for Approval of PSA Designation Applications

1. The application must be received by GOEA within the time frame prescribed in §1107.A.2.

2. The application must be completed, including all required documentation and signatures. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

3. The application must clearly demonstrate that the designation of the proposed PSA is necessary for, and will

enhance, the effective administration of the programs authorized by Title III of the Older Americans Act.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1107.C.1.

2. Any applicant under §1107.B whose application for designation as a PSA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1269.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1109. Area Agency on Aging Designation

A. General Rules

1. The Governor's Office of Elderly Affairs (GOEA) shall designate a public or private nonprofit agency or organization as the area agency on aging (AAA) for each planning and service area (PSA) after consideration of the views offered by the unit or units of general purpose local government in each such PSA.

2. GOEA shall not designate any regional or local office of the State as an AAA.

3. Whenever GOEA designates a new AAA, GOEA shall give the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Sec. 305 (c) of the Older Americans Act and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous.

4. If the unit of general purpose local government chooses not to exercise the right of first refusal, GOEA shall publicly solicit applications for designation as an area agency on aging and shall give preference to an established office on aging as defined in §1109.B.1.a.

5. GOEA shall take into account the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under the state plan when designating AAAs.

B. Eligible Applicants for AAA Designation

1. Any of the following may apply for designation as an AAA:

a. an established office on aging which is operating within the PSA. The term "established office on aging" means a public or private nonprofit agency/organization that has functioned for at least one year for the purpose of planning, developing or administering aging service programs. The agency/organization must be capable of functioning effectively throughout the PSA designated by GOEA.

b. any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an AAA by the chief elected official of such unit;

c. any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only in behalf of such combination for the purpose of serving as an AAA;

d. any other public or private nonprofit agency in a PSA, or any separate organizational unit within such agency, which is under GOEA's supervision or direction for this

purpose and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA.

C. Application Procedure for AAA Designation

1. Eligible Applicants for AAA designation shall submit a written application in the format prescribed by GOEA.

2. Applications for AAA designation shall include:

a. the legal basis upon which the agency is organized;

b. a list of members serving on the governing body and the agencies/organizations they represent;

c. a copy of the agency's most recent audit;

d. a copy of the agency's current approved financial plan;

e. an organizational chart depicting the manner in which the agency's staff will be divided to fulfill its AAA responsibilities;

f. job descriptions reflecting the proposed AAA's intent to carry out the advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation functions;

g. assurances that the agency, once designated, shall provide for an adequate and qualified staff to perform all of the AAA functions prescribed in the Older Americans Act; and

h. such other information as GOEA deems necessary.

D. Criteria for Approval of Applications for AAA Designation

1. The application must be submitted in a timely manner, including all required documentation. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

2. The agency applying for AAA designation shall provide an opportunity for on-site review and assessment by GOEA to ensure that said organization has the capacity to perform the functions of an AAA.

3. Applications must demonstrate that the agency, if designated, will have the ability to fulfill the mission of an AAA.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1109.C.1.

2. Any applicant under §1109.B whose application for designation as an AAA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1267.

F. Duration of AAA Designation

The designated AAA shall function in that capacity for the duration of the area plan unless the AAA informs GOEA that it no longer wishes to carry out the responsibilities of an AAA or GOEA withdraws the designation as provided in §1109.G.

G. Withdrawal of AAA Designation

1. The Governor's Office of Elderly Affairs shall withdraw the AAA designation whenever GOEA, after reasonable notice and opportunity for a hearing, finds that:

a. the AAA does not meet the requirements of 45 CFR 1321; or

b. the plan or plan amendment is not approved; or

c. there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 CFR 1321 or the GOEA Policy Manual; or

d. activities of the AAA are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an AAA.

2. If GOEA withdraws the AAA's designation, it shall:

a. provide a plan for the continuity of AAA functions and services in the affected planning and service area; and

b. designate a new AAA in a timely manner.

3. If necessary to ensure continuity of service in a planning and service area, GOEA may, for a period up to 180 days after its final decision to withdraw the designation of an AAA:

a. perform the responsibilities of the AAA; or

b. assign the responsibilities of the AAA to another agency in the planning and service area.

4. The Assistant Secretary of the Administration on Aging may extend the 180-day period if GOEA:

a. notifies the Assistant Secretary in writing of its action;

b. requests an extension; and

c. demonstrates to the satisfaction of the Assistant Secretary a need for the extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Section 305(a)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1111. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, 45 CFR 1321.11, 45 CFR 1321.17, 45 CFR 1321.19, and 45 CFR 1321.21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 14:791 (November 1988), LR 17:57 (January 1991), repealed LR 25:

Subchapter C. Councils on Aging

§1265. General Hearing Provisions

A. Purpose

The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

B. Definitions

Act is the Older Americans Act (42 United States Code Section 3001 et seq.).

Administration on Aging an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging is the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a

comprehensive and coordinated system of services for older persons.

Area Plan is the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

Assistant Secretary for Aging the head of the Administration on Aging.

Contract is an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

Director is the director of the Governor's Office of Elderly Affairs.

Governor's Office of Elderly Affairs is the single state agency designated to develop and administer the state plan and be the focal point on aging in the State of Louisiana.

Hearing Examiner is an impartial person designated to preside at the hearing and render a proposed final decision.

Interested Person is any person who has a justifiable and clearly identifiable interest in the decision being appealed.

Party is any petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

Person is an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

Petitioner is any person who has a right to a hearing under these rules and has filed a written request for a hearing.

Planning and Service Area is a geographic area of the state that is designated by the State Agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider is an entity that is awarded a subcontract from an area agency to provide services under the area plan.

State Agency is the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. Decisions Unresolved on Effective Date of These Rules. These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.

2. Computation of Time. In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.

3. Representation of Petitioner. Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.

4. Informal Disposition. Informal disposition or arrangements may be made of any matters under these rules

by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act. There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of LA R.S. 49:951 et seq., the Louisiana Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), amended LR 25:

§1267. Hearing Procedures for Area Agencies

A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.

B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:

1. revoke the designation of an AAA;
2. designate an additional planning and service area in the State;
3. divide the State into different planning and service areas; or
4. otherwise affect the boundaries of the planning and service areas in the State.

C. Notice of Proposed Action

1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:

- a. a statement of the proposed action;
- b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
- c. a reference to the particular sections of statutes, regulations, and rules involved.

2. The notice shall be sent by registered or certified mail, return receipt requested.

D. Request for Hearing

1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the proposed action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and

e. a request for a transcript of the hearing, if desired.

E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:

- a. a statement of time, date, and location of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of LA R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

G. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by LA R.S. 49:960.

I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).

J. Hearing

1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.

2. The hearing shall be completed within 120 days of the date the request for hearing was received.

K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.

2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;

3. a statement of matters officially noted;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:

§1269. Hearing Procedures for Applicants for Planning and Service Area Designation

A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.

B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of areawide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.

C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and
- e. a request for a transcript of hearing, if desired.

3. Petitioners shall be given no less than ten days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:

- a. a statement of time, date, location, and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved; and

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of LA R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.

F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by LA R.S. 49:960, the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.

L. Rehearing. Procedures for rehearings shall be governed by LA R.S. 49:959.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the c Assistant Secretary for Aging in writing within thirty days following receipt of the State agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on September 28, 1999 at 625 North Fourth Street, State Mineral Board Hearing Room, Baton Rouge, LA 70802 at 10 a.m. All interested parties will

be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. September 28, 1999.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual
Revision—Subchapter A**

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

It is estimated that there will be no implementation costs or savings to state governmental units as a result of the proposed rule. There could be additional costs to local governmental units; however, the exact amount, if any, is unknown. The proposed rule will allow local governmental units to apply for planning and service area (PSA) designation and afford them the right to first refusal for area agency on aging (AAA) designation. Local governmental units requesting PSA designation will be required to submit written applications to the Governor's Office of Elderly Affairs (GOEA) and will incur the associated costs. PSA designated local governmental units receiving AAA designation will be required to develop and administer an area plan on aging and will incur the associated costs. Ten percent (10%) of Older Americans Act Title III funds allocated to an AAA may be expended for administrative costs.

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

It is estimated that there will be no effect on revenue collections of state governmental units. There could be an increase in revenue collections of local governmental units; however, the exact amount, if any, is unknown. Older Americans Act (OAA) Title III funds are allocated among the PSAs by an intrastate funding formula based upon the geographical distribution of older individuals in the State and among PSAs with the greatest economic and social needs. Local governmental units of newly designated PSAs will have the right to first refusal for AAA designation. If the AAA designation is awarded by GOEA, they will receive OAA Title III funding to develop and administer an area plan on aging.

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

Directly affected persons or non-governmental groups that appeal decisions of GOEA or a designated area agency on aging will incur administrative costs associated with the appeals process. These costs will vary and cannot be determined at this time.

Members of the Louisiana Executive Board on Aging shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although non-profit agencies are not in competition with each other, there is competition for funding. In a PSA in which the local governmental unit becomes a designated AAA, non-profit agencies will not be able to apply for the AAA designation. Further, OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services for persons age 60 and over through a competitive process. They must advertise the

availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies will be able to compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
9908#043 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Veterans Affairs**

Members and Travel (LAC 4:VII.905 and 911)

In accordance with Act 268 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4.VII.905.A and delete §911.B, pertaining to payment of per diem and traveling expenses for members of the Veterans' Affairs Commission.

**Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans' Affairs
Subchapter A. Veterans' Affairs Commission
§905. Members**

A. Each member shall be paid \$75 each day devoted to the work of the commission, but not more than \$1500 in any one fiscal year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 25:

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

C. The director, as secretary of the commission, shall keep the chairman and all members of the commission apprised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 24:936 (May 1998), amended LR 25:

Interested persons are invited to submit inquiries or written comments on the proposed amendments by 4:30 p.m., September 20, 1999, to Joey Strickland, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA

70804-9095, or to 1885 Wooddale Boulevard, 10th Floor, Baton Rouge, LA 70806.

Joey Strickland
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Members and Travel**

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

It is estimated that the proposed rules will increase annual state general fund expenditures by approximately \$11,100 beginning in Fiscal Year 2000. These expenditures include \$8,100 for per diem and \$3,000 for out-of-state travel. The proposed amendments increase the Veterans Affairs Commission per diem from \$50 to \$75 for each day devoted to the work of the commission and expands reimbursement for necessary traveling expenses to include out-of-state travel.

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

The proposed rules are not estimated to have any effect on revenue collections of state or local governmental units.

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

There are no estimated costs to directly affected persons or non-governmental groups. The economic benefits to directly affected persons will be reimbursement of out-of-state travel expenses and a \$75 per diem to commission members in the performance of official state business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed rules.

Joey Strickland Robert E. Hosse
Executive Director General Government Section Director
9908#056 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Veterans Affairs**

State Aid Eligibility (LAC 4:VII.917)

In accordance with Act 1031 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4.VII.917.A(2) and (8), pertaining to eligibility requirements for the State Aid Program.

**Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans' Affairs
Subchapter B. State Aid Program
§917. Eligibility**

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met:

* * *

2. the veteran must be rated 90 percent or above service-connected disabled or who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule.

* * *

8. the eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:485 (October 1981), LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 25:

Interested persons are invited to submit inquiries or written comments on the proposed amendments by 4:30 p.m., September 20, 1999, to Joey Strickland, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095, or to 1885 Wooddale Boulevard, 10th Floor, Baton Rouge, LA 70806.

Joey Strickland
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Aid Eligibility**

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

There is no significant anticipated implementation costs to state or local governmental units from the adoption of the proposed amendments. Prior to this amendment, dependents of veterans with 90 percent or above disability rating were not required to pay tuition to a state college, university, or vocational-technical school. This amendment expands eligibility to include dependents of veterans who are unemployable as a result of their service-connected condition, which will provide free tuition to the dependents of approximately 1046 additional veterans. The Legislature does not appropriate any funds to state schools to cover the costs of qualified dependents. State schools have been able to absorb these costs, and it is anticipated that state schools will continue to absorb any costs associated with additional qualified dependents.

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

The proposed amendments are not estimated to have a significant effect, if any, on revenue collections of state or local governmental units. The proposed amendments will allow the dependents of approximately 1046 veterans with a disability rating to attend any state college, university, or vocational-technical school without having to pay tuition. There is the potential for a loss in revenue collections from school-imposed fees which would have otherwise been collected from a dependent who will now qualify for free tuition; however, any loss in revenue collections should be minimal.

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

There are no estimated costs to directly affected persons or non-governmental groups. The economic benefits to directly affected persons will be free tuition to a state college,

university, or vocational-technical school for dependents of veterans who will now qualify from the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is the potential for better employment opportunities for qualified veterans' dependents who attend a state college, university, or vocational-technical school because of the tuition exemption. There is no estimated effect on competition from the proposed amendments.

Joey Strickland
Executive Director
9908#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

**Registration of Licenses and Certificates
(LAC 46:XLIX.1103)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators is amending the rules pertaining to annual registration and registration fees. The board finds it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a

board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

Interested persons may submit written comments until 4:00 p.m., October 20, 1999, to Kemp Wright, Executive Director, LA Board of Examiners of Nursing Facility Administrators, 5615 Corporate Blvd., Suite 8-D, Baton Rouge, LA 70808.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:

Kemp Wright
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration of Licenses and Certificates

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

The only cost associated with the implementation of the proposed amendment of 46:XLIX:1103 will be the cost of printing and distribution of the new regulation. It is estimated that the Register cost of \$120, printing cost of \$85, and postage cost for distribution of \$280 or a total of \$485 will be expended in FY 99/00.

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

The estimated effect on revenue for this Board will be a net increase of \$229,160 every two years (\$139,930 in Year 1, and \$89,230 in Year 2). It is necessary to reflect a two year collection as the proposed rule changes the registration period from two years to one year. This estimate assumes the same number of licensees despite the increased license cost.

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

The persons directly affected by the proposed rule change will be licensed nursing home administrators in the state of Louisiana. The increased costs to these licensees will be a net \$170 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Board does not anticipate any effect on competition or employment.

Kemp Wright
Executive Director
9908#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Continuing Education Submission Fees (LAC 46:XLVII.3335)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.,

that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the fee increases of the board. The proposed amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3335. Continuing Education/Nursing Practice

A. - G.10.b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

11.a. - b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

H. - H.2.a. ...

b. Fees payable upon submission of an application for review of an offering are: \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25% of the original fee, with a minimum of \$30, is payable for an extension of the approved status for one year.

J.1 - 4 ...

5. Fees payable upon submission of a refresher course for approval are \$400 with \$100 being non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 25:514 (March 1999), LR 25:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 a.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant, R.N., M.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Education—Submission Fees

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

The costs of implementing these rule changes are negligible. Notification of the rule changes will be provided to all registered nurses via the Board's newsletter; and cost of publishing these rules will be absorbed within the Board's existing budget.

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

Approximately seven offerings are submitted for approval per year. No providers are scheduled for renewal during 1999-2000 resulting in a decrease in revenues the first year. Six are scheduled for renewal in 2000-2001 and two in 2001-2002 resulting in the increases in revenue discussed below. This results in a change in revenue projected for three years as follows: Year 99-00 (\$625.00); year 00-01, \$4,175.00; and year 01-02, \$975.00. The Board has no applications for approval of a refresher course pending and does not anticipate any being submitted in the near future.

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

Costs to Continuing Education Providers will increase by \$300 for a two year provider approval and \$50 for a one year individual offering approval, plus an additional \$5 per contract hour offered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director

Robert E. Hosse
General Government Section
Director
Legislative Fiscal Office

9908#040

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Fees for Education Services
(LAC 46:XLVII.3505)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to amend rules amending the Professional and Occupational Standards pertaining to the alternative to disciplinary proceedings of the board. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3505. Approval

A. ...

B. Notwithstanding any other provisions of this Chapter, the board shall collect in advance fees for education services as follows:

- 1. School Approval-Site Visit \$500.00/site visit
- 2. Out of State Clinical Approval \$250.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated LR 24:1293 (July 1998), amended LR 25:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director,

Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 501, Metairie, LA 70002. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 a.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees for Education Services**

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

The costs of implementing these rule changes are negligible. Notification of the rule changes will be provided to all registered nurses via the Board's newsletter.

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

Approximately two nursing schools per year will require a site visit and two out of state clinical facilities will request approval for a total increase of \$1,100.00.

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

Costs to Schools of nursing will be an additional \$300 every 5-8 years for site visits. Currently the charge is \$100 per day for a site visit, which normally requires two days.

Cost to out of state clinical facilities (exclusive of site visit) will be \$250 every two years. Currently there is no charge for out of state clinical approval.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director
9908#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Registration and Licensure Fees
(LAC 46:XLVII.3341)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to a fee increase of the board. The proposed amendments of the rules are set forth below.

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

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 501, Metairie, LA 70002. A public hearing on this

proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 p.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant, R.N., M.N.
Executive Director

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

RULE TITLE: Registration and Licensure Fees

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

The Board will send out a special issue of their newsletter to all Louisiana licensed registered nurses, approximately 42,000, notifying them of the changes in a timely manner. The Board's newsletter is produced and mailed by LSU Graphics. The anticipated cost of printing and mailing is \$15,000.00.

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

The Louisiana State Board of Nursing will generate additional revenues from fee increases projected at \$1,017,250 in fiscal years 1999-2000, 2000-2001, and 2001-2002. The new fees will increase revenue per year as follows: Retired License Fee - \$625 (25 @ \$25), APRN Prescriptive Authority Applications - \$2,500 (25 @ \$100), APRN Prescriptive Authority Site Change - \$625 (25 @ \$25), Reinstatement of PA Privileges - none anticipated at this time, Consultations - \$200 (2 @ \$100), Certified Documents - \$100 (100 @ \$1), Special Programming - \$400 (2 @ \$200). Increases in licensure and photocopy fees will create an anticipated revenue of \$1,015,300 based on the attached assumptions and calculations.

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

The costs to licensees and applicants for registered nurses licenses will increase by the amounts as specified in the rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director
9908#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees and License Renewal Late Fee
(LAC 46:LXXXV.501 and 505)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.501 and 505 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 5. Fees

§501. Fees

The board hereby adopts and establishes the following fees:

	Licenses:	
Annual renewal-active license		\$175
Annual renewal-inactive license		\$75
Duplicate license		\$25
Original license fee		\$150
Temporary license		\$100
	Exams:	
Clinical Competency Test (CCT)		\$190
National Board Exam (NBE)		\$215
State Board Examination		\$175
	Exam and/or License Applications:	
Application Fee		\$50

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 6:71 (February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:

§ 505. License Renewal Late Fee

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of \$125 as a late fee.

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 19:1429 (November 1993), amended LR 25:

Interested parties may submit written comments to Kimberly Barbier, administrative 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 September 28, 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 September 28, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Dick C. Walther
President

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

RULE TITLE: Fees and License Renewal Late Fee

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Lead Poisoning Prevention Program

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 \$200). 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)

The proposed fees are not expected to have an impact until the 2000-2001 year (license renewals will not take place again until July 1, 2000, and almost all original licenses will be issued for the 2000-2001 year after the date on which the proposed fees would become effective). The anticipated increase in agency-self generated funds for FY00-01 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Annual renewal-active license	825 x \$125 = \$103,125	825 x \$175 = \$144,375	\$41,250
Original license fee	50 x \$100 = \$5,000	50 x \$150 = \$7,500	\$2,500
License and/or Exam Application Fee	\$0	100 x \$50 = \$5,000	\$5,000
Clinical Competency Test	80 x \$50 = \$4,000	0 (after April 2000)	(\$4,000)
National Board Exam	90 x \$50 = \$4,500	0 (after April 2000)	(\$4,500)
License Renewal Late Fee	25 x \$100 = \$2,500	25 x \$125 = \$3,125	\$625
Total	\$119,125	\$159,910	\$40,875

(Note: Current revenue for Clinical Competency Test and National Board Exam excludes vendor costs included in the current fee.) There is no anticipated additional increase in revenue after FY 00/01.

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

Licensed veterinarians, license applicants, and examinees will be affected by the proposed action. The net cost effect on each licensee renewing a license should be \$50, unless the licensee submits a late renewal application, in which case the net effect would be \$75. Each person obtaining an original license will pay \$50 more. There will be no new paperwork required.

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
9908#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299.22 and 40:1299.23, the Department of Health and Hospitals, Office of Public Health proposes to amend regulations pertaining to Parish Lead Poisoning Prevention and Treatment Programs as published in the *Louisiana Register* of February 20, 1989.

The proposed rule establishes the relationship between the local and state Lead Poisoning Prevention Programs, redefines the blood lead level of a lead case, and specifies method of reporting. This rule also specifies reporting requirements for laboratories responsible for conducting analysis of blood lead levels on children in Louisiana between the ages of 6 to 72 months of age, inclusive.

A. Relationship of Local and State Lead Poisoning Prevention Programs

The local lead prevention program shall collaborate with the state Lead Prevention Program at the Office of Public Health and adhere to current Centers for Disease Control and Prevention guidelines.

B. Definitions

1. *A Case of Lead Poisoning* in children between the ages of six months of age is defined as:

a. a venous blood-lead level greater than or equal to 15 Fg/dl (micrograms per deciliter);

b. acute symptomatic illness consisting of lead colic with or without lead encephalopathy; or

c. chronic symptomatic illness consisting of the signs and symptomatic illness consisting of the signs and symptoms of chronic plumbism, including, but not limited to anemia, nephropathy, neuropathy, loss of developmental skills, recurrent lead colic and/or recurrent lead encephalopathy.

2. *Previously Reported* is defined as any case of lead poisoning which has been diagnosed by a medical provider, and reported to the Office of Public Health as specified in Subpart C of this rule.

3. *Hazardous Lead Environment* is defined as any lead based substance that exists in or about a dwelling, dwelling unit, household, school or day care facility or institutions in which children or other persons commonly reside or visit; and said lead based substance is determined to be on any surface, exposed surface, chewable surface and contains 0.5% less of the total weight or more than six hundredths of one percent (0.06%) lead by weight of nonvolatile content or in excess of seventh-tenth milligrams per square centimeter (0.7 mg/cm²) of surface when tested by a radioisotope x-ray fluorescent analyzer or any other equivalent method; or said lead based substance contains less lead than stipulated in this definition (see Section 4:001 of the Louisiana Sanitary Code also), but has been demonstrated to be a source of lead poisoning in any person, especially a child under six (6) years of age.

4. *Clinical Laboratory* is a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human being.

C. Mandatory Case Reporting by Health Care Providers

1. Medical providers must report a lead case to the Lead Poisoning Prevention Program, Office of Public Health within 48 hours to ensure appropriate and timely follow-up. All health care providers shall assure that all the following information is completed for all blood lead analysis ordered by the health care provider and that this information accompanies the sample to the testing laboratory:

- a. child's name;
- b. parent's or the guardian's name;
- c. child's street and mailing address, including the city, state, parish, and zip code;
- d. child's date of birth;
- e. child's sex;
- f. child's race;
- g. child's national origin;
- h. child's Social Security Number;
- i. phone number where the child can be reached;
- j. Medicaid number, if any;
- k. type of sample (Venous or Capillary);
- l. sample date;
- m. type of test: first, annual, or repeat test;
- n. blood lead level results in micrograms per deciliter (Fg/dl).

2. Lead cases along with the specified information can be reported either by fax at (504)568-7722 or by telephone at (504) 599-0256, and followed up by the mailing of the information to the Louisiana Childhood Lead Poisoning Prevention Program, Office of Public Health, Room 311, 325 Loyola Avenue, New Orleans, LA. 70112

D. Reporting Requirements of Blood Lead Levels by Laboratories for Public Health Surveillance

1. Clinical laboratories responsible for conducting analysis to determine blood lead levels, and/or responsible for reporting the results of analysis to referring laboratories and other health care providers, shall also report the results to the Louisiana Office of Public Health at least monthly to the Lead Poisoning Prevention Program at the address listed in Subpart C above.

2. The following information is essential for appropriate monitoring, screening and treatment of lead poisoning.

- a. All results of blood lead testing for children between the ages of six to 72 months of age must be reported, regardless of the test results.
- b. Laboratories shall collect and report all of the information specified in numbers (1-14) in Subpart C above.
- c. Laboratories can report the information required by this rule to the Office of Public Health. by electronic transfer.

Interested persons may submit written comments on this proposed rule until the close of business on September 17,

1999. All such comments should be addressed to Maria Jose Salmeron Lancaster, MPH, Lead Poisoning Prevention Program Coordinator, Office of Public Health/DHH, P.O. Box 60630, New Orleans, Louisiana 70160-0630.

A public hearing to receive verbal and/or written comments or questions regarding the proposed rule will also be held on September 29, 1999 at 10:00 a.m. in the Environmental Office in the Blanche Appleby Computer Center, 6867 Bluebonnet Boulevard, Baton Rouge, Louisiana, Room 230.

David W. Hood
Secretary

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

RULE TITLE: Lead Poisoning Prevention Program

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

The Agency will incur a one time cost of approximately two hundred dollars (\$200.00) to publish this rule in the *Louisiana Register* prior to implementation. There are no additional implementation costs (savings) to state or local units from the proposed action which will redefine the blood lead level of a lead case and the updated method of reporting such cases to the Office of Public Health.

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

There is no estimated effect on revenue collections of state or local governmental units from the proposed action.

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

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups from the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed action.

Jimmy Guidry, M.D.
Assistant Secretary
9908#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

License Plates, Registrations, and Related Matters
(LAC 55:III.367, 381, 383, 385, 387, 389, 391, 393)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby gives notice of intent to adopt rules pertaining vehicle registrations and related matters. The proposed rules address the applicability of the Federal Driver Privacy Protection Act to vehicle registration records, and the collection of sales taxes in connection with the initial registration of certain commercial motor vehicles.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter B. Vehicle Registration License Tax

§367. Driver Privacy Protection Act

A. Every individual who is an applicant for a certificate of title, or a new or renewed motor vehicle registration, shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting the form to the Department as required in the instructions on the form. An individual may submit a properly completed form to the Department at anytime without having to transact any other business with the Department. A form which is incomplete or which is illegible shall not be processed and shall not be returned.

B. Until the Department receives a properly completed form from an individual, the personal information provided by the individual to the Department shall be considered a public record as provided in R.S. 44:1 et seq.

C. Upon receipt of a properly completed form, the Department will code the individual's record to reflect the proper disclosure code pursuant to the option chosen on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Subchapter C. Tax Exemption For Certain Trucks and Trailers Used 80 Percent of the Time in Interstate Commerce

§381. Definitions

As used in Subchapter C, the following terms have the meanings described below.

Base Plate State the state which issues an apportioned license plate pursuant to the International Registration Plan.

Department Department of Public Safety and Corrections, Office of Motor Vehicles.

Eligible Contract Carrier Buses those buses used at least 80 percent of the time in interstate commerce.

Established Place of Business a physical structure, owned, leased, or rented by the applicant, which has a publicly listed telephone, and has persons physically located at the business location for the purpose of conducting business operations.

Person includes person, corporation, partnership, limited liability company, firm, association or other legal entity formed to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§383. Exemption From Sales Tax

A. Trucks with a minimum gross weight of twenty-six thousand pounds (26,000 lbs.), trailers, and contract carrier buses used at least eighty percent (80%) of the time outside the State of Louisiana in interstate commerce may claim a sales and use tax exemption.

B. The term "trucks" and "trailers" shall have the same meaning as the terms "truck, trailer, road tractor, or semi-trailer, tandem truck, tractor, and truck tractor" as defined in

R.S. 47:451. The term "bus" shall mean a commercial vehicle with a minimum passenger capacity of thirty-five (35) persons and a minimum gross weight of twenty-six thousand pounds (26,000 lbs.). The term "contract carrier" shall mean any person transporting, other than as a common carrier, persons for hire, charge, or compensation.

C. Eligible trucks and trailers purchased or previously registered out of state and being titled using a tax date between July 1, 1996 through September 30, 1996 are exempt from partial state tax (1 percent Recovery District tax will be due) and all local parish/municipality tax. Those trucks and trailers purchased or previously registered out of state using a tax date on or after October 1, 1996, are exempt from all state and local parish/municipality tax. Business must be conducted in two or more states with Louisiana being the base plate state, therefore, only trucks which are obtaining apportioned license plates are eligible to receive this exemption.

D. Eligible contract carrier buses which were purchased or previously registered out of state and being titled using a tax date on or after July 1, 1998 are also exempt from all state and local parish/municipality tax. These buses shall be issued hire-bus or hire-passenger plates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§385. Exemption Certificate

A. The exemption certificate must be completed by the applicant and submitted along with proper title documentation and applicable fees. A separate exemption certificate is required for each vehicle and must contain a complete description of the vehicle, including year, make, and vehicle identification number.

B. For contract carrier buses, the applicant must also present proof in the form of a common carrier certificate or permit issued by the Federal Highway Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§387. Business Location in Louisiana

A. If the vehicle is being titled in the name of a company, proof that the company has an established place of business in the State of Louisiana must be furnished. Unless it can be determined that the company has been issued an employer identification number (EIN) for a Louisiana-based company (EIN should begin with 72) and other vehicles have been registered in that company's name, two of the following items must be submitted as proof that the company has an established place of business:

1. A copy of the Tax Registration certificate issued by the Louisiana Department of Revenue indicating the Louisiana Tax Identification Number.

2. A copy of the Articles of Incorporation and the Initial Report as filed with the Louisiana Secretary of State. These documents should be photocopied and returned to the applicant in the event he wishes to purchase an apportioned license plate.

3. A Certificate of Authority issued by the Louisiana Secretary of State authorizing an out-of-state based corporation to transact business in the State of Louisiana.

4. A copy of the applicant's Occupational License.

5. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same business as reflected on the exemption certificate.

B. If the vehicle is being titled in the name of an individual, proof must be furnished that the individual is a resident of the State of Louisiana. Unless it can be determined that the individual possesses a Louisiana driver's license and has other vehicles registered in his name, two of the following items must be submitted as proof that he is a resident of Louisiana:

1. A voter's registration card.

2. A receipt from the tax assessor's office in the parish where he resides, indicating the lessee is the same individual as shown on the exemption certificate.

3. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same individual as shown on the exemption certificate.

4. Three utility statements (electric, gas, water, telephone, or cable vision) for consecutive months indicating the applicant's name and address.

C. The code "IH" must be entered in the no-tax field to allow the exemption of state and parish/municipality sales tax for interstate commerce carriers.

§389. Expiration of Exemption

The exemption from sales and use taxes established in R.S. 47:305.50 is scheduled to expire effective June 30, 2000. All vehicles purchased after June 30, 2000 will be subject to all state and local parish/municipality tax. If the sales and use tax exemption provided in R.S. 47:305.50 is extended by the legislature, these rules shall remain in effect, subject to amendment and repeal by the Department, until such time as the legislature repeals or otherwise terminates the exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§391. Administrative Actions

A. The Department may suspend, cancel, or revoke any exemption granted pursuant to Subchapter C if the Department determines that the person does not meet the eligibility requirements for the exemption, or if the person has submitted false, incorrect, incomplete, or misleading information in connection with his application for an exemption.

B. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall maintain the records establishing the person's eligibility for the exemption at the Louisiana business address given in the application. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his records available for inspection and copying to any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00 p.m.. Monday through Friday and at any other time the person is conducting business at the location where the records are stored. Additionally, each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his business premises available for inspection by any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00

p.m.. Monday through Friday and at any other time the person is conducting business.

C. Any request for an administrative hearing to review any action, order, or decision of the Department shall be in writing and submitted to the Department within thirty days of the date the action, order or decision was mailed or hand delivered, as the case may be. The written request for a hearing shall be mailed to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, at P. O. Box 64886, Baton Rouge, Louisiana 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§393. Declaratory Orders

A.1. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule, to the regulation of the sales and use tax exemption of this Subchapter shall submit a written petition to the assistant secretary. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

2. If the petition includes reference to a specific transaction handled by the Department, or if the petition relates to the grant or denial of a sales and use tax exemption, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, granting, or denial of the exemption by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §393 of this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50, R.S. 47:321, and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for

the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Tuesday, September 21, 1999. A public hearing on these rules is tentatively scheduled for Tuesday, September 28, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Nancy Van Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tax Exemption For Certain Trucks and
Trailers Used 80 Percent of the Time in
Interstate Commerce**

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

There should be no costs or savings to state government in connection with the adoption and implementation of the rules adopted pursuant to R.S. 47:305.50 and R.S. 47:321 regarding the tax exemption for certain trucks and trailers used 80 percent of the time in interstate commerce.

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

These rules will not effect local governments as the Department collects the local sales and use taxes on motor vehicles registered in this state pursuant to R.S. 47:303(B)(3). Any reduction in revenues would be caused by the statutory exemption created by Act 41 of the 1998 Regular Session.

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

Those companies and individuals eligible to claim the sales tax exemption will not incur any costs in connection with the implementation of these rules other than the minimal cost of completing the exemption certificate required to be submitted by the applicant for a commercial motor vehicle registration.

Those companies and individuals who claim the sales tax exemption will benefit from not having to pay the sales tax that would otherwise be due at the time of initial registration.

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

There should be no effect on competition and employment as all motor carriers that operate primarily between Louisiana and at least one other state should be eligible for this exemption.

Nancy Van Nortwick
Undersecretary
9908#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Severance Tax Division**

Severance Tax Credits and Exemptions
(LAC 61:I.2905-2907)

As authorized by Acts 1998, No. 4, which repealed R.S. 47:7, and Acts 1994, No. 2, which repealed R.S. 646.1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue, Severance Tax Division, proposes to repeal LAC 61:I.2905 and 2907.

Section 2905 provides for administration of the tax credits to municipalities operating a manufacturing establishment or an electric generating plant based on the amount of natural gas consumed in these operations granted under R.S. 47:7. Act 4 of the 1998 Regular Legislative Session repealed R.S. 47:7. Prior to the repeal of R.S. 47:7, Act 5 of the First Extraordinary Session of 1988 had abolished the funding for this program and the specific paragraphs related to funding were repealed by Act 984 of the 1992 Regular Legislative Session.

Section 2907 provides for administration of a severance tax exemption for newly discovered wells granted under R.S. 47:646.1 et seq. Under this provision, working-interest owners were allowed an exemption from 50 percent of the severance taxes on the oil or gas produced from a newly discovered field for 24 months from the date that regular production was begun. Act 2 of the 1994 Regular Legislative Session repealed R.S. 646.1 to 646.5.

Repeal of LAC 61:I.2905 and 2907, which provide for administration of severance tax exemptions for which the statutes have been repealed, will have no effect and are considered housekeeping.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 29. Natural Resources: Severance Tax
§2905. Provisions Relating to Tax Credits to
Municipalities**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:7. Repealed in accordance with Acts 1998, No. 4, which repealed R.S. 47:7.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Section, October 1974, promulgated LR 13:110 (February 1987), repealed by the Department of Revenue, Severance Tax Division, LR 25:

§2907. Severance Tax Exemption for Newly Discovered Wells

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:646.1. Repealed in accordance with Acts 1994, No. 2, which repealed R.S. 646.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 3:499 (December 1977), repealed by the Department of Revenue, Severance Tax Division, LR 25:

Interested persons may submit data, views, arguments, information, or comments on this proposed regulation in writing to Carl Reilly, Director, Severance Tax Division, Department of Revenue, P.O. Box 201, Baton Rouge LA 70821 or by FAX to (225) 925-3862. All written comments must be submitted by Monday, September 27, 1999.

A public hearing will be held on Tuesday, September 28, 1999, at 1:00 p.m. in the Department of Revenue Secretary's Conference Room, 330 North Ardenwood, Baton Rouge, Louisiana.

Carl Reilly
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Severance Tax Credits and Exemptions

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

Repeal of LAC 61:I.2905 and 2907, which provide for administration of antiquated tax credits and severance tax exemptions for which the statutes have been repealed, will have no impact on costs or savings to state agencies or local governmental units.

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

Repeal of LAC 61:I.2905 and 2907 will have no impact on revenue collections of state or local governmental units.

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

Because the tax credits and severance tax exemptions have already been eliminated statutorily, repeal of LAC 61:I.2905 and 2907 will have no impact on costs or economic benefits to municipalities operating manufacturing establishments or electric generating plants or working-interest owners of oil or gas wells producing from newly discovered fields.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Repeal of LAC 61:I.2905 and 2907 will have no impact on competition or employment.

Brett Crawford
Secretary
9908#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Family Independence Temporary Assistance Program (FITAP) Application, Eligibility, and Furnishing Assistance (LAC 67:III.Chapters 11-13)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP). The repeal of Chapters 11 and 13 and the promulgation of Chapter 12 are proposed.

Subsequent to the federal and state legislation commonly known as "welfare reform," the agency promulgated changes to the existing code. The agency now intends to reorganize Subpart 2 of the code in order to create a codified document which more closely follows the Temporary Assistance to Needy Families (TANF) State Plan and the policy of the Family Independence Temporary Assistance Program.

All of the regulations in Chapters 11 and 13 are now contained in proposed Chapter 12 with few substantive changes. The only exceptions are the deletion of current §1157.*Income of Step-parents*, a regulation which is no longer in effect, and an addition to current regulations at §1247, that is, that months during which a recipient receives the earned income disregard shall not apply toward the twenty-four month limit.

To correspond with the effective date of the TANF State Plan, the agency intends to publish this final rule in the December 1999 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 18:869 (August 1992), LR 23:1707 (December 1997), LR 25:710 (April 1999), repealed LR 25:

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1201. Application Date

All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1203. Standard Filing Unit

The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. SSI recipients are excluded from this requirement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1205. Application Time Limit

The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), be mailed his first payment or notified that he has been found ineligible for a grant by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The Office of Family Support will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A

concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the FITAP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an Intentional Program Violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. a case is closed effective the fourth month because a parent fails to comply, attain good cause or become exempt from FIND Work during the three-month sanction period imposed when the parent first failed to cooperate with the FIND Work Program;

11. a case is closed effective the fourth month because a parent or other qualified relative fails to participate without good cause in the FITAP Drug Testing Program during the three-month sanction period imposed when the parent first failed to cooperate in the Drug Testing Program;

12. the case is closed due to the amount of child support collected through Support Enforcement Services;

13. the client has been certified for Supplemental Security Income and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1211. Minimum Payments

FITAP grant payments in an amount of less than \$10 will be prohibited.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape

violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;
2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;
3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;
4. physical evidence of domestic violence; or
5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter B. Conditions of Eligibility

§1221. Age Limit

- A. A dependent child must be:
1. under 16 years of age, or
 2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.
- B. Unborn children are not eligible for FITAP.
- C. A pregnant woman who has completed fifth month of pregnancy may be certified if otherwise eligible (unborn is not eligible).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1223. Citizenship

- A. Each FITAP recipient must be a United States Citizen or a qualified alien. A qualified alien is:
1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
 2. an alien who is granted asylum under Section 208 of such Act;
 3. a refugee who is admitted to the United States under Section 207 of such Act;
 4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
 5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208)

or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

- a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
- b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA, or
- c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
- d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child or the alien parent of a battered alien as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);
4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the

requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or,

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1225. Enumeration

Each applicant for or recipient of FITAP is required to furnish a social security number or to apply for a Social Security number if such a number has not been issued or not known, unless good cause is established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1227. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day to day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives:

1. grandfather or grandmother (extends to great-great-grand);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply.

1. The minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;

2. No living parent or legal guardian allows the minor parent to live in his/her home;

3. The minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for FITAP;

4. The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;

5. There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the FITAP grant and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;

2. a person providing full-time care for an incapacitated family member living in the home;

3. a person providing child care that enables the qualified relative to receive full-time training;

4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;

5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program;

6. children not within the degree of relationship to be FITAP eligible who live in the home and who meet all other FITAP requirements.

D. The following group of persons who had been considered as essential persons are no longer eligible for inclusion in the assistance unit: the incapacitated nonlegal spouse of a qualified relative who is unrelated to anyone in the assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance,
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate.
3. disaster payments,
4. Domestic Volunteer Service Act,
5. Earned Income Credits (EIC),
6. education assistance,
7. energy assistance,
8. foster care payments,
9. monetary gifts up to \$30 per calendar quarter,
10. Agent Orange Settlement payments,
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program,
12. income in-kind,
13. Indian and Native Claims and Lands,
14. irregular and unpredictable sources,
15. lump sum payments,
16. nutrition programs,
17. job training income that is not earned,
18. relocation assistance,
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan,
20. Supplemental Security Income,
21. Wartime Relocation of Civilians Payments,
22. Developmental Disability Payments,
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education,

repayment of a student loan, or for closing costs or down payment on a home,

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage,)

25. Radiation Exposure Compensation Payments,

26. payment to victims of Nazi persecution, or

27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

B. Need Standards. The FITAP need standards are as follows:

Size of Household	Current Need Standard
1	\$ 245.00
2	472.00
3	658.00
4	809.00
5	955.00
6	1,089.00
7	1,217.00
8	1,347.00
9	1,471.00
10	1,595.00
11	1,731.00
12	1,870.00
13	2,005.00
14	2,146.00
15	2,291.00
16	2,444.00
17	2,564.00
18	2,727.00

To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to a standard deduction, a \$900 time-limited deduction and, in certain circumstances, to a deduction for dependent care. The following deductions are applied, and no other deductions are allowed:

1. Standard Deduction. The standard deduction is \$120.

2. \$900 Time-limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six month lifetime limit for the individual.

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

D. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	\$72
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789
18+	See Note 1

Note 1: To determine the amount for households exceeding 18 persons, the flat grant amount for the number in excess of 18 is added to the flat grant amount for 18 persons.

E. Payment Amount

The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

F. Income and Resources of Alien Sponsors

1. In determining eligibility and benefit amount for an alien other than those identified in §1223.A.8 and 9, the income and resources of his/her sponsor and the sponsor's spouse must be considered. The income and resources of an alien sponsor and the sponsor's spouse shall not apply to benefits during a 12-month period for those aliens identified in §1223.A.8 and 9. After a 12-month period, only the income and resources of the batterer shall not apply if the alien demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service (INS), and the agency determines that such battery or cruelty has a substantial connection to the need for benefits. A *sponsor* is defined as any person who executed an affidavit of support pursuant to §213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

a. achieves United States citizenship through naturalization; or

b. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any

such period. In determining the number of qualifying quarters of coverage, an alien shall be credited with:

i. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 18; and

ii. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

iii. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under §1229.F.1.b.i or ii if the parent or spouse of such alien received any federal means-tested public benefit (as provided under §403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding §6103 of the *Internal Revenue Code* of 1986, the commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

G. Income of Alien Parent. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1231. Immunization

Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the FITAP grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1233. Residency

FITAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. home property, covered by homestead exemption;
2. burial insurance, prepaid funeral plans or prepaid funeral agreements;

3. one burial plot for each member of the assistance unit;
4. personal property;
5. inaccessible resources;
6. life insurance;
7. livestock used for home produce;
8. trust funds if all of the following conditions are met:

a. the trust arrangement is unlikely to end during the certification period and no household member can revoke the trust agreement or change the name of the beneficiary during the certification period;

b. the trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed individual who has court-imposed limitations placed on the use of the funds;

c. the trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. Exempt trusts established from the household's own funds if the trustee uses the funds only to make investments on behalf of the trust or to pay the education or medical expenses of the beneficiary.

9. disaster payments,
10. energy assistance payments,
11. Agent Orange Settlement Payments income,
12. Housing and Urban Development (HUD) payments and subsidies including HUD community development block grant funds,

13. Indian and Native Claims and Lands Payments received under Public Laws 92-254, 93-134, 94-540, Section 6 of Public Law 94-114 (89 Stat. 577, 25 U.S.C. 459e), tax-exempt portions made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act, and Public Law 98-123 or Public Law 98-124,

14. Women, Infants and Children (WIC) Program benefits,

15. relocation assistance,

16. Supplemental Security non-recurring lump sum retroactive payments in the month paid or the following month,

17. Wartime Relocation of Civilians Payments,

18. payments to victims of Nazi persecution,

19. real property which the family is making a good faith effort to sell,

20. \$10,000 equity value in one vehicle for each assistance unit,

21. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed \$6000, excluding interest, and the balance of the account cannot exceed \$6000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. OFS is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. IDA funds may be used only for the following purposes:

a. educational expenses incurred at an accredited institution of higher education;

b. training costs incurred for a training program approved by the agency; and

c. payments for work-related expenses such as clothing, tools or equipment approved by the agency.

B. Resources of Alien Sponsors - Refer to §1229.F.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1237. School Attendance

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child's needs shall be removed from the FITAP grant until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.3.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. Assignment of Support Rights

1. Each applicant for, or recipient of, FITAP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting FITAP for, or on, behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, FITAP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of FITAP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of FITAP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1241. Sanctions for Refusal to Accept a Job

Eligibility for FITAP shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three month sanction period counts as months of FITAP receipt when applying the 24-month time limit. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to sanction for refusal to accept full-time employment. Assistance for the incapacitated or disabled individual continues as long as the

family continues to meet all other FITAP eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1243. Work Requirements

Recipients must meet the work requirements outlined in LAC 67:III.Chapter 29.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8., 46:231.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1245. Parenting Skills Education

As a condition of eligibility for FITAP benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit. Months in which a recipient receives the earned income disregard shall not count toward the twenty-four month limit.

B. The time-limit provision does not apply in the following situations (in two-parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the parent's ability to obtain employment.

C. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provisions. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless benefits are extended due to hardship. Any month for which such

assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3)

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An *illegal drug* is a controlled substance as defined in R.S. 40:961 et seq. - *Controlled Dangerous Substance*.

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorder (OAD).

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the drug screening, testing, education and rehabilitation program will be paid by the Office of Family Support.

D. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following:

1. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

2. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

3. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

4. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

F. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1251. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1253. Strikers

FITAP benefits cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the

household is participating in a strike, his or her needs cannot be considered in computing the FITAP benefits.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1255. Individuals Convicted Of A Felony Involving A Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter C. Recovery

§1285. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the FITAP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for FITAP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the FITAP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (FITAP Program) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Chapter 13. Special Conditions of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998), repealed LR 25:

Interested persons may submit written comments by September 28, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Family Independence Temporary
Assistance Program (FITAP)—Application, Eligibility,
and Furnishing Assistance**

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

The costs of implementation are a result of a revision at §1247 pursuant to Act 572 of the 1999 Louisiana Legislature which provides that months during which recipients receive the earned income disregard should not apply toward the 24-month FITAP eligibility limit. The increased costs are estimated to be \$210,375 in FY 99/00 and \$297,000 in FY 00/01 and 01/02.

There are no costs or savings to local governmental units.

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

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

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

Amounts estimated in Section I represent additional FITAP benefits paid to the affected recipients. There are no costs to these persons. There are no costs or benefits to non-governmental groups.

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

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**FIND Work Participation Requirements
(LAC 67:III.2907-2913)**

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work".

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997, mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. Changes effective October 1999 are proposed at §2907.B.1, 3, 4, and 6 and §2911.A.4.

The agency also proposes to reorganize other sections of Subpart 2 in order to create a codified document which more closely follows the Temporary Assistance to Needy Families State Plan (TANF) and the policy of the FIND Work Program, including the addition of §2907.A.3, 4 and 5 which is age-specific policy, §2909.A, B, and C which provides specific information regarding "good cause," and §2913.A.2.b regarding transportation payments for participants who become ineligible for cash assistance due to earned income.

An emergency rule will effect those regulations which are required by federal law effective October 1, 1999. To correspond with the effective date of the TANF State Plan, the agency intends to publish this notice as a final rule in the December 1999 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Family Independence Work Program
(FIND Work)**

Chapter 29. Organization

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

A.1. - 2. ...

3. A dependent child under age 16 is exempt.

4. A dependent child age 16 attending elementary, secondary, vocational, or technical school on a full-time basis is exempt.

5. A dependent child age 17 or 18 attending school and working toward a high school diploma, GED or Special Education Certificate is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 30 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10.

2. ...

3. A single parent/caretaker with a child under age 6 is deemed to be meeting participation requirements if that parent/caretaker is engaged in an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10 for a monthly average of 20 hours per week.

4. A parent/caretaker under age 20 is deemed to be meeting participation requirements if that parent/caretaker:

a. maintains satisfactory attendance in an activity described in §2911.A. 6, or

b. participates in an activity described in §2911.A.7 for a monthly average of 20 hours per week.

5. For a parent/caretaker age 20 or over, participation in an activity described in §2911.A.6, 7 and 8 may be counted if that parent/caretaker meets the requirements described in §2907.B.1 or 2.

6. No more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of:

a. individuals who meet countable participation requirements in an activity described in §2911.A.5; or

b. individuals who are deemed to be meeting participation requirements as described in §2907.B.4.

C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P. L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:

§2909. Failure to Participate

A. Failure to participate in the FIND Work Program, without good cause, will result in the removal of the parent's needs from FITAP benefits for a period of three months. If the parent complies, attains good cause or becomes exempt during this time, he may be re-added to the certification effective the fourth month. If he fails to comply, attain good cause or become exempt, the FITAP case will be closed effective the fourth month, and will remain closed until he complies, attains good cause or becomes exempt. A second or subsequent failure to comply will result in closure of the FITAP case and the case cannot be recertified until the parent complies, attains good cause or becomes exempt.

B. Failure of a household member, other than a parent, to participate in the FIND Work Program, without good cause, will result in the removal of the member's needs from the FITAP benefits until the member complies, attains good cause or becomes exempt.

C. Good cause reasons for not participating in the FIND Work Program may include but are not limited to the following:

1. personal illness or injury;
2. physical or mental incapacity;
3. age 60 or older;
4. family emergency or crisis situation;
5. domestic violence as described in LAC 67:1213;
6. unavailability of transportation or child care;
7. individual catastrophic conditions;
8. health or safety hazards at the participation site;
9. participation in FITAP drug testing program;
10. inability to speak the English language and work activity would require this skill;

11. discrimination based on race, color, religion, sex, age, natural origin, etc.;

12. appointment with health care provider and alternative arrangements cannot be made;

13. child care or day care for an incapacitated individual living in the home cannot be made.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193; R.S. 46:231, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:

§2911. Work Activities

A. - A.3. ...

4. job search/job readiness, limited to six weeks per individual per federal fiscal year, of which no more than four may be consecutive;

5. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:451 (April 1997), LR 25:

§2913. Support Services

A. Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997 child care support services and payments are administered through the Child Care Assistance Program, LAC 67 III. Subpart 12.

2. Transportation Payment

a. Payments may not exceed \$500 per participant per month.

b. Participants who become ineligible for cash assistance due to earned income are eligible for a one-time transportation payment of \$100.

3. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:

Interested persons may submit written comments through September 28, 1999 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, 70802 at 9:00 a.m. All interested persons will be afforded an opportunity to submit data,

views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FIND WORK—Participation
Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no costs or savings to state or local governmental units associated with this rule; it only revises regulations governing the requirements for participation in the FIND Work Program. The administrative cost of publishing the rule and printing policy revisions is minimal
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated 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 is no anticipated effect on costs and/or benefits to directly affected persons or non-governmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Social Services
Office of Family Support**

General Administration Hearings and Procedures
(LAC 67:III.301 - 333 and 801)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative Procedures.

Subsequent to the federal and state legislation commonly known as "welfare reform", the agency now proposes to reorganize LAC 67:III.Chapter 3 to include and codify the entire Fair Hearing component of the Agency as operated under the Food Stamp Act, the Child Care and Development Block Grant, and Title IV-A of the Social Security Act.

The Agency also proposes to promulgate Chapter 8 to establish as part of LAC that the effective date of rules is generally the first of the month following the month of publication. This has been the policy of the Office of Family Support because of the difficulty in applying eligibility criteria other than on a monthly basis.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 1. General Administration**

**Chapter 3. Hearings
§301. Definitions**

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Administrative Disqualification Hearing is an administrative hearing to determine if an intentional program violation occurred.

Administrative Law Judge (ALJ) is an impartial individual responsible for conducting a Fair Hearing and issuing a recommended or final decision on the issues in question.

Advance Notice is notice informing the client of a proposed adverse action and the date that the future action will be taken.

Advance Notice Period is the period from the date of the notice to the date the proposed action is to be taken.

Adverse Notice is any written notice informing the client of any agency action which unfavorably affects his case and when that action is effective.

Agency is any operating unit of the Office of Family Support such as local, regional, or state offices.

Agency Conference is a meeting between the claimant and the agency where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The examiner/case manager/specialist may participate if the supervisor deems this appropriate and the claimant is in agreement.

Appeal Decision is an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations and gives the reason for the decision. It is the final written decision of the Department of Social Services (DSS), Bureau of Appeals, on the issue in question.

Authorized Agent is any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Food Stamp purposes, it may also mean an authorized representative or another household member.

Benefits are any kind of assistance, payments or benefits made by the agency for Family Independence Temporary Assistance Program (FITAP), Refugee Cash Assistance, Food Stamps, FIND Work, or Child Care Assistance Programs.

Claimant is an applicant or recipient who has requested a hearing.

Concurrent Notice is notice informing the client of an action on his case which is being effected at the time the notice is given. The client is also informed of his right to request a Fair Hearing within an appropriate time-period.

Date of Action is the intended date on which a termination, suspension, or reduction of benefits becomes effective.

Directive is a written communication from the Bureau of Appeals to the agency giving specific instructions to be

taken as a result of a hearing. This action shall be taken within 10 days and reported to the Bureau of Appeals within 14 days of the receipt of the directive.

Fair Hearing is an administrative procedure during which a claimant (or a group of claimants) or his (or their) authorized agent may present a grievance and show why it is believed the agency action, proposed action, or inaction is not fair and should be corrected. A Fair Hearing meets the due process requirements set forth in the U.S. Supreme Court decision in *Goldberg vs. Kelly*.

Official Hearing Record consists of a verbatim transcript or an official report summarizing what transpired at the hearing, all evidence and other material introduced at the hearing, the recommendations of the Administrative Law Judge, and the directive, if issued.

Public Assistance Household is a food stamp household in which all members receive FITAP, RCA, or SSI.

Request for a Fair Hearing is any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal an agency decision to a higher authority.

Subpoena is an order commanding that a designated person or document be present at a Fair Hearing.

Summary of Evidence is a document prepared by the agency stating the reason(s) the agency decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:

§303. General Rules and Principles

A. The DSS Bureau of Appeals is responsible for providing a system of hearings which must meet the due process standards set forth in Federal Regulations, State laws, and *Goldberg vs. Kelly* 397 US 245 (1970).

B. Each applicant is informed by the application form and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, which is provided by the DSS Bureau of Appeals when a Fair Hearing is requested.

C. The claimant may represent himself at the hearing or be represented by any authorized agent.

D. Minimum procedural safeguards necessary to accomplish the purpose of a Fair Hearing are:

1. a notice explaining the reason for the action and citing the policy reference;
2. an opportunity to defend by confronting adverse witnesses;
3. an opportunity to present arguments and evidence orally;
4. an opportunity to appear with counsel;
5. an impartial Administrative Law Judge;
6. a decision based solely on the legal rules and the evidence offered as proof at the hearing or obtained subsequent to the hearing; and

7. a statement explaining the reasons for the decision of the Administrative Law Judge and indicating the evidence on which the decision is based.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Office of Family Support may request a Fair Hearing.

B. The DSS Bureau of Appeals has the right to deny a request for a Fair Hearing when:

1. the request is outside of the jurisdiction of the DSS Bureau of Appeals;
2. the request for a hearing is made after the time limit has expired; or,
3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§307. Time Limits for Requesting a Fair Hearing

A. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing:

FITAP	30 days
FIND Work Program	30 days
Child Care Assistance	30 days
Refugee Cash Assistance	30 days
Food Stamps	90 days

The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or,
2. mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, by mail applies only to the United States Postal Service.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

FITAP	90 days
FIND Work Program	90 days

Child Care Assistance	90 days
Refugee Cash Assistance	90 days
Food Stamps	60 days, or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases

B. If the hearing is delayed at the request of the claimant or his authorized agent, the time limit for the rendering of a decision is extended for as many days as the hearing is delayed. However, the hearing cannot be delayed more than 30 days without good cause.

C. Limits for rendering a decision may be extended when the client wishes to present additional evidence. The limits are extended for the number of days it takes the client to submit the evidence.

D. Failure to meet the time limits in this section shall have no effect on the validity of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§311. Expedited Food Stamp Hearings

A. The DSS Bureau of Appeals and the agency must expedite hearing decisions for Food Stamp households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§313. Continuation of Benefits

A. Recipients in all categories, except FIND Work and Child Care Assistance, who request a Fair Hearing prior to the expiration of the Advance Notice of Adverse Action or within 13-days of the date of Concurrent Notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;
2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or,
3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the agency if the action is upheld.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§315. Client Rights

A. The claimant or his authorized agent has the right to:

1. Agency assistance in filing and preparing his request or an explanation of how to file an appeal.

2. Specific case record documents or applicable policy necessary to determine whether a hearing should be requested and/or the documents or policy necessary to prepare for a hearing. This is provided upon request and without charge.

3. Information about, and referral to, available community legal services.

4. A verbal explanation of the hearing procedures in the appropriate language if the individual making the request does not speak English.

5. Review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the agency at the hearing in the presence of an agency representative.

- a. Confidential records, including confidential medical records, must be withheld unless the records were used as the basis for the determination which is being appealed.

- b. The client must provide written permission before anyone other than the client is allowed to view the case record.

6. Present his case himself or with the aid of others, including legal representation.

7. Request that a subpoena be issued. The DSS Bureau of Appeals will evaluate such requests and authorize the agency to serve the subpoena if appropriate.

8. Request a postponement prior to the hearing. The DSS Bureau of Appeals will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a Food Stamp appeal will be granted.

9. Submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross examine witnesses.

10. Request a rescheduled hearing after failing to appear at the hearing. The DSS Bureau of Appeals will evaluate the requests to determine if good cause exists.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§317. Responsibility of DSS Bureau of Appeals When a Fair Hearing is Requested

A. The Bureau of Appeals has the sole responsibility for accepting or rejecting all requests for a Fair Hearing.

B. The Bureau of Appeals must acknowledge Fair Hearing requests made directly to that office by or for a claimant, or requests submitted by the agency. All requests must be denied or accepted in writing. The agency will receive appropriate notification.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§319. Scheduling

A. The Bureau of Appeals will schedule all Fair Hearings. The claimant, his authorized agent, and the agency will be notified at least ten days in advance of the time, place and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the agency

office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§321. Providing a Summary of Evidence to the Client

A. The Bureau of Appeals will provide a copy of the Summary of Evidence to the claimant or to his authorized agent with the notice for scheduling the Fair Hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§323. Withdrawals

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The Bureau of Appeals must send written notice to the client, the client's representative and the agency confirming the withdrawal.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§325. Dismissal of a Request for a Fair Hearing

A. A Fair Hearing request which is accepted by the Bureau of Appeals may be disposed of without a hearing and without a decision only when:

1. the request for a Fair Hearing is withdrawn, or
2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the agency or the Bureau of Appeals, the request for a Fair Hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause.

3. The issue is settled in the claimant's favor by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§327. Group Hearings

A. When an agency policy or regulation is the sole issue, the Bureau of Appeals may schedule a single group hearing to respond to a series of individual requests. Regulations governing individual Fair Hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§329. Attendance

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or

represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate agency representatives and service providers are required to attend the hearing.

C. The Administrative Law Judge has the authority to limit the number of persons in attendance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§331. Hearing Official

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;
2. was not directly involved in the initial determination of the action which is being contested; and
3. was not the immediate supervisor of the eligibility worker who took the action.

B. The hearing official shall be:

1. an employee of the Department of Social Services; or
2. an individual under contract with the Department of Social Services.

C. The hearing official shall:

1. administer oaths or affirmations;
2. insure that all relevant issues are considered;
3. request, receive and make part of the record all evidence determined necessary to decide the issues;
4. regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Social Services;
6. Provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Social Services which will resolve the dispute.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§333. Hearing Authority

A. The hearing authority shall be the person designated to render the final administrative decision in a hearing.

B. Decisions of the hearing authority shall comply with State and Federal law and regulations and shall be based on the hearing record.

C. A decision by the hearing authority shall be binding on the Department of Social Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent State or Federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;
2. reasons for the decision;
3. available appeal rights; and
4. right to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Chapter 8. General Administrative Procedures
§801. Implementation of Regulations

Because of the nature of the eligibility programs administered by the agency, rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Interested persons may submit written comments by September 28, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven

working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: General Administration—Hearings
and Procedures**

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

The immediate implementation cost to state government is the cost of publishing the rule. This cost is minimal and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.

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

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

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

There are no costs or economic benefits to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Filename: 9908mrgNOI.doc
Directory: G:\INTERNET\REG\9908
Template: D:\doaapps\msoffice\Templates\Register.dot
Title: Notices of Intent
Subject:
Author: cfrilou
Keywords:
Comments:
Creation Date: 08/16/99 3:26 PM
Change Number: 2
Last Saved On: 08/16/99 3:26 PM
Last Saved By: admin
Total Editing Time: 0 Minutes
Last Printed On: 08/17/99 9:58 AM
As of Last Complete Printing
Number of Pages: 54
Number of Words: 41,593 (approx.)
Number of Characters: 237,083 (approx.)