

CONTENTS

452	BR 91-2—Creates Amite River Basin Interagency Committee.	
452	BR 91-3—Promotes cooperative environmental quality goals between Department of Environmental Quality, LA State University and agricultural community.	
453	BR 91-4—Designates task force and guidelines for Child Care Development Block Grant.	
II. EMERGENCY RULES		
Economic Development Department:		
454	Economic Development Corporation—Community Economic Development Loan Assistance Program	
455	Office of Commerce and Industry—Environmental Criteria for Rating Tax Exemptions	
457	Racing Commission—Association's duties and obligations (LAC 35:Chapter 57)	
457	Resale; Movement (LAC 35:X1.9909)	
458	Testing of a split or referee sample (LAC 35:1.1775)	
Education Department:		
458	Board of Elementary and Secondary Education—Bulletin 746-Louisiana standards for state certification of school personnel	
458	Bulletin 1877-Implementation Guide for LTIP/LaTEP	
460	Consolidation of Memorial Area and J.E. Jurnonville, Sr. technical institutes	
461	Teacher tuition exemption form	
Environmental Quality Department:		
461	Air Quality and Radiation Protection, Air Quality Division—Emission of Organic Compounds (AQ51E)	
461	(LAC 33:III.Chapter 21)	
466	General provisions (AQ52E) (LAC 33:III.Chapter 1)	
Health and Hospitals Department:		
466	Office of the Secretary—Bureau of Health Services Financing—MAR-Facility need review	
467	MAP-Nurse Aide Training/Evaluation	
473	MAP—"Skilled Nursing/Technology Dependent Care" services	
Social Services Department:		
474	Office of Family Support—Individual and Family Grant Program.	
Treasury Department:		
474	Board of Trustees of the State Employees Group Benefits Program—Retiree definition	
474	School boards' acceptance into state benefits program	
Wildlife and Fisheries Department:		
475	Wildlife and Fisheries Commission—Shrimp season - Raccoon Point	
475	Spring inshore shrimp season	
III. RULES		
Agriculture and Forestry Department:		
476	Office of Forestry—Indian Creek Recreation Area-Usage fees (LAC 7:XXXIX 20501)	
476	Timber Stumpage Values (LAC 7:XXXIX.201)	
Economic Development Department:		
476	Office of Financial Institutions—Credit Union fees (LAC 10:1.101)	
Environmental Quality Department:		
477	Office of Air Quality and Radiation Protection, Air Quality Division—Continuous emission monitors (AQ30) (LAC 33:III.6103)	
477	Emission of Organic Compounds (AQ36) (LAC 33:III.2127)	
478	Permit procedures (AQ37) (LAC 33:III.Chapter 5)	
478	Steam generating units (AQ17) (LAC 33:III.3153)	
478	Office of Solid and Hazardous Waste, Hazardous Waste Division—Non-HSWA Cluster VI (HW27) (LAC 33:V.Chapter 1-49)	
Governor's Office:		
479	Office of Women's Services—Guidelines for application of additional marriage license fees (LAC 4:VII.1737)	
Health and Hospitals Department:		
479	Board of Medical Examiners—Respiratory therapist licensure (LAC 46:XLV.Chapter 25)	
480	Rules of procedure-complaint (LAC 46:XLV.9903)	

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481	Public Safety and Corrections Department:
482	Office of State Police—Electronic video bingo (LAC 55:1.1901)
476	Revenue and Taxation Department:
476	Tax Commission—Timber Stumpage Values (LAC 7:XXXIX.20101)
482	Social Services Department:
482	Office of Community Services—Adoption subsidy eligible children
482	Adult protective services
482	State Department:
482	Office of Uniform Commercial Code—Central Registry of farm products (LAC 10:V.Chapter 3)
487	Transmitting utility debtors/RIS tax liens
487	Wildlife and Fisheries Department:
488	Wildlife and Fisheries Commission—Black Bass (LAC 76:VII.Chapter 1)
IV. NOTICES OF INTENT	
489	Agriculture and Forestry Department:
489	Office of Animal Health Services, Livestock Sanitary Board—Livestock Dealer (LAC 7:XXI.11711)
490	Sanitary disposal of dead poultry (LAC 7:XXI.11771)
490	Culture, Recreation and Tourism Department:
490	Office of State Museum—Accessions, deaccessions and loan policy (LAC 25:III.Chapter 3)
490	Economic Development Department:
493	Economic Development Corporation—Community Economic Development Loan Assistance Program
494	Racing Commission—Cellular telephones prohibited (LAC 35:III.5742)
494	Resale; movement (LAC 35:XI.9909)
494	Stable telephone (LAC 35:III.5741)
495	Super Six (LAC 35:XIII.Chapter 109)
496	Testing of a split or referee sample (LAC 35:I.1775)
497	Education Department:
497	Board of Elementary and Secondary Education—Bulletin 741-Computer literacy
498	Bulletin 741-Teacher Eligibility (Nonpublic)
498	Bulletin 741-Test Security Policy
498	Bulletin 746-Practical nursing certification
500	Bulletin 1877-Implementation Guide for LTIPL/ATEP
501	Carl Perkins Vocational Education
501	Migrant Education State Plan
502	Nutrition Education and Training Program
502	Student Financial Assistance Commission—Office of Student Financial Assistance-Guarantee fee schedule
503	Lender name change-loan application
503	Employment and Training Department:
503	Board of Barber Examiners—Barber students (LAC 46:VII.1503)
504	Office of Worker's Compensation—Drug testing (LAC 40:I.Chapter 15)
504	Environmental Quality Department:
505	Office of Air Quality and Radiation Protection—General Provisions (AQ52) (LA 33:III.111)
505	Office of Water Resources/Groundwater Protection—Ground Water Monitoring (GW01) (LAC 33:XIII.Chapter 5)
506	Governor's Office:
506	Office of the Governor, Division of Administration, State Land Office—State-owned waterbottoms structural rentals
507	Health and Hospitals Department:
507	Board of Examiners of Professional Counselors—Mental health counseling (LAC 46:LX.1301)
508	Board of Medical Examiners—Occupational therapy-administrative action (LAC 46:XLV.5517 and 5519)
509	Occupational therapy-licenses (LAC 46:XLV.4921)
510	Board of Pharmacy—Pharmacies, prescriptions, and drug administration (LAC 46:LIII.Chapters 9 and 27)
512	Office of Public Health—Safe Drinking Water Program
513	Office of the Secretary, Bureau of Health Services Financing—COBRA-pay and chase
515	MAP-Aid to families with dependent children
516	MAP-F and V Children
517	MAP-Nurse aide training/evaluation
517	MAP-Rural areas accessible care
519	MAP-Skilled nursing services for infectious disease
520	MAP-Skilled nursing/technology dependent care
522	Insurance Department:
522	Commissioner of Insurance—Continuing education
522	Social Services Department:
522	Office of Family Support-Computer matching for benefits
523	Repeal of previous agency rules

524	Board of Registration for Professional Engineers and Land Surveyors—Definitions, examinations (LAC 46:LXI.105 and 1503)
525	Treasury Department: Board of Trustees of the State Employees Group Benefits Program—Retiree definition
526	School boards' acceptance into state benefits program
526	Wildlife and Fisheries Department: Wildlife and Fisheries Commission—Alligators (LAC 76:V.701)
527	Gamefish fingerling aquaculture (LAC 76:VII.159)
V. COMMITTEE REPORTS	
528	Economic Development Department: Office of Commerce and Industry—Environmental criteria for rating tax exemptions
VII. POTPOURRI	
529	Agriculture and Forestry Department: Horticulture Commission—Retail floristry examination
529	Environmental Quality Department: Office of Air Quality and Radiation Protection, Air Quality Division—Public hearing on AQ12 (LAC 33:III Chapter 51)
529	Office of Solid and Hazardous Waste, Solid Waste Division—Notice of proposed substantive changes (SW02)
529	(LAC 33:VII.Subpart 1)
529	Notice of proposed substantive changes (SW03) (LAC 33:VII.Subpart 2)
529	Health and Hospitals Department: Office of the Secretary, Bureau of Health Services Financing—Medicaid reimbursement for qualifying hospitals
530	Public hearing on drug screening laboratories
530	Natural Resources Department: Office of the Secretary, Fishermen's Gear Compensation Fund—Claims
530	Transportation and Development Department: Sabine River Compact Administration—Meeting notice

Executive Orders

EXECUTIVE ORDER BR 91-2

WHEREAS, the Amite River and its tributaries periodically experience headwater and backwater flooding which damages homes and other properties; and

WHEREAS, the resolution of this problem will require both short- and long-term, structural and nonstructural measures; and

WHEREAS, these measures will require consideration of a wide range of issues including, but not limited to: geological, engineering, fiscal impacts, environmental, economic, and sociological; and

WHEREAS, appropriate measures to address this problem may be implemented most quickly and efficiently if the various agencies of the state coordinate and act in concert;

NOW THEREFORE in order to resolve this problem for the residents and property owners subject to flooding, and impacted by the proposed flooding solution measures, I, Buddy Roemer, Governor of the State of Louisiana, by virtue of the power vested in me by the constitution and laws of the State of Louisiana, do hereby create the Amite River Basin Interagency Committee:

FURTHER, the committee shall be composed of the following members appointed by the governor, and who shall serve at the pleasure of the governor:

1. the DOTD Flood Control and Water Management engineer administrator;
2. the Louisiana state geologist;
3. a designee of the director of the Office of Emergency Preparedness;
4. a designee of the secretary of the Department of Economic Development;
5. a designee of the secretary of the Department of Environmental Quality;
6. a designee of the secretary of the Department of Wildlife and Fisheries;
7. a designee from the Governor's Office of Environmental Affairs; and
8. a designee of the commissioner of Administration, who shall serve as chair of the committee.

FURTHER, each committee member may select a designee to serve in his/her absence.

FURTHER, the committee shall serve as the state's single point of contact for Amite River Basin and Tributaries projects with the United States Army Corps of Engineers.

FURTHER, including the generation of an economic development group for other efforts, the formulation of improved flood protection and warning system, and the development of a program to assist property owners to protect their properties from flood damages.

FURTHER, the committee may seek advice from police juries, political subdivisions, and other interested groups.

EXECUTIVE ORDER BR 91-3

WHEREAS, agricultural interests are concerned with the environment and the way agricultural operations affect the environment; and

WHEREAS, environmental concerns are within the jurisdiction of the Department of Environmental Quality; and

WHEREAS, that department's rules, regulations, and accepted practices have begun to impact the agricultural community in its day-to-day farming and processing operations; and

WHEREAS, through and convincing studies of the need for mandated changes in agricultural operations and practices are needed prior to the imposition of such changes;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, in order to promote balance and harmony in achieving environmental quality, do hereby order and direct as follows:

SECTION 1: That there shall be a person designated by the governor to act as a liaison between the Department of Environmental Quality and the agricultural industry, whether production or processing and including its various operations and industries.

SECTION 2: That the Department of Environmental Quality inform the chancellor of the Louisiana State University Agricultural Center of proposed changes in agricultural practices, rules, or regulations and the reasons therefor in order that the chancellor designate the appropriate research, extension, or other personnel within the center whose expertise bears on the underlying justification for such proposed practices, rules and regulations.

SECTION 3: That the chancellor of the Louisiana State University Agricultural Center, through the research and academic expertise of such designated individuals and departments, provide documentation with respect to the environmental effects of agricultural practices, the economic impact of proposed changes, rules or regulations, the acceptable and unacceptable risk levels associated with traditional and proposed agricultural practices, alternative methods of achieving environmental goals, and the probability of effectiveness of any proposed changes, rules, or regulations.

SECTION 4: That the positions of the Department of Environmental Quality and the agricultural community as supported by the chancellor be communicated to the governor by his designated liaison for the governor's involvement

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Buddy Roemer
Governor

Other state resources, such as other state agency personnel and selected experts from state colleges and universities, shall be at the disposal of the committee.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of March, 1991.

in implementing or limiting the implementation of all such practices, changes, rules, and regulations in order to achieve the objective of this order.

SECTION 5: That the Department of Environmental Quality not make or enforce any rule, regulation or ordinance affecting agricultural operations and activities unless and until public hearings are held pursuant to the Administrative Procedure Act and the chancellor, the governor and the secretary of the Department of Environmental Quality concur that the rule, regulation or ordinance is justified, practical and worthy of implementation and enforcement.

SECTION 6: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of April, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-4

WHEREAS, U.S. Congress passed Public Law 101-508, Section 5082, known as the Child Care and Development Block Grant, requiring the states to achieve standards and effect certain changes in their child care programs; and WHEREAS, it is in the best interest of the state of Louisiana to provide quality child care to the citizens of Louisiana;

NOW, THEREFORE, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Department of Social Services is the designated entity for the Child Care and Development Block Grant.

SECTION 2: There shall be a task force established in the Office of the Secretary of the Department of Social Services to review and provide comments on the proposed Federal Regulations for implementation of the Child Care and Development Block Grant.

SECTION 3: The purpose of the task force shall be to review and evaluate the existing public and private resources concerning child care. The task force shall review, evaluate and make recommendations regarding optional state functions and the development of the state plan.

SECTION 4: The task force shall review all existing committees concerning child care and make recommendations to the feasibility of combining into one permanent advisory committee that will make recommendations to the secretary of the Department of Social Services.

SECTION 5: The task force shall be named the Governor's Task Force on Child Care and Development and shall be composed of the following members:

A. one member from the Senate appointed by the President of the Senate;

B. one member from the House of Representatives appointed by the Speaker of the House;

C. one person representing the state at large, appointed by the governor;

D. one person representing the child care community, appointed by the governor;

E. the secretary of the Department of Health and Hospitals or designee;

F. the secretary of the Department of Education or designee;

G. the director of the Bureau of Child Care Licensing; H. representative of the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies;

I. representative from the Committee on Private Child Care;

J. representative of Agenda for Children;

K. representative of Child Care Incorporated of Northwest Louisiana;

L. representative of Child Care Information Incorporated; R. representative of United Way of Greater New Orleans;

S. representative of Louisiana Head Start Association; T. representative of Louisiana Coalition for Families and Children;

U. representative of Louisiana Association for the Education of Young Children;

V. representative of Business and Industry; and W. representative of League of Women Voters of Louisiana.

SECTION 6: The members of the task force shall elect from their membership a chairperson and a vice chairperson and a majority of the members of the task force shall constitute a quorum for the transaction of business.

SECTION 7: The task force shall meet periodically when deemed necessary by the chairperson. The secretary of the Department of Social Services shall be responsible for transmitting a report of the task force's final recommendation to the governor, and the chairmen of the Health and Welfare Committees of both the House of Representatives and the Senate. The department shall provide clerical support to the task force.

SECTION 8: The task force shall continue to serve at the pleasure of the governor until public hearings in accordance with the Administrative Procedure Act are concluded, and comments and recommendations have been submitted to the administration.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of April, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish the following rules because of a recognized immediate need for job-creating loan assistance to parishes and municipalities. There exists immediate opportunities for local governments to attract business which will employ new and presently unemployed workers.

These emergency rules are effective April 24, 1991, for 120 days. The emergency rules procedure is necessary in order to have these rules in effect in order to provide immediate assistance for job creation on applications coming before the Board of Directors of the Louisiana Economic Development Corporation, at its regular scheduled meeting on April 24, 1991.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation Subpart 5. Louisiana Community Economic Development Loan Assistance Program

Chapter 1. Community Economic Development Loan Assistance Program

§101. Purpose

To promote the economic development and redevelopment projects of parishes and municipalities by making available loan assistance through joint public and private investment in development projects. Assistance to parishes and municipalities shall be for the support of projects that require increased public and private assistance in addition to the assistance otherwise available under other forms of federal, state, or private assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 17:

§103. General Rules

A. No assistance may be provided for projects intended to facilitate the relocation of industrial, commercial plants, or businesses from one part of the state to another.

B. Assistance will be made in the form of a loan to the parish or municipality. The interest rate will be negotiated between the parish or municipality and the board of directors of LEDC. The loan will be an obligation of the parish or municipality with principal and interest to be repaid to LEDC.

C. No assistance from Louisiana Economic Development Corporation shall be used to pay off present parish or municipal debt.

D. Approval of the loan will be contingent on approval

from the Bond Commission and compliance with all other legal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 17:

§105. Loan Regulations

A. The maximum of any loan will be \$350,000.

B. In no case will financial assistance exceed \$2,500 of LEDC funds for each job created or saved overall.

C. Loan participation by LEDC shall not exceed 25 percent of the total project funding. Total project funding is defined as all government, third party private, LEDC, and funding in the form of equity injection of the locating firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 17:

§107. Eligibility

Eligible borrowers are Louisiana parishes and municipalities presently negotiating with a firm willing to commit to a site. The parish or municipality must have, in the determination of the board of directors, demonstrated efforts in providing other sources of funding from the private sector as well as other government agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 17:

§109. Application Procedure

A. Applications will be submitted four weeks prior to the next scheduled meeting of the Board of Directors of the Louisiana Economic Development Corporation.

B. An application shall contain but not be limited to the following:

1. evidence that seven days notice was given to the general public in the parish or municipality and a public meeting was held on the request to be presented to LEDC;

2. evidence on the number of jobs to actually be created or actually be saved by the use of these funds;

3. sufficient information on parish or municipal unemployment in percentage and number;

4. ratio of third-party private funds to LEDC funds, ratio of other public funds to LEDC funds, ratio of total funding to LEDC funds, and the ratio of equity injection of firm to LEDC funds;

5. evidence of firm commitments for financial participation in the project by other public or private entities;

6. the terms under which LEDC funds are to be repaid;

7. the source(s) of repayment to be used by the parish or municipality to repay the LEDC loan;

8. feasibility of accomplishing the development project in a reasonable time frame with the amount of assistance available. The feasibility study should include a fully developed business plan submitted by the project. The business plan should include but not be limited to the following:

a. a cover letter which contains:

i. dollar amount requested;

ii. terms and timing of request;

- iii. type and price of collateral if applicable;
- b. summary;
- i. business description, including name, location and plant description, product, market and competition, and management expertise;
- ii. business goals;
- iii. summary of financial needs and application of funds; and
- iv. earnings projections and potential return to investors.
- c. market analysis:
- i. description of total market;
- ii. industry trends;
- iii. target market; and
- iv. competition.
- d. products or services:
- i. description of product line;
- ii. proprietary position: patents, copyrights, and legal and technical considerations; and
- iii. comparison to competitors' products.
- e. manufacturing process (if applicable):
- i. materials;
- ii. sources of supply; and
- iii. production methods.
- f. marketing strategy;
- i. overall strategy;
- ii. pricing policy;
- iii. sales terms; and
- iv. method of selling, distributing and servicing products.
- g. management plan:
- i. form of business organization;
- ii. board of directors composition;
- iii. officers- organization chart and responsibilities;
- iv. resumes of key personnel;
- v. staffing plan/number of employees;
- vi. facilities plan/planned capital improvements; and
- vii. operating plan/schedule of upcoming work for next one to two years.
- h. financial data:
- i. financial history (five years to present) - See Note 1; ii. three-year financial projections (first year by quarters; remaining years annually), including profit and loss statements, balance sheets, cash flow chart, and capital expenditure estimates;
- iii. explanation of projections;
- iv. key business ratios;
- v. explanation of use and effect of new funds; and
- vi. potential return to investors compared to competitors and industry in general.
- Note 1: all financial statements must meet Generally Accepted Accounting Principals (GAAP).
- 9. evidence showing that but for LEDC assistance the project would not take place.
- C. All complete and eligible applications will be reviewed by the screening committee of the Louisiana Economic Development Corporation at a regularly scheduled meeting. The applying parish or municipality as well as the developer and business owner may have a representative present at the screening committee meeting. The committee's recommendation will be presented to the full board at its next regularly scheduled meeting following the screening committee meeting. Representatives from the parish or municipality will be present.

nality as well as the developer and business owner may be present for the board meeting.

D. All documentation representing LEDC's assistance, including any and all notes, securities, or other representations made by the parish or municipality shall be reviewed and approved by LEDC legal counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 17:

Michael Williams
Interim Executive Director

DECLARATION OF EMERGENCY
Department of Economic Development
Office of Commerce and Industry

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B), in order to publish rules, entitled "Environmental Criteria for Rating Tax Exemptions," at the direction of the governor of Louisiana.

These emergency rules will be effective April 23, 1991, for 120 days. The emergency rules procedure is necessary in order to have these rules in effect to be used to rate financial incentive applications coming before the Board of Commerce and Industry, at its regular scheduled meeting on April 24, 1991.

Title 13
ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart 1. Finance
Chapter 21. Environmental Criteria for Rating Tax Exemptions
§2101. Introduction

A. The following rules will be used as the formula to evaluate the environmental compliance of applicants for tax exemptions. The information required to apply the formula will be provided by the applicant as a part of the application. All statistics regarding payroll, manhours, and percentage of capital investment on pollution control equipment are understood to be provided as confidential information and may not be released by any agency except as an aggregate part of a larger number not associated with the applicant's name. These rules, when applying to a renewal of a five year industrial tax exemption contract, will use a data history, gathered in the six month period just prior to the beginning date of a renewal contract. This new data will be used to compute a new score which will determine the percentage of tax exemption to be considered for the renewal contract.

B. The formula starts at 50 points and adds the number of points from the environmental compliance record (maximum 25 points) and emissions-per-job categories (maximum 25 points). Bonus points are available and may be used to offset any scores totalling less than 100 points. The total tax relief will be the same as the total score, with a maximum of 100 points. (i.e., if a company receive 100

D. Equivalent violations, voluntarily settled with the DEQ, will incur one-half of the point deduction in §2103 C. E. Violations which are "technical" (paperwork) and are not the result of pollution to the environment will not be counted in scoring the compliance record of a company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division. LR:17

1. This is a category using total emissions divided by the total jobs (The jobs data will consist of three types of jobs: permanent full-time jobs, full-time construction equivalents, and full-time contract equivalents.) It creates a ratio between the total number of jobs existing at a facility and a composite emissions number which combine the total TRI data, criteria air pollutants (added in at 10 percent of the total except for lead which is added in at 100 percent), and accidental toxic releases. Criteria air emissions from cogeneration facilities will not be added to the emissions total used in this calculation. The following point schedule will apply:

Points Received	Pound of Emissions Per Job
25	0 - 500
20	501 - 1,000
15	1,001 - 2,500
10	2,501 - 5,000
5	5,001 - 10,000
0	over - 10,001

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division. LR:17

§2107. Bonus Point Categories

A. There are five bonus categories, which have a possible combined total of 55 points, that can be applied to final scores of less than 100. Bonus points are used as an incentive to reduce emissions, develop recycling systems and/or use recycled materials, diversify the state's economic base and locate facilities in parishes with high unemployment rates.

1. Emission Reductions: (15 points maximum) Fifteen bonus points can be given, for the entire project, if the facility has a DEQ approved emissions reduction plan. To be eligible for emission reduction bonus points, a facility must reduce its overall emissions by an average of five percent per year, measured over the prior five year period. One bonus point will be given for each acceptable two percent reduction in regulated emissions resulting from the project as compared to the year preceding the application.

2. Recycling: (5 points maximum) Bonus points will be available to companies which install a closed loop recycling system or use recycled materials. One bonus point will be given for every one percent of recycled hazardous waste material substituted in the input throughput by a closed loop recycling system, or one bonus point will be given for each five percent of recycled total throughput material used by a

- a. year 1: 100 percent
- b. year 2: 80 percent
- c. year 3: 60 percent
- d. year 4: 40 percent
- e. year 5: 20 percent
- f. year 6: 0 percent

Deductions will be weighted as follows:

5. The age of a violation will be calculated from the date of the final action. The older the violation the lower the deduction. Deductions will be calculated from the date of the final action. The older the violation the lower the deduction.

- 4. twenty point deduction for criminal felony violations;
- 3. Fifteen point deduction for violations with fines in excess of \$25,000;
- 2. ten point deduction for violations with fines between \$10,000 to \$25,000;
- 1. five point deduction for violations with fines under \$10,000;

C. Point deductions for first year environmental violations which go through adjudication will be as follows:

After July 1, 1993 a five year compliance history will be utilized on all applications.

B. An environmental compliance history, starting July 1, 1988, will be used. The environmental history will increase in one year increments on July 1, of each year until a maximum of a five year history is implemented on July 1, 1993. After July 1, 1993 a five year compliance history will be utilized on all applications.

A. The environmental compliance record considered (25 points maximum) will be facility specific federal and state final penalties, except in extenuating circumstances when the Board of Commerce and Industry and the governor consider it to be in the state's best interest to use a company's complete environmental record.

§2103. Compliance Records

try; Financial Incentives Division. LR:17

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division. LR:17

defined as TRI's.

States Environmental Protection Agency lists the substances

6. Toxic Release Inventory published by the United States Environmental Protection Agency lists the substances

5. Criteria air pollutants - are NO_x, SO₂, CO, VOC's lead, and particulates under 10 microns.

4. Support unit - equipment that is used on site other than a plant (i.e., instrument air unit, control house, maintenance unit).

3. Facility - all production units and support units on a site belonging to an applicant.

2. Plant - a production unit (i.e., an ethylene production unit = an ethylene plant).

1. Site - a continuous piece of land over which a company's ownership extends.

E. Definition of terms used in these rules:

D. The Jobs Tax Credit, in the Enterprise Zone Program, will not be affected by these rules.

C. For the installation of a Department of Environment rules do not apply.

The environmental review score will be available to the applicant at any time, after compilation, by written request.

For the installation of a Department of Environment rules do not apply.

The environmental review score will be available to the applicant at any time, after compilation, by written request.

For the installation of a Department of Environment rules do not apply.

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For the installation of a Department of Environment rules do not apply.

The environmental review score will be available to the applicant at any time, after compilation, by written request.

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

The State Racing Commission, pursuant to the authority contained in R.S. 49:953(B) hereby amends the following rule effective April 25, 1991. The commission finds it necessary to repeal these rules due to already established procedures which conflict with rules, regarding split samples (equine urine), telephones on race tracks and claimed horses during split meets.

Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the Legislative purpose of the racing statute, it is incumbent upon the State Racing Commission to amend and adopt the *Rules of Racing* and such amendments affecting the livelihood of Louisiana horsemen.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5741. Stable Telephone

No telephone shall be installed in the stable area except upon the request of the association conducting the meeting and the written approval of the chairman of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 172.

HISTORICAL NOTE: Promulgated by the State Racing Commission in 1971, repromulgated by Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), repromulgated LR 4:278 (August 1978), amended LR 13:495 (September 1987), amended LR 17:

§5742. Cellular Telephones Prohibited

A. No person shall, in any building where pari-mutuel wagering is licensed and being conducted, possess, use or control a cellular telephone capable of transmitting or communicating with a person, firm or corporation located outside the confines of a racetrack or off-track wagering facility without first obtaining and having on his person the written permission of the commission.

B. ...
C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission LR 17:257 (March 1991), amended LR 17:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

The State Racing Commission, pursuant to the authority contained in R.S. 49:953(B) hereby amends the following rule effective April 25, 1991. The commission finds it

company, or any combination thereof.

3. Recycling Companies or Manufactured Consumer Products Bonus: (10 points maximum) Ten bonus points will be available to companies whose predominant activity is recycling, or using bulk materials produced in Louisiana for manufacturing "end use" products such as plastic bags. One bonus point will be given for each ten percent of gross income generated by recycled materials or "end use" products which are made of bulk materials manufactured in the state.

4. New Jobs for High Unemployment Areas: (15 maximum) Fifteen bonus points will be given to projects which create at least one new job per \$30,000 in tax relief in parishes that have an unemployment rate one or more percent above the state's average.

5. Diversification: (10 points maximum) Bonus points will be available to industries which diversify the state's economy. In this category the Department of Economic Development may recommend bonus points based upon SIC code distribution within the state. Preference will be given to industries not heavily represented in Louisiana which are low- or non-polluting and labor intensive. (i.e. Clothing Manufacturers, Automobile Manufacturers, Airplane Maintenance Facilities, and Computer Manufacturers)

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division: LR:17

§2109. Restrictions

A. Tax exemptions will be reduced by 50 percent for any facility whose total product includes more than 20 percent banned materials or materials designed to be banned, by the United States Environmental Protection Agency.

B. No tax exemption will be given to a company if it imports, from out-of-state, 15 percent more hazardous waste, bound for incineration or disposal, than it exports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division: LR:17

§2111. Exceptions

A. The governor and the Board of Commerce and Industry shall have an unfettered discretion to grant, deny or modify any tax exemption application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4702, R.S. 47:3201-3206, R.S. 51:1781-1787, R.S. 47:1121-1128 and R.S. 47:4301-4305.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division: LR:17

Harold Price
Assistant Secretary

**Title 35
HORSE RACING
Part I. General Provision**

**Chapter 17. Corrupt and Prohibited Practices
§ 1775. Testing of a Split or Referee Sample**

The following procedure is hereby established for the testing of a split or referee sample.

- A. After a horse has voided...
- B. Should blood be drawn...
- C. The veterinarian in charge...
- D. Within five days from the date the stewards notify a trainer that the initial laboratory test on a urine or blood specimen from a horse entered and raced by him was positive for the presence of a prohibited drug or substance, the trainer must request the stewards to have the split or referee sample tested by an alternate laboratory as provided herein. At the time of his request the trainer must forward the necessary fees to cover all expenses to be incurred in shipping and testing the split or referee sample to the alternate testing laboratory. Failure of a trainer to make a timely request to the stewards constitutes a waiver of any and all rights to have the split or referee sample tested.

E. A trainer timely...
AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.
HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 8:405 (August 1982), amended LR 10:660 (September 1984), amended LR 17:

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 746, Part B
Vocational-Technical Personnel

The Board of Elementary and Secondary Education, at its meeting of April 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:953B and approved the following amendments to Bulletin 746, Louisiana Standards for State Certification of School Personnel, Part B, Vocational-Technical Personnel. Emergency adoption of this rule is necessary in order to provide for the timely employment of instructors in currently operating instructional programs in the postsecondary technical institute system. Effective date of this emergency rule is May 20, 1991.

Amend Certification Standard 3 -- (Pages P-16/17)

- 3. Vocational or Technical Instructor: Full Time
- A. Education
- A high school diploma or general equivalency diploma (GED), and...
- B. Experience
- Two years of full-time work experience in the vocational or technical field at the journeyman level in which the applicant is to teach;
- One full year of the above full-time work experience must have been served within the two years immediately

**Part XI. Claiming Rule and Engagements
HORSE RACING**

Title 35

necessary to repeal these rules due to already established procedures which conflict with rules, regarding split samples (equine urine), telephones on race tracks and claimed horses during split meets.
Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the Legislative purpose of the racing statute, it is incumbent upon the State Racing Commission to amend and adopt the *Rules of Racing* and such amendments affecting the livelihood of Louisiana horsemen.

**Chapter 99. Claiming Rule
§9909. Resale; Movement**

If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until the current meeting at which it was claimed is terminated. Where a race meeting is authorized and conducted as a split meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until that segment of the split meeting at which it was claimed is terminated. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.
AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.
HISTORICAL NOTE: Promulgated by the State Racing Commission in 1971, amended by the Department of Commerce, Racing Commission LR 2:446 (December 1976), re-promulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 17:

**DECLARATION OF EMERGENCY
Department of Economic Development
Racing Commission**

Claude P. Williams
Executive Director

The State Racing Commission, pursuant to the authority contained in R.S. 49:953(B) hereby amends the following rule effective April 25, 1991. The commission finds it necessary to repeal these rules due to already established procedures which conflict with rules, regarding split samples (equine urine), telephones on race tracks and claimed horses during split meets.
Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the Legislative purpose of the racing statute, it is incumbent upon the State Racing Commission to amend and adopt the *Rules of Racing* and such amendments affecting the livelihood of Louisiana horsemen.

prior to certification (Full-time secondary or postsecondary teaching in the field for which the applicant is applying will satisfy the recency requirement).

C. Certification Terms

(1) When the applicant has met the requirements of A and B, a one-year Intern Vocational and Technical (V.T.) Certificate will be issued;

(2) Prior to or during the first year of employment, the applicant must take and pass the written portion of the National Occupational Competency Test(s) (NOCT) prescribed by the Postsecondary Vocational Education Bureau of the State Department of Education.

(3) During the first year of employment, the applicant must complete the New Instructor Workshop course.

(4) During the first year of employment, the applicant must receive a satisfactory evaluation from the technical institute director.

(5) When the applicant has met the requirements of C-1 thru 4) a one-year Temporary Vocational and Technical (V.T.) Certificate will be issued. For renewal of this certificate at least three VTIE semester hours must be earned each year; the applicant with a high school diploma or GED must earn 18 hours of professional vocational-technical industrial education (VTIE) courses (six hours must be the two required VTIE core courses and 12 hours selected from the approved list of VTIE courses); the applicant with a bachelor's degree must earn 12 hours of professional vocational-technical industrial education (VTIE) courses (six hours must be the two required VTIE core courses and six hours selected from the approved list of VTIE courses); and the applicant with a degree in education must earn nine hours of professional vocational-technical industrial education (VTIE) courses (six hours must be the two required VTIE core courses and three hours selected from the approved list of VTIE courses); and the applicant must receive a satisfactory evaluation from the technical institute director each year during the six-year period.

(6) After the requirements of C-5 are met, the applicant will be issued a valid Vocational and Technical (V.T.) Certificate for five years for a vocational or technical instructor.

D. Renewal of a Valid Five-Year Vocational and Technical (V.T.) Certificate for the five-year Vocational and Technical (V.T.) Certificate upon the recommendation of the technical institute director.

(1) Renewal of the five-year Vocational and Technical (V.T.) Certificate for the developmental studies instructor will be contingent upon the recommendation of the technical institute director.

(2) The accumulation of 150 professional development points in a five-year period.

E. Department Head

In addition to the foregoing requirements, the applicant shall have at least three years of successful full-time teaching experience at the postsecondary level.

Amend Certification Standard 7 -- (Pages P-21)

7. Developmental Studies Instructor: Full Time

A. Education

A bachelor's degree from a state-approved and regionally accredited college or university. The college or university must be approved to grant degrees in the applicant's major field of study.

B. Experience

Two years of full-time teaching experience in the applicant's area(s) of certification.

C. Certification

A valid Louisiana Teacher's Certificate with an elementary or secondary education endorsement.

D. Certification Terms

(1) When the applicant has met the requirements of A, B, and C, a one-year Intern Vocational and Technical (V.T.) Certificate will be issued. During the first year, the applicant must complete the New Instructor Workshop course, and must receive a satisfactory evaluation from the technical institute director.

(2) When the applicant has met the requirements of D-1, a one-year Temporary Vocational and Technical (V.T.) Certificate will be issued. For renewal of this certificate at least three VTIE semester hours must be earned each year; the applicant must earn nine hours of professional vocational-technical industrial education (VTIE) courses (six hours must be the two required VTIE core courses and three hours selected from the approved list of VTIE courses); and the applicant must receive a satisfactory evaluation from the technical institute director each year during the three-year period.

(3) After the requirements of D-2 are met, the applicant will be issued a valid Vocational and Technical (V.T.) Certificate for five years for a developmental studies instructor.

E. Renewal of a Valid Five-Year Vocational and Technical (V.T.) Certificate

(1) Renewal of the five-year Vocational and Technical (V.T.) Certificate for the developmental studies instructor will be contingent upon the recommendation of the technical institute director.

(2) The accumulation of 150 professional development points in a five-year period.

Amend Certification Standard 8 -- (Pages P-22)

8. Developmental Studies Instructor: Part Time and Extension

A. Education

A bachelor's degree from a state-approved and regionally accredited college or university. The college or university must be approved to grant degrees in the applicant's major field of study.

B. Experience

Two years of full-time teaching experience in the applicant's area(s) of certification.

C. Certification

A valid Louisiana Teacher's Certificate with an elementary or secondary education endorsement.

D. Certification Terms

When the applicant has met the requirements of A, B, and C, the applicant shall be issued a Temporary Vocational and Technical (V.T.) Certificate. This certificate shall remain valid as long as the applicant teaches a minimum of one course every two years. The professional vocational-technical industrial education (VTIE) courses shall NOT be required, but the applicant shall complete such teacher training as may be prescribed by the Postsecondary Vocational Education Bureau of the State Department of Education to improve competencies.

Add to Certification Standards 12: A * and D * -- (Pages 27/28)

12. Health Occupations - Practical Nursing Instructor: Full Time

A. Education *

(1) A graduate of a three-year diploma nursing program's area(s) of certification.

gram, or
(2) A graduate of a baccalaureate nursing program.

B. Licensure
A valid license to practice as a registered nurse in the State of Louisiana, whose license has never been encumbered in any jurisdiction.

C. Board Approval
Approval of the Louisiana State Board of Practical Nurse Examiners prior to certification.

D. Experience*
(1) Nurse Coordinator: Four years of experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse coordination must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment, or complete a six-week refresher course and/or successfully pass a board-approved competency examination.

(2) Nurse Instructor: Three years of experience in medical-surgical nursing or nursing education. At least one or these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instruction must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment or complete a six-week refresher course and/or successfully pass a board-approved competency examination.

No education degree in nursing or in any other field shall substitute for the medical-surgical component of either of the above.

NOTE: Nutrition instructors in the Practical Nursing program may meet certification requirements with a degree in Home Economics and a minimum of 12 semester hours in Foods and/or Nutrition.

E. Certificate Terms
(1) When the applicant has met the requirements of A, B, C, and D, a one-year Intern Vocational and Technical (V.T.) Certificate will be issued. During the first year, the applicant must complete the New Instructor Workshop course, and must receive a satisfactory evaluation from the technical institute director.

(2) When the applicant has met the requirements of E-1, a one-year Temporary Vocational and Technical (V.T.) Certificate will be issued. For renewal of this certificate at least three V.T.E semester hours must be earned each year; the applicant with a three-year diploma must earn 18 hours of professional vocational-technical industrial education (V.T.I.E) courses (six hours must be the two required V.T.I.E core courses and 12 hours selected from the approved list of V.T.I.E courses); the applicant with a bachelor's degree must earn 12 hours of professional vocational-technical industrial education (V.T.I.E) courses (six hours must be the two required V.T.I.E) courses (six hours must be the two required V.T.I.E core courses and six hours selected from the approved list of V.T.I.E courses); and the applicant with a degree in education must earn nine hours of professional vocational-technical industrial education (V.T.I.E) courses (six hours must be the two required V.T.I.E core courses and three hours selected from the approved list of V.T.I.E courses); and the applicant must receive a satisfactory evaluation from the technical institute director each year during the six-year period.

(3) After the requirements of E-2 are met, the applicant will be issued a valid Vocational and Technical (V.T.) Certificate.

cate for five years for a practical nursing instructor.

F. Renewal of a Valid Five-Year Vocational and Technical (V.T.) Certificate
(1) Renewal of the five-year Vocational and Technical (V.T.) Certificate for the practical nursing instructor will be contingent upon the recommendation of the technical institute director.

(2) The accumulation of 150 professional development points in a five-year period.

G. Department Head
In addition to the foregoing requirements, the applicant shall have at least three years of successful full-time teaching experience at the postsecondary level.

* Add to the educational and experience standards the waivers adopted by the Louisiana State Board of Practical Nurse Examiners to be considered on an individual basis.

1. Associate Degree Registered Nurses who have been employed in Med-Surg nursing for five or more years, at least one of these years being immediately prior to consideration of appointment to a faculty position.

2. Associate Degree Registered Nurses with prior LPN preparation and experience, with at least two years' experience in Med-Surg nursing as an Associate Degree Registered Nurse, at least one of these years being immediately prior to consideration of appointment to a faculty position.

Additionally: A Practical Nurse Program with 50 percent or higher percentage of faculty with Associate Degree Registered Nurse preparation will be placed on provisional accreditation.

Programs on provisional accreditation will be reviewed at the end of each class before the next class can be admitted.

The waivers will be effective from February 1991 through January 1993. At that time the board will review the faculty requirements for further determination.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The Board of Elementary and Secondary Education, at its meeting of April 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:553(B) and approved the following revisions to Bulletin 1877, Implementation Guide for LTIPL/LATEP. The Department of Education proposed these recommendations in an effort to be more than fair to those teachers being evaluated this first year of implementation.

Emergency adoption is necessary because the revisions will affect teachers currently participating in the Louisiana Teacher Evaluation Program. Effective date of emergency rule is April 25, 1991.

Revisions to Bulletin 1877--Time Schedule LTIPL/LATEP Assessment Process

1. That any teacher assessed under the LATEP during the 1990-91 school year whose evaluation is not high enough to warrant a satisfactory or superior rating as set by the State Board of Elementary and Secondary Education (SBSE) in February, 1991 shall retain his/her current certificate and

shall be given another chance next fall to improve his/her score. The assignment of a satisfactory or superior rating will be based on the "best two out of three" sets of observations conducted during the fall of 1990-91, the three observations conducted during the first half of 1991-92.

2. Any teacher assessed under the LTP during the 1990-91 school year whose evaluation is not high enough to warrant a satisfactory rating as set by the SBSE in February 1991 shall be given another chance next fall to improve his/her score. The assignment of a satisfactory or superior rating will be based on the "best two out of three" sets of observations conducted during the fall of 1990-91, the three observations conducted during the first half of 1991-92.

3. That any teacher assessed under the LATEP during the 1990-91 school year whose evaluation is not high enough to warrant a superior rating, as set by the SBSE in February 1991, shall be given the opportunity next fall to improve his/her score to "superior." A decision regarding a "superior" rating will be based on the "best two out of three" sets of observations conducted including: the three observations conducted during the fall of 1990-91, the three observations conducted during the second half of 1990-91 and the three observations conducted during the first half of 1991-92.

These modifications do not apply to teachers whose evaluations start next year and in the following years.

Carole Wallin
Executive Director

**DECLARATION OF EMERGENCY
Board of Elementary and Secondary Education**

The Board of Elementary and Secondary Education, at its meeting of April 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:53(B) and changed the name of Memorial Area Technical Institute and J. E. Jumonville, Sr. Technical Institute to Jumonville Memorial Technical Institute which will make Memorial Area Technical Institute and J. E. Jumonville Sr. Technical Institute one school with the main campus in New Roads and an off-campus facility in Port Allen.

The consolidation of Memorial Area Technical Institute and J. E. Jumonville Technical Institute Branch will provide for more effective administration and budgetary operation. The effective date of this emergency rule is April 25, 1991 and is adopted as an emergency rule due to the impact it could have on a possible Reduction in Force Plan as well as budgetary consolidation.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Teacher Tuition Exemption Application Form

The Board of Elementary and Secondary Education, at its meeting of April 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:53(B) and approved the following amendment to the Teacher Tuition Exemption Application Form, to become effective for the 1991 summer session as stated below:

"Any student enrolled in a course that has the signature of approval of the dean (or his/her designee) for tuition exemption, and the course is subsequently decided to be ineligible by the Department of Education, will be allowed to drop the course at that time regardless of the university's drop policy and not be required to pay any fee. If the student chooses to remain in the course, he/she will be responsible for the appropriate university fees."

Emergency adoption of this amendment is necessary in order for the regulation to be in effect for the 1991 Summer Session. Effective date of the emergency rule is April 25, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of the Administrative Procedure Act R.S. 49:53(B), and under the authority of R.S. 30:2011 and 30:2054, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:III.2115, 2121, 2123, 2131, 2135, 2139, and 2141 of the Louisiana Air Quality Regulations. This emergency action will allow the Office of Air Quality and Radiation Protection to avoid sanctions from the U.S. Environmental Protection Agency for failure to complete the revisions to these regulations by the May 15, 1991 deadline. The secretary therefore establishes the following new requirements, effective May 1, 1991.

These changes are the last in a series of changes to Chapter 21, "Control of Emissions of Organic Compounds," which are required to make these regulations approvable by EPA as a part of our new State Implementation Plan for ozone. Section 2123 is extensively revised to provide an alternate means of demonstrating compliance for surface coating operations. Minor revisions to the other sections are made to correct errors and omissions.

This emergency rule, AQ51E shall expire August 28, 1991, however, the secretary of the Department of Environmental Quality has initiated rulemaking procedures to finalize the requirements of this rule on July 20, 1991.

pressure equal to or less than 0.0435 psia (0.3 kPa) at 68°F (20°C).

h. Components contacting only organic compounds exempted under LAC 33:III.2117 or mixtures of same with water.

D. Alternate Control Techniques. The monitoring schedule in LAC 33:III.2121.C may be modified as follows:

1. Alternate Standards for Valves and Pumps subject to LAC 33:III.2121.C.1.b—Skip Period Leak Detection and Repair.

b. After two consecutive quarterly leak detection periods with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and liquid service and pumps in light liquid service.

c. After five consecutive quarterly leak detection periods with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and liquid service and pumps in light liquid service.

d. If the percent of components leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in LAC 33:III.2121.C but subsequently can again elect to use this Subsection.

e. The percent of components leaking shall be determined by dividing the sum of components found leaking during current monitoring and components for which repair has been delayed by the total number of components subject to the requirements of LAC 33:III.2121.C.

f. An owner or operator must keep a record of the percent of valves and pumps found leaking during each leak detection period.

2. Alternative Standards for Valves and Pumps—Increased Monitoring Frequency. If there is an excessive number of leaks (greater than the good performance level), then an increase in the frequency of monitoring may be required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16:961 (November 1990).

Subchapter B - Organic Solvents

§2123. Organic Solvents

A. Any emission source using organic solvents having an emission of organic solvents of more than three pounds (1.3 kilograms) per hour or 15 pounds (6.8 kilograms) per day shall reduce the emission, where feasible, by incorporating one or more of the following control methods:

1. Incineration, provided 90 percent of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide (except as provided in LAC 33:III.2123.D);

2. carbon adsorption of the organic compounds; and

3. any other equivalent means as may be approved by the administrative authority. Once a source exceeds the emission cutoff specified in this paragraph that source shall be subject and shall remain subject to the requirements of LAC 33:III.2123.A regardless of future emission rates.

Chapter 21. Control of Emission of Organic Compounds

Title 33 ENVIRONMENTAL QUALITY Part III. Air

1. Test Methods. Compliance with paragraphs A, B, C, D, E, F, and G of this Section shall be determined by applying the following test methods, as appropriate:

K. Recordkeeping. The owner or operator of any facility subject to LAC 33:III.2115 shall maintain the following information on the premises for at least two years and shall make such information available to representatives of the Louisiana Department of Environmental Quality and the Environmental Protection Agency upon request:

4. records to demonstrate that the criteria are being met for any exemption claimed (such as daily records of VOC waste gas stream throughput or concentrations).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:960 (November 1990).

§2121. Fugitive Emission Control

A. Applicability. This regulation is applicable to equipment in petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry.

C. Monitoring Requirements. The monitoring of the affected components shall be performed by the following schedule using the method described in LAC 33:III.2121.B:

1. Petroleum Refineries, SOCMI, MTBE, and Polymer Manufacturing Industry.

b. Monitor with a leak detection device four times per year (quarterly) the following items:

iv. valves in light liquid service at SOCMI, MTBE, and Polymer Manufacturing Plants,

v. pumps in light liquid service at SOCMI, MTBE, and Polymer Manufacturing Plants,

vi. valves in gas service at SOCMI, MTBE, and Polymer Manufacturing Plants.

4. Exemptions. Monitoring is not required on the following:

a. Components subject to LAC 33:III.2121.C.1 (petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry) which contact a process fluid that contains less than 10 percent VOC by volume or components subject to LAC 33:III.2121.C.2 (Natural Gas Processing Plants) which contact a process fluid that contains less than 1.0 percent VOC by weight.

b. Components in the petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry which contact only a process liquid containing a VOC having a true vapor

B. Soldering operations, painting and coating operations, not listed in LAC 33:III.2123.C, and dry cleaning operations using organic solvents which are not considered photochemically reactive shall be considered for exemption from the requirements of LAC 33:III.2123.

1. For the purposes of the statement, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

- a combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cycloolefinic type of unsaturation: five percent;
- a combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: eight percent;
- a combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by LAC 33:III.2123.C to exceed the emission limits as specified in this regulation.

VOC Emission Limitation

Lbs. Per Gal. Of Coating as Applied (minus water and exempt solvent)	Kgs. Per Liter Of Coating as Applied (minus water and exempt solvent)	Affected Facility
0.34	2.8	Prime, single or topcoat application area, flashoff area and oven
0.14	1.2	Primer surfacer application and oven
0.45	3.8	Prime application, flashoff area and oven
0.35	2.9	Vinyl Coating Line (Except Plastisol coatings)
0.35	2.9	Fabric Facility
0.35	2.9	Surface Coating of Fabrics. The following emission limits shall apply: Coating Line
0.31	2.6	Surface Coating of Paper. The following emission limits shall apply: Prime and topcoat or single coat operation
0.44	3.7	Surface Coating of Coils. The following emission limits shall apply: End sealing compound
0.66	5.5	Three-piece can side-seam spray
0.51	4.2	Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)
0.34	2.8	Sheet Basecoat (exterior and interior) and over-primish: Two-piece can exterior (basecoat and over-primish)
0.34	2.8	Surface Coating of Cans. The following emission limits shall apply: Prime, single or topcoat application area, flashoff area and oven

The following emission limits shall apply:

1. Large Appliance Coating Industry. The following emission limits shall apply:

Lbs. Per Gal. Of Coating as Applied (minus water and exempt solvent)	Kgs. Per Liter Of Coating as Applied (minus water and exempt solvent)	Affected Facility
0.36	3.0	Large Appliance Coating Industry. The following emission limits shall apply: Prime, single or topcoat application area, flashoff area and oven

As an alternative to the emission limitation of 2.8 pounds of VOC per gallon of coating applied for the primer surfacer and/or topcoat application, compliance with these emission limitations may be demonstrated by meeting a standard of 15.1 pounds of VOC per gallon of solids deposited.

7. Surface coating-magnet wire coating. The following emission limits shall apply:

Lbs. Per Gal. Of Coating as Applied (minus water and exempt solvent)	Kgs. Per Liter Of Coating as Applied (minus water and exempt solvent)	Topcoat application, flashoff area and oven
0.34	2.8	Final repair application, flashoff area and oven
0.58	4.8	Final repair application, flashoff area and oven

8. Surface Coating of Metal Furniture. Volatile organic compound emissions from metal furniture coating lines shall not exceed three pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent).

9. Surface Coating of Miscellaneous Metal Parts and Products. The following emission limits shall apply:

Lbs. Per Gal. Of Coating as Applied (minus water and exempt solvent)	Kgs. Per Liter Of Coating as Applied (minus water and exempt solvent)	Clear Coat
0.52	4.3	Air or force air dried items (not oven dried)
0.42	3.5	Frequent color change and/or large numbers of colors applied, or first coat on untreated ferrous substrate
0.36	3.0	Outdoor or harsh exposure or extreme performance characteristics
0.42	3.5	No or infrequent color change, or small number of colors applied
0.05	0.4	a. Powder Coating
0.36	3.0	b. Other

10. Factory Surface Coating of Flat Wood Paneling. The following emission items shall apply:

Lbs. Per Gal. Of Coating as Applied (minus water and exempt solvent)	Kgs. Per Liter Of Coating as Applied (minus water and exempt solvent)	Printed interior wall panels made of hardwood plywood and thin particleboard
2.9	6.0	Natural finish hardwood plywood panels
5.8	12.0	Class II finishes for hardboard paneling
4.8	10.0	Class II finishes for hardboard paneling

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids applied (determined in accordance with LAC 33:III.2123.D.7), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall. All surface coating facilities shall submit to the administrative authority, for approval, design data for each capture system and emission control device which is proposed for use. The effectiveness of the capture system (i.e. capture efficiency) shall be determined using the procedure specified in LAC 33:III.2123.E.6.

2. If a person wishes to use low solvent technology to meet any of the emission limits specified in LAC 33:III.2123.C.1 through 10 and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a compliance date extension from the administrative authority. Compliance date extensions will require progress

$D_s = 7.36$ pounds volatile organic compound per gallon volatile organic compound (i.e., density of reference solvent).

E_c = Emission limit found in Subsection C. of this Section, in terms of pounds-per-gallon of coating (less water and exempt solvents).

E_s = Emission limit equivalent to E_c , but in terms of pounds-per-gallon solids applied.

V_s = Gallon solids per gallon coating (less water and exempt solvents).

$$V_s = (1 - E_c/D_s) E_s$$

$$E_s = E_c/V_s$$

9. If improved transfer efficiency application equipment is used to comply with the emission limitations in terms of pounds-per-gallon solids deposited, the improved transfer efficiency equipment shall be tested following procedures approved in advance by the administrative authority* and consistent with those transfer efficiency testing procedures specified in Paragraph E.5 of this Section. The applicable emission limit shall be calculated using the transfer efficiency baseline established by the administrative authority* and compliance shall be determined following a calculation procedure also approved by the administrative authority*.

E. Testing

Compliance with LAC 33:111.2123.A, C and D shall be determined by applying the following test methods, as appropriate.

1. Test Method 24 (LAC 33:111.6083) with a one-hour bake;

2. Test Method 1 through 4 (LAC 33:111.6001, 6003, 6009 and 6013, respectively) for determining flow rates;

3. Test Method 18 (LAC 33:111.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

4. Test Method 25 (LAC 33:111.6085) for determining total gaseous nonmethane organic emissions as carbon;

5. Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations (Document No. EPA-450/3-88-018 dated December, 1988) for determining transfer efficiency, oven loading and incinerator destruction efficiency;

6. Performance test procedures described in LAC 33:111.3694; and

7. Additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

F. Recordkeeping

The owner/operator of any surface coating facility shall maintain records at the facility to verify compliance with or exemption from LAC 33:111.2123. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. Records of any testing done in accordance with LAC 33:111.2123.E.

2. The owner/operator of any facility subject to LAC 33:111.2123 shall install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specifications, including but not limited to:

a. the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;

b. the total amount of volatile organic compounds resulting calculation:

reports every 90 days, or as directed, to show reasonable progress, as determined by the administrative authority, toward technology to meet the specified emission limitation.

3. Compliance will be determined by the procedure specified in "Control of Volatile Organic Emissions for Existing Stationary Sources. Vol 2-Surface Coating of Cans, Cols, Paper, Fabric, Autos and Lt. Duty Trucks" (EPA 450/2-77-008), the procedures specified in "Measurement of Volatile Organic Compounds" (EPA-450/2-78-041), a method approved by the administrative authority or certification from the paint manufacturer concerning the solvent makeup of the paint. Exempt solvents shall be treated the same as water in calculating the VOC content per gallon of coating. Exempt solvents are those compounds listed in LAC 33:111.2117.

4. Compliance with the alternative emission limit established in LAC 33:111.2123.C.6 of 15.1 pounds of VOC per gallon of solids deposited shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" (EPA 450/3-88-018), December, 1988.

5. A plant-wide emission reduction plan may be approved by the administrative authority* if it can be demonstrated by the surface coating facility that any emissions in excess of those allowed for a given coating line will be compensated for by reducing emissions from regulated sources within the surface coating facility.

6. Surface coating facilities on any property in East and West Baton Rouge Parishes which when controlled have a potential to emit at maximum production a combined weight (total from the property) of volatile organic compounds less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of LAC 33:111.2123.C.1 through 10. Surface coating facilities on any property in parishes other than East and West Baton Rouge which when uncontrolled have a potential to emit a combined weight of volatile organic compounds less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of LAC 33:111.2123.C.1 through 10.

7. Soldering and surface coating facilities or portions thereof, may request from the administrative authority* exemption from the requirements of LAC 33:111.2123.C if all of the following conditions are met:

a. the affected portion of the facility will not emit more than 50 tons per year of VOC;

b. that the only practical means of VOC control is thermal oxidation;

c. that the substance to be emitted is not toxic;

d. that the moles of fuel used would exceed the moles of VOC destroyed; and

e. that the reasonable control of the VOC would result in a net increase of emissions from the facility.

The exemption will be described in detail in the Compliance Orders, under Section 110a.(3) of the Federal Clean Air Act, adopted by the administrative authority*.

8. Compliance with an emission limit specified under Subsection C of this Section may be demonstrated, in terms of pounds-per-gallon solids applied, based upon the daily weighted average of a coating type within a single coating line.

The equivalent emission limit in terms of pounds per gallon solids applied (E_s) shall be determined using the following calculation:

covered by carbon adsorption or other solvent recovery systems during a calendar month;

c. the dates and reasons for any malfunction of a required control device and the estimated quantity and duration of volatile organic compound emissions during the upset period; and

d. the exhaust gas VOC concentration of a carbon adsorption system to determine breakthrough.

3. Material data sheets which document the volatile organic compound content, composition, solids content, solvent density, and other relevant information regarding each coating and/or solvent used.

4. Records used for determining the daily volatile organic compound emission rate of automobile and light-duty truck topcoat operations as specified in Document No. EPA-450/3-88-018 dated December, 1988.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990).

Subchapter F - Gasoline Handling §2131. Filling of Gasoline Storage Vessels

D. Exemptions. The following are exempt from the requirements of LAC 33:III.2131.A above:

2. Transfers made to storage tanks with a capacity greater than 40,000 gallons (151,400 liters) and equipped with controls as required by LAC 33:III.2103 of these regulations.

3. Any gasoline outlet in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year or any gasoline outlet in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James and St. John the Baptist whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge or 42,000 gallons for a facility in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James and St. John the Baptist that facility becomes an affected facility and does not revert to an exempted facility when the throughput drops back below the throughput exemption level.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:609 (July 1990).

§2135. Bulk Gasoline Terminals

E. Recordkeeping. The owner/operator of any gasoline bulk terminal shall maintain records to verify compliance

with or exemption from this Section. The records will be maintained for at least two years and will include, but not be limited to, the following:

5. For vapor disposal systems, the following information shall be recorded:

a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

b. daily measurements of the inlet and outlet temperature of a chiller or catalytic incinerator; and

c. breakthrough of VOCs in a carbon adsorption unit. AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:611 (July 1990).

Subchapter G - Petroleum Refinery Operations §2139. Refinery Vacuum Producing Systems

A. Control of Steam Jet Ejectors and Mechanical Pumps. Emissions of volatile organic compounds from steam jet ejectors and mechanical pumps shall be controlled by one of the applicable methods specified in LAC 33:III.2115.A, B, and F. Compliance shall be determined and records shall be kept as specified in LAC 33:III.2115.I, J, and K.

B. Emissions of volatile organic compounds from a hot-well with a contact condenser shall be controlled by covering the hot-well and controlling the vapors by one of the applicable methods specified in LAC 33:III.2115.A, B, and F. Compliance shall be determined and records shall be kept as specified in LAC 33:III.2115.I, J, and K.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

§2141. Refinery Process Unit Turnarounds

Emissions of volatile organic compounds from petroleum refinery process unit turnarounds shall be controlled by pumping the liquid contents to storage and depressurizing the processing units to five psig (pounds per square inch gauge) or below before venting to the atmosphere. Control of the vapors during the depressurization prior to venting to atmosphere shall be accomplished by one of the applicable methods specified in LAC 33:III.2115.A, B, and F. Compliance shall be determined and records shall be kept as specified in LAC 33:III.2115.I, J, and K.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

Paul H. Temple, Ph.D.
Secretary

lowing categories:

1. large farm machinery (harvesting, fertilizing, and planting machines, tractors, combines, etc.);
2. small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);
3. small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);
4. commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);
5. industrial machinery (pumps, compressors, conveyer components, fans, blowers, transistors, etc.);
6. fabricated metal products (metal-covered doors, frames, etc.); and
7. any other category of coated metal products except the specified list in LAC 33:111.2123.C.1 through 8 and 10 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

Non-Attainment Area--An area (parish or group of parishes) declared by the administrative authority* not to be complying with a Federal National Ambient Air Quality Standard and listed in the *Federal Register* as a non-attainment area.

Ozone Exceedance--A daily maximum hourly average ozone measurement that is greater than the value of the standard.

State Implementation Plan (SIP)--A Plan required by the Clean Air Act that outlines the actions to be taken by a state air pollution control agency to reduce emissions of the non-attainment pollutant so as to change the non-attainment area to an attainment area and maintain the area in attainment status.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection LR 17:

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Assistant Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of the Administrative Procedure Act R.S. 49:953(B), and under the authority of R.S. 30:2011 and 30:2054, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:111.111 of the Louisiana Air Quality Regulations. This emergency action will allow the Office of Air Quality and Radiation Protection to avoid sanctions from the U.S. Environmental Protection Agency for failure to complete the revisions to these regulations by the May 15, 1991, deadline. The secretary therefore establishes the following new requirements, effective May 8, 1991.

These changes are the last in a series of changes to Chapter 1, "General Provisions," which are required to make these regulations approvable by EPA as a part of our new State Implementation Plan for ozone. Section 111 is revised to provide additional definitions and revised definitions required by EPA guidance.

This emergency rule, AQ52E shall expire September 4, 1991, however, the secretary of the Department of Environmental Quality has initiated rulemaking procedures to finalize the requirements of this rule on September 20, 1991.

TITLE 33

**ENVIRONMENTAL QUALITY
Part III. Air
Chapter 1. General Provisions**

§111. Definitions

Coating--A material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to paints, varnishes, sealants, adhesives, thinners, diluents, inks, maskants, and temporary protective coatings.

Department--Air Quality Division, Office of Air Quality and Radiation Protection, of the Department of Environmental Quality.

Distance From Source to Property Line--The horizontal distance measured in feet from the centerline of a source to adjacent land or water which is not owned or controlled by the person emitting air contaminants from the source.

Exceedance--A value or measurement greater than the level of a standard.

Hydrocarbon--Organic compounds, the molecules of which consist primarily of carbon and hydrogen atoms.

Leak--(Relating to Fugitive Emission Control) An organic compound concentration exceeding 10,000 parts per million by volume (ppmv) or the dripping or exuding of process fluid having a true vapor pressure greater than 0.0435 psia at 68°F (20°C).

Miscellaneous Metal Parts and Products Coating--The coating of miscellaneous metal parts and products in the fol-

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:593(B) to adopt the following rule in the Medical Assistance Program.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) requires that the state specify training and evaluation programs for nurse aides, including procedures for recruitment, approval of such programs with specified methodologies and at specified frequencies, in compliance, the bureau has formulated the Nurse Aide Training and Competency Evaluation Program. These regulations set forth training and evaluation programs for nurse aides, including procedures for review and approval of such programs with specified methodologies and at specified frequencies. Nurse aides must register with the Board of Examiners for Nursing Home Administrators, which is responsible for maintaining the nurse aide registry and issuing licenses for certification biannually. These regulations are formulated utilizing Health Care Financing Administration (HCFA) policy issuances and technical assistance pending adoption of final regulations by HCFA.

The Omnibus Budget Reconciliation Act (OBRA) of 1987 mandates that effective January 1, 1990 a person cannot be employed as a nurse aide by a nursing home for more than four months unless that person has satisfactorily completed an approved training and/or Competency Evaluation Program. This rule is effective for the maximum period allowed under R.S. 49:554(B) et seq.

EMERGENCY RULE

Medical Nursing Home Standards Reform Provisions: Nurse Aide Training and Competency Evaluation Program
Both the Nurse Aide Training and the Competency Evaluation may be provided by community colleges, vocational-technical programs and other educational facilities. Nursing facilities may provide the required 80 hours of training but the competency evaluation will be the responsibility of the state agency administering the State Nurse Aide Training Program.

Training Program Content

Core Curriculum — the curriculum content for the nurse aide training includes material which provides a basic level of both knowledge and demonstrable skills for each individual completing the program. The core curriculum content includes needs of populations which may be served by an individual nursing facility. The program must be a minimum of 80 hours in length consisting of 40 classroom hours and 40 skills training hours.

Orientation Program — an orientation program shall be given to all nurse aides in a nursing facility-based program. This program shall include, but not be limited to, an explanation of the organizational structure of the facility, policies and procedures, discussions of the philosophy of care of the facility, description of the resident population, and employee rules.
This facility orientation phase of the training program is not included in the required 80 hours of training. For train-

Medical Program:

To avoid denial of community and group home placement to Medicaid eligible individuals due to difficulty in placement, the Bureau of Health Services Financing adopted changes in the Facility Need Review Program to allow for issuance of requests to develop community and group home beds tied to dually diagnosed, hard to place residents. Some Medicaid eligible individuals, dually diagnosed with mental retardation and other functional limitations, have been on waiting lists for placement for over 90 days because of difficulty in locating a facility which will accept them. The emergency rule allows for issuance of "Recept for Proposals" to provide facility beds for dually diagnosed persons who have been on the placement central registry for more than 90 days and review of these proposals based on methodology detailed in the policies and procedures for Facility Need Review.

EMERGENCY RULE

The policies and procedures for Facility Need Review dated February 8, 1991 are revised to reflect the following changes in Section 12502 - Determination of Bed Need, Sub-section A. Community and Group Home Beds for the Mentally Retarded:
The following Number 5. through 5.a. replaces the previous number 5. through 5.a. (page 7):

5. At the present time, the recommended bed to population ratio for community and group homes has been achieved; however, special needs and circumstance may arise which the department may consider as indicators of need for additional beds. Exceptions based on these special needs and circumstance are described as follows:
When the Division of Mental Retardation indicates a need for special beds for hard to place individuals, as indicated by having been on the division's Placement Central Registry for more than 90 days, the department may review waiting lists of clients in need of placements to determine if additional beds are needed. It is assumed the need is not being met by available beds/facilities since these recipients have not received placement for which they have been determined in need of. Beds for hard to place clients approved through this exception will be tied to hard to place recipients and must remain available for hard to place clients.

When average annual occupancy for the four most recent quarters (as reported in the MR-2) exceeds 93 percent in a parish, the department may review such factors as utilization trends, availability and accessibility of client in need of placements, and patient origin studies to determine if additional beds are needed.
a. If the department determines that there is a need for beds because of special needs or circumstances, a Request for Proposal (RFP) to develop the needed beds will be issued. The RFP will indicate the region in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for the additional beds. In the case of need based on high occupancy in a parish, the RFP will specify the MR-2 on which the determination of need is based.

David L. Ramsey
Secretary

ing that requires 24-hour per day supervision over a period of long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education, geriatrics department, chronic care hospital or other unit, geriatrics department through employment in a nursing facility/long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education.

5. demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition and well-being. (In a nursing facility setting that requires 24-hour per day supervision over a period of long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education.)

4. exhibit behavior and support and promotions of residents' rights; and

3. assist residents in attaining and maintaining functional independence;

2. demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interaction; and

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care objectives;

The objective of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

Minimum Curriculum Requirements

The objective of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care objectives;

2. demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interaction; and

3. assist residents in attaining and maintaining functional independence;

4. exhibit behavior and support and promotions of residents' rights; and

5. demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition and well-being. (In a nursing facility setting that requires 24-hour per day supervision over a period of long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education.)

The ratio of instructors to trainees in skills training must ensure that each trainee is provided safe and effective assistance and supervision. The examiner conducting the clinical competency evaluation for any individual trainee must meet the qualification for the PC/PI.

Licensed practical (vocational) nurses (LPNs), under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

Such experience is normally obtained through employment in a NF/unit, geriatrics department, chronic care hospital or other long-term care setting. Experience in resident care, supervision, and staff education is preferred.

All PTs should have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience. All PTs should be, where applicable, licensed, registered and/or certified in their field. The program may utilize other persons such as residents, experienced aides, and ombudsmen, if these persons are needed to meet the planned program objectives for a specific unit.

C. Program Trainer (PT) — Qualified resource personnel from the health field may participate as Program Trainers (PTs). They include: registered nurses, licensed practical/vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists.

B. Nursing Facility-Based Programs — The Program Coordinator (PC) in a nursing facility based program may be the director of the nursing services (DON). The DON may assume the administrative responsibility and accountability for the nurse aide training program. When the PC is the DON, qualified assistance must be available so that the DON nursing services responsibilities are covered full time. The primary instructor (PI) must be a licensed nurse with at least one year of experience in a nursing facility. The PC/PI must attend a "Train-the-Trainer" type program approved by the state or have demonstrated competence to teach adults as defined by the state.

A. Non-Nursing Facility-Based Programs — The Program Coordinator/Primary Instructor (PC/PI) must be a registered nurse with two years of experience in caring for the elderly and/or chronically ill of any age. Such experience could be obtained through employment in a nursing facility/unit, geriatrics department, chronic care hospital or other long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education.

Qualifications of Instructors

To get a course approved, the facility/school must submit to DHH a copy of: 1) the curriculum; 2) a list of instructors and their qualifications (RN/LPN experience in nursing; experience in teaching; experience in a nursing home setting); and 3) time slots for each topic of classroom and clinical instruction (a minimum of 40 hours each is required). If a school is applying for approval it must identify the facilities used for classroom instruction and clinical experience (a nursing home or hospital SNF must be used). A school must also submit copies of exams and evaluation programs.

Curriculum Approval

To get a course approved, the facility/school must submit to DHH a copy of: 1) the curriculum; 2) a list of instructors and their qualifications (RN/LPN experience in nursing; experience in teaching; experience in a nursing home setting); and 3) time slots for each topic of classroom and clinical instruction (a minimum of 40 hours each is required). If a school is applying for approval it must identify the facilities used for classroom instruction and clinical experience (a nursing home or hospital SNF must be used). A school must also submit copies of exams and evaluation programs.

Ongoing Training

All facilities will continue to provide ongoing training on a routine basis both in groups and, as necessary in specific situations, on a one-to-one basis. Each nursing aide must receive and be compensated for three hours of such staff development training per quarter. Training can be received on the unit as long as it is directed toward skills improvement, provided by appropriately trained staff and documented (for example, skills demonstrated with return demonstration recorded on a check list).

Nurse Aide Trainee Activities — A person cannot be employed as a nurse aide by the facility for more than four months unless he/she has satisfactorily completed an approved training and/or competency evaluation program. (In programs that are facility-based, the facility can permit trainees to provide only that care for which they have demonstrated competency. For instance, if the nurse aide trainee has received training on the correct procedure to use in assisting a resident with ambulation and has demonstrated to the instructor an acceptable level of competence, the trainee may provide this assistance. Supervision of the nurse aide after training is the responsibility of the nurse supervisor and/or charge nurse.)

Identification of Nurse Aide Trainees — Each nurse aide trainee should be clearly identified as a trainee during all skills training portions of the training. Identification should be recognizable to residents, family members, visitors, and staff.

Unit Objectives — Each nurse aide training program must have behaviorally stated objectives for each unit of instruction. Each objective must state performance criteria which are measurable and which will serve as the basis for competency evaluations. The unit objectives will be reviewed with the trainees at the beginning of each unit so that each trainee will know what is expected of him/her as he/she participates in each part of the training program. All facility-based nurse aide training programs, must use the core curriculum objectives for nurse aide training, and must adapt the content and skills training application to the specific population.

Identification of Nurse Aide Trainees — Each nurse aide training program must have behaviorally stated objectives for each unit of instruction. Each objective must state performance criteria which are measurable and which will serve as the basis for competency evaluations. The unit objectives will be reviewed with the trainees at the beginning of each unit so that each trainee will know what is expected of him/her as he/she participates in each part of the training program. All facility-based nurse aide training programs, must use the core curriculum objectives for nurse aide training, and must adapt the content and skills training application to the specific population.

of years, the training program must address the psychosocial, physical and environmental needs as equally as important as the medical needs). The training program must teach the attitudes and behaviors (which reflect attitudes) which impact positively on the emotional conditions of residents and focus on the restoration and maintenance of the resident in an independent as possible status, such that these attitudes and behaviors of staff are demonstrable in the day-to-day care environment in the facility.

Core curriculum — At its outset, the training program must provide classroom instruction prior to a trainee's direct involvement with a nursing facility resident. This instruction shall be at least 16 hours and at a minimum include the following topics: a) communication and interpersonal skills; b) infection control; c) safety/emergency procedures; d) promoting residents' independence; and e) respecting residents' rights.

In addition, another 16 or more hours should be devoted to skills training. The evaluation program must be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. Basic nursing skills. The nurse aide will be able to demonstrate basic nursing skills, including but not limited to bed-making; taking vital signs; measuring height and weight; caring for the resident environment; measuring fluid and nutrient intake and output; assisting in the provision of proper nutritional care; ambulating; transferring; using body mechanics; maintaining infection control and safety standards; attaining/maintaining proficiency in cardiopulmonary resuscitation (CPR); caring for residents when death is imminent and recognizing abnormal signs and symptoms of common diseases and conditions.
2. Personal care skills. The nurse aide will be able to demonstrate basic personal care skills including, but not limited to bathing, including mouth care; grooming, dressing, toileting; assisting with eating and hydration; and skin-care.
3. Mental health and social service needs. The nurse aide will demonstrate basic skills by modifying his/her own behavior in response to residents' behavior; identifying developmental tasks associated with the aging process and use task analysis, segmenting of those tasks to increase independence; providing training in and the opportunity for self-care according to residents' capabilities; demonstrating principles of behavior modification by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated; demonstrating skills supporting age-appropriate behavior by allowing the resident to make personal choices, providing, and reinforcing other behavior consistent with residents' dignity; and utilizing residents' family as a source of emotional support.
4. Basic restorative services. The nurse aide will be able to demonstrate skills which incorporate principles of restorative nursing, including the use of assistive devices in ambulation, eating, and dressing; maintenance of range of motion; proper turning and positioning both in bed and chair; transferring; bowel and bladder training; and care and uses of prosthetic devices, such as hearing aids, artificial eyes, artificial limbs.
5. Residents' rights. The nurse aide will be able to demonstrate behavior which maintains residents' rights, including but not limited to: assisting a resident to vote, providing privacy and maintenance of confidentiality, allowing the

resident to make personal choices to accommodate individual needs giving assistance in resolving grievances, providing needed assistance in getting to and participating in resident and family groups and other activities, maintaining reasonable care of resident's personal possessions, providing care which maintains the resident free from abuse, mistreatment or neglect, and reporting any instances of such poor care to appropriate facility staff, and maintaining the resident's environment and care so as to minimize the need for physical and chemical restraints.

State Review of Compliance with Program Requirements

The review of compliance with requirements will include, at a minimum, a review of program content, length, ratio of classroom to skills training content, qualification of instructors, quality of clinical supervision, and in the case of nonfacility-based programs, review of the written and skills competency evaluation program. The proportion of students completing the competency evaluation will be considered part of the overall review. Also reviewed will be the physical facilities used both in classroom and skills training. The classroom facilities should maintain a comfortable temperature, be maintained in a clean and safe condition, and have adequate space to accommodate all students, and have adequate lighting and all equipment needed, including audio-visual equipment and any equipment needed for simulating resident care. The quality of care provided by individual nurse aides that is monitored during a licensure and/or survey and certification survey, may be used as one part of the program review.

Initial post-approval and ongoing review — After initial approval of a training and competency evaluation program, the state will do an initial one year post-approval review to determine the program's implementation of and compliance with the requirements as set forth in this regulation. After the one year post-approval review, the program must be reviewed, on-site, at least every two years. Programs not meeting minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies. A self evaluation will be submitted by the program provider to the state agency each year that an on-site review is not scheduled.

Minimum program performance standards — The training and evaluation program must include access to a nursing facility (with no Medicare/Medicaid terminations against it within the past two years) for all skills training experience; maintenance of qualified faculty members for both classroom and skills portions of the training and competency evaluation programs; maintenance of the security of the competency evaluation examinations; a pass rate on the competency evaluation program of 70 percent of all persons participating; adequate number of clinical instructors to provide safe and effective supervision and assistance; program curriculum content that meets federal and state requirements; and classroom facilities that meet federal requirements for nurse aide training programs. Programs that do not meet these minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation in the program.

Requirements for Determination of Competency

Requirements for persons working prior to July 1, 1989 — All persons working as nurse aides prior to July 1, 1989, must complete a competency evaluation program which consists of both a written or oral and a manual (clinical

ing a new resident to the facility; performing range of motion exercises; giving a bed bath; positioning a resident on his side; and responding to a demented resident who is calling out, yelling or indicating distress or anger.

Task-related evaluation items will be developed to also evaluate the non-task oriented competency of the trainee, such as communication and psychosocial skills. The skills demonstration portion of the competency evaluation may be held in either a nursing facility or in a laboratory equipped for this purpose.

In the case of nursing facilities which provide their own training programs, the state has made arrangements to provide competency evaluation programs for the individuals who complete this nursing facility-based training or approve an organization that a trainer can contact to provide competency evaluation. The skills competency evaluation may be given in a nursing facility, but must be administered by personnel not associated with the facility. The competency evaluation may be proctored (as opposed to administered) by facility personnel if the competency evaluation program is secured from tampering, is standardized and scored by a testing, educational, or other organization approved by the state, or by the state itself, and requires no actual administration or scoring by facility personnel. The trainee should have the opportunity to take the competency evaluation (both written or oral and skills demonstration) in a timely manner after completion of the training program. The trainee will be provided with a minimum of three opportunities to successfully complete both the written (or oral) and skills portions of the competency evaluation.

Location Responsibility for Approval of Programs

Nurse aide training programs may be offered by or in nursing facilities, as well as outside facilities. The skills portion of the training must in all cases utilize a facility and its residents. Nursing facilities may offer complete training programs themselves and/or may contract with another organization to provide the training and competency evaluation. When the training is provided by the facility employing the aide, the competency evaluation must be administered by the state, or an organization under state auspices.

Other groups and/or institutions such as employee organizations, vocational-technical schools, community colleges, and private institutions may also conduct programs, dependent upon state approval of both the training and competency evaluation programs.

Disqualification of Facilities from Offering Aide Training

The state must prohibit the approval of nurse aide training programs offered by nursing facilities that have:

1. Been determined out of compliance by Medicaid/Medicare Program on or after October 1, 1988, until the end of a two-year period during which no survey or investigation finds any deficiencies.
2. Received a notice indicating termination between October 1, 1989, and September 30, 1990, until the completion of the next survey that finds no deficiencies warranting a notice.
3. Operated under a waiver granted on the basis of a demonstration that the facility is unable to provide RN coverage in excess of 48 hours during a week.
4. Beginning October 1, 1990, been found in a standard survey to have deficiencies resulting in significant civil money penalties (\$5,000 or more), termination of payments,

(cal) component. This evaluation program must be satisfactorily completed by January 1, 1990, and the facility is required to provide the necessary preparation for the individual to do so. The employee will be provided with at least three opportunities to complete the program successfully.

Re-training required — An individual who has not performed nursing or nursing-related services for a continuous 24-month period for pay after completion of a training and competency evaluation program, must complete a new training and competency evaluation program.

Competency evaluation responsibility — the competency evaluation is the responsibility of the Department of Health and Hospitals for those aides trained in a nursing facility and/or those aides hired prior to July 1, 1989 who did not have an approved training and competency evaluation program. The state cannot delegate this responsibility to a facility. (The competency evaluation for nurse aides trained in community colleges, vocational-technical programs, and other educational facilities, may be provided by the training institution.)

Written or oral examinations will be provided by the state. The written evaluation component will be given in English unless the aide will be working in a facility in which the predominant language is other than English. In this case the examination may be taken in the written predominant language used in the facility, dependent upon the availability of a translator who will maintain the integrity of the examination. The written or oral examination content will reflect the content and emphasis of the training program and will be developed in accordance with accepted educational principles.

A substitute examination, including an oral component, will be developed for those nurse aides with limited literacy skills. However, this examination must include all content that is included in the written examination, and must include a written reading comprehension portion that will determine competency to read job-related information. For example, the aide must be able to read such material as a resident's name band or the contents of a bottle sitting on a bedside stand.

For the skills training component of the evaluation program, each nurse aide training program will develop a performance record of major duties/skills taught. This record will consist of, at a minimum, a listing of the duties/skills expected to be learned in the program, space to record when the aide performs this duty/skill, and spaces to note satisfactory or unsatisfactory performance, the date of performance, and the instructor supervising the performance. At the completion of the nurse aide training program, the nurse aide and his/her employer will receive a copy of this record. If the individual did not successfully perform all duties/skills on this performance record, he/she will receive supervision for all duties and skills not satisfactorily performed until such satisfactory performance is confirmed.

The demonstration aspect of the skills training portion of the competency evaluation program will consist of a minimum performance of five tasks, all of which are included in the performance record. These five tasks will be selected for each aide from a pool of evaluation items which have been ranked according to degree of difficulty. A random selection of tasks will be made, with at least one task from each degree of difficulty. Examples of such evaluation items are: making an occupied bed; taking and recording a resident's blood pressure, temperature, pulse and respirations; orient-

a ban on admissions, under temporary management or closure of facility and had residents transferred, or has been subject to an extended (or partial extended) survey.

Deemed Competency and Reporting of Individuals

Any organization responsible for the Nurse Aide training and competency evaluation program must report to the state nurse aid registry maintained by the Board of Examiners for Nursing Home Administrators the names of all individuals who have satisfactorily completed the program within 30 days after their completion of the program. When the competency evaluation program is conducted by the state, the state is responsible for ensuring that the names of persons successfully completing the program are placed in the register.

Once an aide has successfully completed a course Hospitals (DHH) in a non-nursing facility and based program, the school shall notify the registry by completing Form NAT - 8.

When an aide has successfully completed a course in a nursing facility-based program, Form NAT - 8a will be sent to the nearest vocational-technical school so competency testing may be scheduled.

After the competency testing is completed and scored the vo-tech school will submit Form NAT - 8 to the registry board indicating those nurse aides eligible for certification. Forms to be used by DHH and the registry are as follows:

Form NAT - 1 is used to evaluate the curriculum submitted;

Form NAT - 2 is sent to the facility if program is approved;

Form NAT - 3 is sent to the facility if program does not meet the state requirements;

Form NAT - 4 was used as a tool for "grandfathering" aides for certification prior to January 1, 1989;

Form NAT - 5 was used for determining which aides would be certified, which aides would need to take a competency test (to be administered by the state) and which aides (hired after July 1, 1988 and having no previous training or nursing home experience) needed to complete the 80-hour course by January 1, 1990;

Form NAT - 6 was used by DHH to notify the registry of those aides determined to meet the criteria for certification. A copy of Form NAT - 5 was sent to the registry along with Form NAT - 6;

Form NAT - 7 is to be used by the facility to notify the registry of employment or termination (employment ceased) of a certified aide;

Form NAT - 8 is to be used by the schools to notify the registry of those persons having completed an approved course.

Form NAT - 8a is to be used by the facilities to notify the vo-tech school of those persons having completed a training course. This will alert the vo-tech school of the need for administering competency test. Form NAT - 8 will be sent to the registry; and

Form NAT - 9 is to be used by the RN from DHH in grading and evaluating the competency of each aide taught by a nursing facility. When the aide has passed both the written/oral and competency skills test this form will be sent to the registry to notify them that this aide qualifies for certification.

Investigation of Allegations of Residents' Neglect, Abuse and/or Misappropriation of Resident Property

The Department of Health and Hospitals has provided through the Department of Social Services, Appeals Bureau, a process for the receipt timely review and investigation of all allegations of resident neglect, abuse and/or misappropriation of residents' property by a nurse aide employed in a nursing facility.

Definitions

Neglect is defined for the purpose of this Chapter as the nurse aide's failure to provide the proper or required medical care, nutrition or other care necessary for a recipient's well-being.

Abuse is defined as follows: 1) the infliction of physical or mental injury; or 2) causing deterioration to such an extent that the resident's health, morale, and/or emotional well-being is endangered. Cause of such deterioration may include but is not limited to the following: a) sexual abuse; b) exploitation; c) extortion of funds or other things of value.

Misappropriation of residents' property is to take possession, without permission, of residents' personal belongings. Misappropriation may include, but is not limited to the following: 1) clothing; 2) jewelry; 3) money.

Notice of Violations

When there are substantiated charges against the nurse aide, either through oral or written evidence, the Bureau of Health Services Financing (BHSF) will notify the individual(s) implicated in the investigation of the following information by certified mail:

1. The nature of the violations, and the time and date of each occurrence;
2. The state's intent to report these violations to the nurse aide registry; and
3. The right to request an informal discussion and/or the right to an administrative hearing.

Right to an Informal Discussion

When a nurse aide feels that she/he has been wrongly accused, the following procedure should be followed.

Within 15 calendar days of the receipt of the agency's notice of violation, the nurse aide may request an informal discussion. Such request must be made to the agency in writing. A meeting will be arranged within 20 days of such a request. The informal discussion is designed to provide an opportunity for the nurse aide to informally review the situation; for the agency to offer alternatives based on corrections or clarifications, if any; and for the nurse aide to evaluate the necessity for seeking an administrative hearing. During this informal discussion, the nurse aide will be afforded the opportunity to talk with agency personnel involved in the situation, to review pertinent documents on which the alleged violation is based, to ask questions, to seek clarifications, and to provide additional information.

Right to Request Administrative Hearing

Within 30 calendar days after the receipt of notice of the agency's notice of violation or the notice of results of informal discussion, the nurse aide may request an administrative hearing. Such request must be in writing to the appeals section. The request must contain a statement setting forth the specific charges with which he/she disagrees, and the reasons for this disagreement.

Unless a timely and proper request is received by the appeals section, the findings of the BHSF shall be considered a final and binding administrative determination. Notification.

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions. Documentary evidence may be received in the form of copies or excerpts.

The administrative law judge may question any party or witness and may admit any relevant and material evidence.

The administrative law judge shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the administrative law judge shall explain the issues and the order in which evidence will be received.

A party has the burden of proving whatever facts it must establish to sustain its position.

The burden of producing evidence to substantiate the written charge(s) will be on the provider of services. Once the burden of producing evidence to substantiate the charges has been met, the nurse aide and/or his representative shall have the burden of producing evidence answering the charges.

Witnesses and Subpoena

Each party shall arrange for the presence of their witnesses at the hearing.

A subpoena to compel the attendance of a witness may be issued by the administrative law judge upon written request by a party and a showing of the need therefor.

A subpoena may be issued by the administrative law judge on his own motion.

An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records shall be made in writing to the administrative law judge, giving the name and address of the person or entity upon whom the subpoena is to be served. The application shall precisely describe the material that is desired to be produced and shall state the materiality thereof to the issue involved in the proceeding. It shall also include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

Continuances or Further Hearings

The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing of good cause, at the request of any party.

Where the administrative law judge determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:

1. continue the hearing to a later date and order the party to produce additional evidence; or
2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

Written notice of the time and place of a continued or further hearing shall be given except that when a continuance of further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to

action will then be sent to the nurse aide registry to be recorded on their file.

Basic Provisions

The administrative hearing shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:965 et seq., and the provisions set forth in the procedures described therein.

Right to Counsel

Any party may appear and be heard at any appeals proceeding through an attorney at law or through a designated representative.

Appearance in Representative Capacity

A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying himself by name, address and telephone number, and identifying the party represented, and shall have a written authorization to appear on behalf of the provider.

Although not specifically required, the appeals bureau may schedule a preliminary conference. The purposes of the preliminary conference include but are not limited to the following:

1. clarification, formulations and simplification of issues;
2. resolution of matters in controversy;
3. exchange of documents and information;
4. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
5. the identification of witnesses; and
6. such other matters as may aid disposition of the issues.

When the appeals bureau schedules a preliminary conference, it shall notify all parties in writing. The notice shall direct any parties and their attorneys to appear at a specified date, time, and place.

Results of Preliminary Conference

Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge.

Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference, or at a time mutually convenient to all parties.

Notice of Administrative Hearing

When an administrative hearing is scheduled, the appeals bureau shall notify the nurse aide and/or his representative and the agency representative, in writing of the date, time, and place of the hearing. Notice shall be mailed not less than 10 calendar days before the scheduled date of the hearing.

Conduct of Hearing

The hearing shall be conducted by the administrative law judge from the appeals bureau.

Testimony shall be taken only on oath, affirmation, or penalty of perjury.

Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination; to impeach any witness regardless of which

findings only after action on findings are final. This means after any appeal is ruled upon or the deadline for filing an appeal has expired.

Licenses for certification are renewable biannually. License renewal will be done automatically by registry biannually. Proof of continuing education will be done during the facility's annual review by the state agency.

Certification by Reciprocity

Nurse aides may become certified in Louisiana by reciprocity from other states. Applicants must submit to the registry the following information: 1. name; 2. Social Security Number; 3. certification number; 4. address of state's registry; 5. place of employment; and 6. date of employment termination.

After verification of certification in the other state, the registry will certify aide in Louisiana. Likewise, the registry will be responsible for granting reciprocity to other states. Employers must use the registry to determine if a prospective hiree is a certified nurse aide or if she/he has in the past abused, neglected residents or misappropriated their property.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program.

Under current regulations, Skilled Nursing/Technology Dependent Children (SN/TDC) services are provided to patients age 18 or younger in need of nursing services beyond those provided at an intermediate level because of medical conditions which render them 24-hour ventilator dependent. Facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies for this service were initially adopted in May, 1989.

Under this rule, the Medical service entitled "Skilled Nursing/Technology Dependent Children (SN/TDC)" services shall be entitled "Skilled Nursing/Technology Dependent Care (SN/TDC)" services. The age restriction previously imposed shall no longer apply. All other regulations including facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies heretofore applicable to SN/TDC shall remain applicable.

In order to provide SN/TDC services to adults who are 24-hour respirator dependent, and thus avoid imminent peril to the health and welfare of individuals who may not otherwise receive appropriate care, and to avoid a budget deficit by reducing state expenditures for those respirator-dependent adults who now receive continuous hospital care, the Bureau of Health Services Financing is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B)(1) to adopt the following rule, effective for the

each party present at the hearing.
Record of Hearing

A sound recording of the hearing shall be made. A transcript will be prepared and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

Decision

At the conclusion of the hearing, the administrative law judge shall take the matter under submission.

The administrative law judge shall prepare a written proposed decision which will contain findings of fact, a determination of the issues presented, a citation of applicable policy and regulations, and an order.

The appeals bureau, on behalf of the secretary of the DHH, may adopt the proposed decision or may reject it based upon the record, or it may be remanded to the administrative law judge to take additional evidence. In the latter case, the administrative law judge thereafter shall submit a new proposed decision.

The decision shall be final and binding upon adoption on behalf of the secretary, subject only to judicial review by the courts. Copies of the decision shall be mailed to the nurse aide at his last known address and to any representative thereof.

Failure to Appear

If a nurse aide fails to appear at a hearing, a decision may be issued by the appeals bureau dismissing the hearing. A copy of the decision shall be mailed to each party.

Any dismissal may be rescinded upon order of the appeals bureau if the nurse aide makes written application within 10 calendar days after the mailing of the dismissal, and provides evidence of good cause for his failure to appear at the hearing.

Notification of Findings to the Registry

Only the state survey agency or attorney general's office can place the nurse aide's name and their adverse findings on the registry.

Record of the occurrence and hearing findings will remain on the registry for five years.

Registry

The Board of Examiners for Nursing Home Administrators has contracted with Department of Health and Hospitals to develop and maintain a registry for individuals who have successfully completed a nurse aide training and competency evaluation program or a competency evaluation program.

The following items will be maintained and retrievable from the registry:

1. identification of individuals who have successfully completed a nurse aide training and competency evaluation program;
2. identification of individuals who have successfully completed a competency evaluation program;
3. identification of individuals who have successfully completed a nurse aide re-training and competency evaluation program;
4. the following information which will be maintained on each individual: a) name; b) address; c) Social Security Number; d) phone number; e) place of employment; f) date of employment; g) date employment ceased; h) state certification number; and i) documentation of any investigation showing codes for specific findings of residents' abuse, neglect, and misappropriated property and an accurate summary of

maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

The Medicaid service described as "Skilled Nursing/Technology Dependent Children (SN/TDC)" services shall be entitled "Skilled Nursing/Technology Dependent Care (SN/TDC)" services. The age restriction previously imposed shall no longer apply. All other regulations, including facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies heretofore applicable to SN/TDC shall remain applicable.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Individual and Family Grant (IFG) Program. Emergency rulemaking is necessary because a disaster has been declared in certain areas of Louisiana and will be managed in accordance with the new regulations. Federal regulations as published in the *Federal Register* of Thursday, September 27, 1990, Vol. 55, No. 188, page 39520, mandate an October 1, 1990 implementation date. The new regulations increase the IFG Program grant amount.

EMERGENCY RULE

The maximum grant amount in the IFG Program has been changed to \$11,000. The increase is based on a rise in the Consumer Price Index for all urban consumers of 5.6 percent for the prior 12-month period. The information was published by the U.S. Department of Labor. Each year the IFG amount fluctuates based on the Consumer Price Index for the prior 12-month period. The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone will change to \$7,000 building and \$4,000 contents for a homeowner, and \$11,000 contents for renter.

May Nelson
Secretary

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend the language in the plan document of benefits relative to the definition of "retiree". This rule is effective April 18, 1991, and will remain

The Board of Trustees of the State Employees Group Benefits Program is also proposing this rule through a notice of intent in the May, 1991, issue of the *Louisiana Register* to provide for eligibility of persons who are participants in an optional retirement plan to participate in the State Employees Group Benefits Program, as follows:
Amend Article 1, Section I (G) as follows:
The term *retiree* as used herein shall mean an employee who was a covered employee, as defined by the terms of this plan document, immediately prior to the date of retirement; and

1. Upon retirement, immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan shall be responsible for certification of eligibility hereunder to the State Employees Group Benefits Program.

Tommy D. Teague
Acting Executive Director

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend its rules relative to the conditions for acceptance of school boards into the State Employees Group Benefits Program. This rule is effective April 18, 1991, and will remain in effect for 120 days. The Board of Trustees of the State Employees Group Benefits Program is also proposing this rule through a notice of intent in the May, 1991, issue of the *Louisiana Register* in order to eliminate the previously required notice a school board must give before enrolling in the State Employees Group Benefit Program, as follows:
RESOLUTION
WHEREAS, on October 17, 1979, the Board of Trustees of the State Employees Group Benefits Program adopted a resolution relative to the conditions for acceptance of new groups into the State Employees; and,
WHEREAS, this resolution was amended on November 7, 1979, and November 20, 1983; and
WHEREAS, it is now necessary to amend these rules and regulations to conform with the present practices of the board;

THESE, BE IT RESOLVED, that upon the effective date of the adoption of the rules and regulations enumerated in this resolution, the resolution of the board of trustees on October 17, 1979, as amended on November 7, 1979, and November 20, 1983, is hereby superseded and amended to read as follows:

Groups enrolling in the State Employees Group Benefits Program must submit the following information and agree to the following conditions. These groups must:

1. Complete an adoption instrument, which instrument must be received by the executive director prior to the mutually agreed upon effective date of coverage;
2. Submit a complete list of employees providing name, social security number, sex, date of birth, date of employment, dependency class, salary, and indication of prior coverage. One such list for active employees, and another for retired employees receiving retirement income under an approved state retirement program;
3. Provide a statement of experience on the attached form;
4. Provide a certified copy of the board resolution or authority to enter into negotiations for coverage;
5. Agree to pay the program any terminal reserves or refunds that might be available now or in the future from their present plan;
6. Acknowledge that before benefits become effective the enrollment of employees must be completed with at least 75 percent of such eligible employees. Enrolling groups must further acknowledge that should its participation level at any time following the initial enrollment fall below 50 percent of its eligible employees, the board may, in its sole discretion discontinue coverage for the group; and
7. Accept the whole plan of benefits, including the health and accident coverage and the full schedule of life insurance benefits. The board may, in its sole discretion, discontinue the coverage of those groups whose participation level falls below 50 percent of eligible employees.

In determining the participation level of employees and eligible dependents, the following classification of dependents shall not be included in calculating the participation level:

1. dependents who are covered by any other group type major medical coverage;
2. dependents of active or retired military personnel covered by military medical benefits;
3. dependents covered by Medicaid or Medicare or their successor programs; or
4. dependents whose coverage is declined based on religious convictions.

The board, for purposes of establishing rates and premiums, may group risks into one or more classifications. The rates and premiums adopted for each classification shall take into consideration the loss experience in the classification, as well as other relevant factors. If a school board elects to participate in the state group health and accident insurance program after participation in another group health and accident program, the premium rate applicable to teachers and other school board employees and former employees intended to be covered by the program shall be the greater of the premium rate based on the loss experience of the group under the prior plan or the premium rate based on the loss experience of the classification into which the group is entering and shall be for a period of no longer than one year. The

There shall be no pre-existing condition limitations on the group's employees who enroll for coverage during the open-enrollment period.

Tommy D. Teague
Acting Executive Director

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries

In accordance with the emergency provisions of R.S. 49:953 (B) and R.S. 49:967 of the Administrative Procedure Act, under the authority of R.S. 56:497 and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission, the secretary hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following rule:

The shrimp season in that portion of Louisiana's offshore waters seaward of the inside/outside shrimp line from Racoon Point in Terrebonne Parish including all of Calillon Bay to Freshwater Bayou in Vermillion Parish are open to shrimping effective 6 a.m., April 29, 1991.

The secretary has determined from trawl samples taken by department biologist that shrimp in that area average larger than 100 count.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:967 and R.S. 56:497, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

1. Set the 1991 spring inshore shrimp season to open as follows:
 - a. In Zone 1, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the Louisiana/Mississippi state line to South Pass of the Mississippi River at 6 a.m. on May 23, 1991; and
 - b. In Zone 2, that portion of Louisiana's inside waters, as described in R.S. 56:495, from South Pass of the Mississippi River to the western shore of Vermillion Bay and South-west Pass at Marsh Island at 6 a.m. on May 16, 1991; and
 - c. In Zone 3, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the western shore of Vermillion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line at 6 a.m. on May 30, 1991.

Rules

Jimmy Jenkins
Chairman

2. Set a two-day special white shrimp season in Calcasieu Lake and the Calcasieu Ship Channel to begin at 6 a.m. on Tuesday, May 7, 1991 and to last until 6 a.m. on Thursday, May 9, 1991.
The commission finds that shrimp in these zones are projected to be of legal size count and will meet the management criteria by the opening dates of the season.

RULE

Department of Agriculture and Forestry
Office of Forestry
Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 205. Indian Creek Recreation Area
§20501. Usage Fees

The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

- A. Entrance Fee \$ 3/car (six occupants)
 - B. Regular Camping \$11/day
 - C. Primitive Camping \$ 6/day
 - D. Group Pavilion Fee \$25/day
- AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 6:734 (December 1980), amended LR 11:178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17: (May 1991).

Paul D. Frey
State Forester

RULE

Department of Agriculture and Forestry
Office of Forestry
and
Department of Revenue and Taxation
Tax Commission
Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 201. Timber Stumpage
§20101. Stumpage Values

The Office of Forestry and Tax Commission, as required by R.S. 3:4343, adopted the following timber stump-

age values based on current average stumpage market values to be used for severance tax computations for 1991:
A. Pine Sawtimber \$184.29 per M bd. ft.
B. All Hardwoods \$ 92.72 per M bd. ft.
C. Pine Pulpwood \$ 18.86 per Cord
D. Hardwood Pulpwood \$ 5.74 per Cord
R.S. 56:1543.
HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 5:468 (December 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), amended LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17: (May 1991).

Paul D. Frey
State Forester
Mary K. Zerivigon, Chairman
Tax Commission

RULE

Department of Economic Development
Office of Financial Institutions

(Editor's Note: The following rule is republished to correct a codification error. This rule became effective in the January 20, 1991 issue of the Louisiana Register.)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Office of Financial Institutions hereby adopts a rule in accordance with Act 1068 of 1990 establishing that each credit union shall be subject to examination at least annually by the commissioner or his authorized deputy. The commissioner by this rule establishes the following schedule of fees for examinations to be assessed to credit unions regulated by the commissioner. These fees are effective January 20, 1991.

Title 10
BANKS AND SAVINGS AND LOANS
Part II. Credit Unions

Chapter 1. General Provisions
§101. Assessments

A. Fees and Charges
1. During 1991 and each year thereafter, all state chartered credit unions shall pay an annual operating fee, the exact amount of which shall be fixed from time to time by the commissioner. During 1990, credit unions shall continue to be charged and be liable to the Louisiana Office of Financial Institutions for the examination fees presently fixed by R.S. 6:646(B)(3) and (4).

2. Except as hereinafter provided, the annual operating fee set by the commissioner shall not exceed the fee calculated by the use of the following scale:

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:34 (January 1991), repromulgated LR 17: (May 1991).

A. Bridger Eglin
Commissioner

RULE

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

Under the authority of the Louisiana 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 has amended the Louisiana Air Quality Regulations, LAC 33:111.6103 (AQ30).

These amendments will establish the criteria and procedure for ensuring continuous emission monitors and to assure that the systems supporting them are operating properly. See *Federal Register* published March 30, 1983, 48 FR 13327, #62.

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or at the Office of the State Register, 900 Riverside North, Capitol Annex Building, Fifth Floor, Baton Rouge, LA, 70804.

Paul Templet
Secretary

RULE

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

(Editor's Note: The following Section of a Department of Environmental Quality Rule, as appeared in the *Louisiana Register*, Vol. 17, April, 1991, page 360, is being republished to correct a typographical error.

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

**Chapter 21. Control of Emission of Organic Compounds
Subchapter D—Cutback Paving Asphalt
§2127. Cutback Paving Asphalt**

C. Recordkeeping. The owner/operator of any operation involved with the manufacture, mixing, storage, use, or application of cutback paving asphalts and emulsified asphalts shall maintain records to verify compliance with this Section. The records will be maintained for at least two years and will include but not be limited to the following:

D. Exemptions

1. The administrative authority may approve the man-

a. when the assets are less than \$100,000, the fee is \$100;

b. when the assets are greater than \$100,000, but less than \$1,000,000, the fee is \$250;

c. when the assets are \$1,000,000, but less than \$3,000,000, the fee is \$1,000;

d. when the assets are \$3,000,000, but less than \$4,000,000, the fee is \$2,000;

e. when the assets are \$4,000,000, but less than \$6,000,000, the fee is \$3,000;

f. when the assets are \$6,000,000, but less than \$10,000,000, the fee is \$5,000;

g. when the assets are \$10,000,000, but less than \$18,000,000, the fee is \$7,500;

h. when the assets are \$18,000,000, but less than \$30,000,000, the fee is \$10,000;

i. when the assets are \$30,000,000, but less than \$40,000,000, the fee is \$12,000;

j. when the assets are \$40,000,000, but less than \$50,000,000, the fee is \$15,000;

k. when the assets are \$50,000,000, but less than \$60,000,000, the fee is \$18,000;

l. when the assets are \$60,000,000, but less than \$70,000,000, the fee is \$21,000;

m. when the assets are \$70,000,000, but less than \$80,000,000, the fee is \$24,000;

n. when the assets are \$80,000,000, but less than \$90,000,000, the fee is \$27,000;

o. when the assets are \$90,000,000, but less than \$100,000,000, the fee is \$30,000;

p. when the assets are \$100,000,000, the fee is \$30,000 plus \$5,000 for each ten million or fraction of ten million in excess of \$100,000,000.

3.a. Provided the fees assessed in Paragraphs 2.a - p above fail to cover all rating costs of the credit union section of the Office of Financial Institutions, the commissioner shall have the authority to assess a floating rate fee based upon the total assets of each credit union as of the June 30 reporting date. This may only be done upon first notifying each credit union of the commissioner's intent to assess the additional fees and giving each credit union at least 30 days from providing notice of the proposed action to allow each credit union an opportunity to file oral or written objections to this action proposed by the commissioner.

b. Furthermore, in the event that future monetary assistance is received from the National Credit Union Share Insurance Fund (NCUSIF) for regulatory services provided by this agency in regulating state-chartered credit unions, such compensation shall be utilized to reduce the operating costs that would normally be billed to the state-chartered credit unions.

4. The annual operating fee shall be assessed on all state-chartered credit unions on a quarterly basis as provided for in Paragraphs 2.a-p and 3 above. Such fees are to be assessed no later than the last day of each quarter to be based on the total assets as reported at the end of the semi-annual reporting dates of December 31 and June 30.

5. Any credit union failing to pay such operating fee by the last day of the month following each quarterly assessment, may be charged a penalty not to exceed \$50 for each day said fee remains unpaid.

AUTHORITY NOTE: Promulgated in accordance with Act 1068 of 1990.

that would be constructed in an area designated as attainment or unclassifiable as specified in LAC 33:III.509.B

“Baseline Area.”

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 13:741 (December 1987), amended LR 17: (May 1991).

Paul Temple
Secretary

RULE

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

Under the authority of the Louisiana 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 has amended the Louisiana Air Quality Regulations, LAC 33:III.3153 (AQ17).

These regulations define the standards for operation and emissions of steam generating facilities used by industrial, commercial, and institutional groups. See *Federal Register* published December 16, 1987, 52 FR 47842, #241. Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or at the Office of the State Registrar, 900 Riverside North, Capitol Annex Building, Fifth Floor, Baton Rouge, LA, 70804.

Paul Temple
Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Under the authority of the Louisiana 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 has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Subpart 1 (HW27). These regulations will revise existing state regulations to maintain consistency with current federal regulations. These regulations contain provisions for delay of closure period for hazardous waste management facilities, mining waste exclusion, and testing and monitoring activities. See *Federal Registers* published August 14, 1989, 54 FR 33376, #155; September 1, 1989, 54 FR 36592, #169; September 29, 1989, 54 FR 40260, #188; and January 4, 1989, 54 FR 246, #02.

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth

ing asphalt where:

a. long life (greater than one month) stockpile storage is necessary;

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16:16 (February 1990), amended by the Office of Air Quality and Radiation Protection in LR 17:360 (April 1991), repromulgated LR 17:

J. Terry Ryder
Assistant Secretary

RULE

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

Under the authority of the Louisiana 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 has amended the Louisiana Air Quality Regulations, LAC 33:III.Chapter 5 (AQ37).

The regulations will correct citations in the LAC that were in use prior to the recodification of the Revised Statutes. These changes will also correct references used in the LAC and will clarify the meaning of certain text.

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

**Chapter 5. Permit Procedures
§501. Authority**

Pursuant to the provisions of R.S. 30:2054 concerning the administrative authority's power to develop facts consistent with the purposes of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

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 13:741 (December 1987), amended LR 17: (May 1991).

§509. Prevention of Significant Deterioration

E. Ambient Air Ceilings. No concentration of a pollutant shall exceed:
1. The concentration permitted under the secondary ambient air quality standard (Table 1a-Chapter 7); or

I. Review of Major Stationary Sources and Major Modifications Applicability and Exemptions.

3. The requirements of LAC 33:III.509.J through R apply only to any major stationary source or major modification

Floor, Baton Rouge, LA 70810 or at the Office of the State Register, 900 Riverside North, Capitol Annex Building, Fifth Floor, Baton Rouge, LA, 70804.

Paul Templet
Secretary

RULE

Office of the Governor
Office of Women's Services

The Office of Women's Services amends the following guidelines for allocation of marriage license surcharge fees from the Programs for Victims of Family Violence Fund.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 17. Women's Services §1737. Guidelines for Application of Additional Marriage License Fees

E. Application Process

1. Notification of the availability of funds for family violence programs for each fiscal year will be given through the Office of Women's Services.
2. Application packets will be sent to all existing family violence program providers and all persons/organizations who have made past inquiries regarding funding. Interested potential applicants may request application packets from the Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.
3. The application packet will be mailed within five working days of receipt of request.
4. The applications must be received by the Office of Women's Services by June 1 of each year.
5. All applications will be evaluated and prioritized according to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.
6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.
7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121.1(1) R.S. 46:2126, R.S. 45:2127 and R.S. 46:2128.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Women's Services, LR 13:238 (April 1987), amended LR 17: (May 1991).

Glenda Parks
Executive Director

RULE

Department of Health and Hospitals
Board of Medical Examiners

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6), and R.S. 37:3351-3361, and in accordance with applicable provisions of the Administrative Procedure Act, has adopted amendments to the existing rules governing licensure and temporary licenses for respiratory therapists and respiratory therapy technicians. The rules, as amended, are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 2. Licensure and Certification

Chapter 25. Licensure Qualification, Temporary License §2507. Requirements for Licensure of Respiratory Therapist

A. To be eligible and qualified to obtain a respiratory therapist license, an applicant shall:

4. possess current credentials as a registered respiratory therapist granted by the National Board of Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination.

§2509. Requirements for Licensure of Respiratory Therapist Technician

- A. To be eligible and qualified to obtain a respiratory therapy technician license, an applicant shall:
 4. possess at least one of the following credentials:
 - a. current credentials as a certified respiratory therapy technician granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), LR 15:271 (April 1989), LR 17: (May 1991).

With respect to any written examination administered by the board the successful passage of which is a condition to any license or permit issued under this Chapter, an applicant having failed to obtain a passing score upon taking any such examination four or more times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

demonstrably ineligible for licensure under §2506 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

D. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapy technician, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the American Medical Association, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 15:271 (April 1989), LR 17: (May 1991).

Delmar Rorison
Executive Director

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and other provisions of the Louisiana Medical Practice Act, and in accordance with applicable provisions of the Administrative Procedure Act, has adopted an amendment to its existing rules governing initiation, investigation and adjudication of administrative complaints providing cause under law for the suspension, revocation or other disciplinary action against licenses, permits, certifications and registrations issued by the board (LAC 46:XLV, Subpart V, Chapter 99). The rule, as amended, is set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLV. Medical Profession
Subpart 5. Rules of Procedure**

Chapter 99. Adjudication

§9903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the board. The complaint shall be signed by the investigating officer appointed and designated by the board with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 17: (May 1991).

Delmar Rorison
Executive Director

§2547. Temporary Licenses and Permits

A. The board may issue an 18-month temporary license as a respiratory therapist or respiratory therapy technician under the following terms and conditions:

- 1. To be eligible for an 18-month temporary license as a respiratory therapist or respiratory therapy technician, an applicant shall:
 - a. be qualified for licensure under §2506.A or §2509.A, save for having taken and passed a required licensing examination;
 - b. have successfully completed a respiratory care educational program approved by the American Medical Association; and
 - c. have taken, or made application to take, the required written examination and be awaiting the administration or and/or reporting of scores thereon.

- 2. A temporary license issued under this Subsection shall be effective for not more than 18 months and shall, in any event, expire and become null and void on the earlier of:
 - a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or
 - b. the first date of the examination if the applicant fails to appear for or complete the examination.

- 3. Upon expiration of a temporary license issued under this Subsection by virtue of the applicant's failure to achieve a passing score on the licensing examination, the temporary license may be renewed by the board for one additional period not to exceed 18 months. A temporary license so renewed shall expire and become null and void at the expiration of one year from the date of renewal if the temporary license holder has not, on or prior to such date applied to re-take the licensing examination. Any such renewed temporary license shall also expire and become null and void on the earlier of:
 - a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or
 - b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board shall issue a temporary license as a respiratory therapy technician, effective for a period not to exceed one year, to an applicant who, on and as of June 26, 1989, held a temporary license issued by the board pursuant to R.S. 37:3357(E)(2) and who, on and as of such date and continuously thereafter to and including the date of application, was enrolled in a respiratory therapy technician educational program approved by the American Medical Association. A temporary license issued under this Subsection may be renewed once, for a period not to exceed one year, provided that at the time of expiration of the initial temporary license, the temporary license holder continues to be enrolled in such an approved educational program. An initial or renewed temporary license issued under this Subsection shall in any event expire and become null and void on any date that the holder concludes or terminates his or her enrollment in such an approved educational program.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care pursuant to written examination administered by the NBRC, and who is not otherwise

Department of Public Safety and Corrections
Corrections Services
RULE

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby adopts rules and regulations relative to the medical parole for offenders and the policy for implementation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

§310. Medical Parole

- A. Purpose
The purpose of this regulation is to establish procedures for parole consideration of offenders determined to be permanently incapacitated or terminally ill.
- B. Responsibility
The wardens, medical directors and hospital administrators, in cooperation with the Parole Board, shall be responsible for ensuring compliance with this regulation.
- C. General
1. Any person sentenced to the custody of the Department of Public Safety and Corrections, upon determination that he is permanently incapacitated or terminally ill as defined below, may be considered for medical parole by the Parole Board. Medical parole consideration shall be in addition to any other parole for which an offender may be eligible, but shall not be available to any offender who is awaiting execution or has a contagious disease.
- 2. The authority to grant medical parole shall rest solely with the Parole Board, and this board may establish additional conditions of parole in accordance with the provisions of Act 563 of the 1990 Legislative Session.
- 3. In considering an offender for medical parole, the Parole Board may require that the department produce additional medical evidence or conduct additional medical examinations.
- 4. The parole term of an offender released on medical parole shall be for the remainder of the offender's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the Parole Board at the time of release.
- 5. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this regulation, the Parole Board may order that the offender be returned to the custody of the department to await a hearing to determine whether his parole shall be revoked. Any offender whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the offender's medical parole is revoked due to an improvement in his condition, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole may also be revoked for violation of any condition of parole established by the Parole Board.

D. Definitions

- 1. *Permanently Incapacitated Offender* - Any offender who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.
- 2. *Terminally Ill Offender* - Any offender who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.
- 3. *Danger to Himself*
An officer whose behavior supports a reasonable expectation that he will inflict physical or severe emotional harm upon his own person.
- 4. *Danger to Society*
An offender whose behavior supports a reasonable expectation that he will inflict physical harm upon another person.

E. Procedures

- 1. A recommendation for a medical parole shall originate with the unit medical director. If the unit medical director believes an offender meets medical parole criteria according to D.(1) or (2), he will forward a completed Residence Agreement form, a completed Recommendation for Medical Parole form, and any other supporting documentation to the warden for comments. The warden's comments should reflect whether or not, in his opinion, the offender will constitute a security risk to the public should his medical parole be granted. Specifically, these comments should address the offender's adjustment while incarcerated and the effect his medical condition has had upon his conduct with staff and other offenders, as well as his overall behavior. The warden will then promptly forward these comments to the medical consultant of the Office of Adult Services.
- 2. If the medical consultant concurs with the unit medical director, the case will be sent to the Parole Board for consideration for medical parole.
- 3. If, after the medical consultant has reviewed the medical records, the medical consultant and the medical director at the institution do not concur, the medical consultant shall conduct a physical examination of the offender. If, after a physical examination of the offender, the medical consultant still does not concur with the recommendations of the medical director at the institution to provide the third opinion, the medical director at the institution shall ask for a third opinion. The secretary or his designee shall appoint a medical director at the institution in which the offender is incarcerated shall, nevertheless, forward the completed Recommendation for Medical Parole form to the Parole Board for their records.
- 4. If at any later date the medical director at the institution believes the offender's medical condition would warrant medical parole consideration, he/she may again submit the case to the medical consultant.
- F. The effective date of this regulation is May 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.20, as amended by Act 563 of the 1990 Legisla-

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17: (May 1991).

Bruce N. Lynn
Secretary

RULE

**Department of Public Safety
Office of State Police**

The Department of Public Safety, Office of State Police in accordance with R.S. 36:408, R.S. 40:1485.4, R.S. 33:4861.17, and R.S. 49:950 et seq., hereby adopts LAC 55:1.1901 et seq., pertaining to technical and administrative requirements for electronic video bingo machine distributors and manufacturers.

Copies of these rules may be obtained in their entirety by contacting the Louisiana State Police, Charitable Gaming Division, 265 South Foster Drive, Baton Rouge, LA 70806, or by contacting the Office of the State Register, 900 Riverside North, Room 512, Baton Rouge, LA 70804.

Marlin Flores
Deputy Secretary

RULE

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services, proposes to adopt the following rule in the Title IV-E Adoption Subsidy Program as it relates to the use of a means test to determine the amount of the monthly maintenance payment.

This rule is mandated as a result of a Policy Interpretation, dated October 2, 1990, from the U. S. Department of Health and Human Services, Administration for Children, Youth and Families, which clarified that the use of income guidelines is not appropriate to the process of establishing the amount of the adoption subsidy monthly maintenance. In accordance with the intent of Congress as noted in the Congressional Record—Senate §11704, August 3, 1979, a "means test" should not be used to determine the amount of the monthly maintenance that is received for a child covered by the Title IV-E Adoption Subsidy Program. §473 (a) (1), (2), and (3) of the Social Security Act indicates that eligibility for adoption assistance is related to the needs of the child and not the parent.

Therefore, the Office of Community Services is rescinding the rule, promulgated in the Louisiana Register dated February 20, 1988, that imposed a sliding scale to determine the amount of the monthly maintenance for Title IV-E Adoption Subsidy eligible children.

Regulations for Determining Amount of Monthly Maintenance for Title IV-E Adoption Subsidy Child(ren)

The amount of the monthly maintenance for a Title IV-E Adoption Subsidy eligible child shall no longer be subject to the sliding scale. The amount of the monthly maintenance shall be a negotiated rate based on the needs of the child and shall not exceed 80 percent of the foster care board rate.

May Nelson
Secretary

RULE

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services, has adopted changes in the policy for acceptance of referrals of adults who may be in need of protective services.

The Department of Social Services, Office of Community Services will only accept referrals of adults age 18 and above as defined in R.S. 14:403.2, B.(2) for protective services if the adult is in an immediate, life threatening situation in his or a relative's home and there is no responsible person to care for the adult. Immediate, life threatening means in danger of death in 24 hours.

The Office of Community Services will investigate referrals of the above situations and action will be limited to reporting valid cases to the district attorney as per R.S. 14:403.2, E.(6) and referring these cases to appropriate community services, if available.

Reporters of cases of suspected abuse and/or neglect of persons in hospitals and other facilities shall be instructed to contact local law enforcement for investigation and referral to the district attorney, if necessary.

**Department of State
Office of Uniform Commercial Code**

RULE

In accordance with the notice of intent published in the Louisiana Register, Volume 17, Number 1, page 103 on January 20, 1991, the Department of State hereby adopts the following rules relative to the implementation and administration of the Central Registry of Farm Product Filings.

**Title 10
BANKS AND SAVINGS AND LOANS
Part V. Uniform Commercial Code**

**Chapter 3. Central Registry
§301. Definitions**

Buyer in the ordinary course of business means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in

the business of selling farm products.

Central registry means the master index maintained by the secretary reflecting information contained in all effective financing statements, and statements evidencing assignments, amendments, continuations, and terminations thereof.

Commission merchant means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

Creditor means any person who holds a security interest in a farm product.

Crop year means:

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;
2. for animals, the calendar year in which they are born or acquired; or
3. for poultry or eggs, the calendar year in which they are sold or to be sold.

Cumulative addendum means a document listing all information transmitted by the filing officers to the central registry as of the date of issuance that was not included on the most recent master list.

Debtor means any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

Effective financing statement means a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E). An effective financing statement may also contain additional information sufficient to constitute a financing statement or other statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes.

EFF means an effective financing statement.

Encumbrance certificate means a written document which lists all effective financing statements affecting a person which have been filed with the filing officer and containing the information required by this Chapter to be transmitted to the secretary for inclusion in the central registry on the date and at the time the certificate is issued and which complies with the provisions of R.S. 3:3654(F).

Farm product means an agricultural commodity such as wheat, corn, soybeans or a species of livestock, such as cattle, hogs, sheep, horses or poultry, used or produced in farming operations or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-clip, maple syrup, milk and eggs, that is in the possession of a person engaged in farming operations.

Filing means the receipt of an EFS, amendment, assignment, continuation, partial release or termination of an EFS by the filing officer stamped with the date and time received and assigned a file number. NOTE: R.S. 3:3656(D) provides that an EFS is effective against third parties at the time it is filed with the filing officer and before it is included in the central registry. This may be in conflict with 7 U.S.C. 1631(c)(2)(E) and (F). Until this is clarified by court decision, parties relying on an EFS before it is included in the central registry do so at their own risk.

Filing officer means the clerk of court of any parish, or in the case of Orleans Parish, the recorder of mortgages.

Knows or Knowledge means actual knowledge.

Master List means a document listing all effective financing statements, amendments, assignments and continuations of effective financing statements which:

§303. Administration

A. The central registry will be administered by the secretary of state and operated by the uniform commercial code division of the office. Any notices, petitions, documents or other correspondence shall be addressed to the Louisiana Secretary of State, Uniform Commercial Code Division, Central Registry, Box 94125, Baton Rouge, LA 70804-9125.

B. Filings and encumbrance certificates will be administered by the filing officers as discussed in §§307, 309 and 317 herein. Addresses and phone numbers for the 64 filing officers are set forth in §325 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, 3:3655, 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

1. is organized according to farm products; and

2. is arranged within each such product:

- a. in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors;
- b. in numerical order according to the social security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors;
- c. geographically by parish; and
- d. by crop year.

Office means the office of the secretary of state of the state of Louisiana.

Person means any individual, partnership, corporation, trust or any other business entity.

Portion means portion of the master list distributed to registrants regularly that cover the farm products in which such registrant has indicated an interest.

Registrant means any person who has made application with the office of the secretary of state, has paid the required registration fee and received written notice that his application has been accepted.

Regular business day means any day that the office of the secretary of state and filing officers are open for routine business.

Secretary means the secretary of state of the state of Louisiana, or his duly authorized agent.

Secured party means a creditor with a security interest in farm products.

Security device is a written instrument that establishes a creditor's security interest in farm products or any pledge or privilege described in R.S. 9:4521, whether or not evidenced by a written instrument.

Security interest means an interest in or encumbrance upon farm products that secures payment or performance of an obligation.

Selling agent means a person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§305. Formal Requisites of an Effective Financing Statement

- 1. be an original or reproduced copy thereof; and
- 2. be signed by the debtor and secured party;
- 3. contain:
 - a. the name and address of the secured party;
 - b. the name and address of each person subjecting the farm product to the security interest;
 - 1. in the case of a natural person, the surname (last name or family name) must appear first;
 - 2. in the case of a corporation or other entity not a natural person, the name must appear with the first word or character not an article or punctuation mark;
 - c. the social security number or, if other than a natural person, the IRS taxpayer identification number of each such person, the IRS taxpayer identification number of the farm product, the crop year unless every crop of the farm product in question, for the duration of the EFS, is to be subject to the particular security interest;
 - e. each farm product name and corresponding product code as designated by the secretary of state (see §319 herein);
 - f. the dollar amount of the security interest;
 - g. a reasonable description of the property, including each parish code where the farm product is produced or to be produced; and
 - h. any further details of the farm product subject to the security interest if needed to distinguish it from other such products owned by the same person but not subject to the particular security interest.
- B. The top portion of the approved EFS document (UCC-1F) also contains space to set forth information required under Louisiana law for filing financing statements pursuant to Article 9 of the Uniform Commercial Code (R.S. 10:9-401, et seq.) Filing parties are encouraged to utilize the EFS for perfection requirements under the UCC, in order to eliminate duplicate filing requirements and to promote filing efficiency.

C. The UCC-1F or UCC-3F amendment must provide all information needed for preparation of the master list of farm products as set forth in §305A(3) above. In the event the farm product description provided by the secured party contains a discrepancy between the product name and product code, that particular item will be excluded from the master list. Notice of such exclusion shall be provided in the written confirmation sent by the secretary of state in accordance with §307(i) herein.

D. The secretary of state shall not be responsible for any effective financing statement (or particular farm product information contained therein) not revealed in the master list or cumulative addendum thereto, or oral or written confirmation of information furnished by the filing officers pursuant to §315 herein, which was not filed in accordance with these regulations and thereby not appearing in the central registry of farm product information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, 3:3654 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§307. Filing Procedures

- A. The proper place to file in order to perfect a security interest in farm products is with the clerk of court of any parish, or in the case of Orleans Parish, the recorder of mortgages thereof ("the filing officer").
- B. Security devices affecting farm products must be accompanied by a properly completed effective financing statement ("EFS") or the filing information will not be reflected in the master list or portions thereof, cumulative addenda, or encumbrance certificates issued in accordance with §§315 and 317 herein.
- C. All effective financing statements must be submitted on Form UCC-1F as prescribed by the secretary.
- D. All amendments, partial releases, assignments, continuations and terminations of an EFS must be submitted on Form UCC-3F, as prescribed by the secretary.
- E. If the space provided on the UCC-1F or UCC-3F is inadequate, the additional data may be provided on Form UCC-2F and attached to the UCC-1F or UCC-3F at no additional charge to the filing party. It is also permissible to submit the additional data on 8 1/2" by 11" sheets of paper which are each identified at the top with the first debtor's name and taxpayer identification number.
- F. Approved forms are not stocked or dispensed by filing officers or the secretary of state. A list of approved vendors may be obtained by contacting the secretary at (504) 922-1314.
- G. All effective financing statements, amendments, partial releases, assignments or continuations of effective financing statements must be accompanied by the required fee unless approval for billing has been granted by the filing officer.
- H. If the person filing an EFS, amendment, partial release, continuation or termination furnishes the filing officer a copy thereof, the filing officer shall note upon the copy the file number and date and hour thereof, and send the copy by mail to such person. If the copy is to be returned to another party or another address, indicate the same in the appropriate box on the UCC-1F or UCC-3F.
- I. The filing officer shall transmit the information contained in the effective financing statement or other statement, together with the date and time of filing and file number thereof, no later than 4:30 p.m. on the second business day following filing, to the secretary of state for inclusion in the central registry.
- J. The secretary of state shall, within two business days following receipt of such information from the filing officer, send written notice to the secured party (and such other interested person designated on the form) confirming such receipt and reflecting all information received and included in the central registry.
- K. Any questions regarding the filing information reflected in the written notice of acknowledgment from the secretary of state should first be directed to the filing officer which accepted and recorded the filing.
- 1. Data entry errors will be corrected by the filing officers at no charge to the secured party. The filing officer shall make each correction and transmit the same to the secretary of state for inclusion in the central registry, together with the date and time such correction was made, no later than 4:30 p.m. on the second business day after receiving written request for the correction. Upon such correction, the secretary of state will send written notice to the secured party confirming-

ing receipt of the same.

2. Errors committed by the secured party in preparing the financing statement must be corrected by filing an amendment or by filing a new effective financing statement. L. Any questions regarding receipt of the written notice of acknowledgment from the secretary of state should be directed to the secretary of state's UCC Division at (504) 922-1314.

M. The secretary is not authorized to accept security devices affecting farm products, or the accompanying EFS. Any filings directed erroneously to the secretary shall be returned to the secured party with directions as to the filing procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§309. Procedures for Filing Amendments, Assignments, Partial Releases, Continuances and Terminations of an EFS

A. Any statement of continuation, amendment, release, continuation, termination, or other similar statement pertaining to an effective financing statement shall identify the original file number and shall be filed with the same filing officer with whom the effective financing statement was originally filed.

B. Any amendment resulting in a material change to a security device shall be filed in writing and accompanied by a related EFS (Form UCC-3F) within three months of the amendment.

1. A material change is whatever change would render the master list entry no longer informative as to what is subject to the security interest in question.

2. The requirement to amend arises when the information already made available no longer serves the purpose and other information is necessary to do so.

3. The amendment must be signed by both the secured party and the person subjecting the farm product(s) to the security interest.

C. All assignments of security devices which are accompanied by a related EFS shall become effective at time and date of filing with the filing officer.

D. All continuations of security devices which are accompanied by a related EFS must be filed with the filing officer within six months before the expiration of the initial five-year period and must be signed by both the secured party and the person subjecting the farm product to the security interest.

E. Each person who filed an effective financing statement within 10 calendar days after the date the person who has granted or who is affected by the security device requests in writing, cancellation of the security device, provided the effective financing statement and security interest thereunder are then no longer in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§311. Registrations

A. Any person may register with the central registry to receive the master list or a portion thereof. Applications for registration shall consist of two types: initial registrations and renewal registrations.

1. An initial registration application may be filed at any time of the year. Within five working days of receipt of a properly completed registration form and required fee, the secretary shall send the applicant written notice of acceptance and the most recent master list and cumulative addendum or portion thereof for which the applicant has indicated an interest. Applicants are not considered registered until they receive written notice of acceptance from the secretary.

2. A renewal registration application shall be filed by December 15 of each year. Failure to make application for renewal by December 15 shall result in termination of service by the central registry and loss of registrant status.

B. Registration application forms, as prescribed by the secretary, will be provided by the central registry upon request. The form must be completed in its entirety and submitted with the required fee.

C. The central registry will notify each registrant that a renewal application is due and provide the renewal application to the registrant by October 10 of each year.

D. Failure to register with the secretary subjects buyers, commission merchants, sellers, and others to a risk of additional liability to secured parties. Nonregistrants are encouraged to submit written requests for information to filing officers pursuant to §315.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§313. Master List

A. The secretary shall compile all information transmitted by the filing officers to the central registry into a master list. The master list or portions thereof will be distributed to each registrant based on the farm products and parishes for which the registrant has indicated an interest.

B. The master list will be compiled on the first regular business day of each quarter, and distributed within five regular business days. Each master list shall contain all properly submitted filing information transmitted prior to close of business on the last regular business day of the previous quarter. Cumulative addenda shall be compiled on the first and 15th day of each month and distributed within three regular business days. The central registry will not distribute cumulative addenda on the first of each month in which there is a distribution of a master list.

C. The office shall allow interested parties to obtain direct access to the computerized information in the central registry. Method of access, terms, costs and conditions will be stipulated by contract between the office and the interested party. The cost of direct access to the interested party will be limited to the actual cost to the central registry.

D. Registrants shall be deemed to have received any master list or cumulative addendum distributed by the central registry on the fifth day following the date of mailing to the intended recipient or the date of actual delivery, whichever occurs first. The central registry shall maintain accurate records so that such dates can be readily determined.

§319. Farm Products List and Codes

A. Louisiana shall be deemed to be a state that has established a central registry as to all farm products produced in Louisiana. Notwithstanding the foregoing, only those farm products which have been assigned a collateral product code and approved by the secretary as falling within the definition of a "farm product" pursuant to the Food Security Act of 1985 and regulations issued thereunder shall be deemed acceptable for inclusion in the master list or portions thereof.

B. Persons desiring the most current listing of all approved farm products which have been assigned a corresponding collateral code should contact the secretary at (504) 922-1314.

C. In the event a secured party has taken a security interest in a farm product not specifically assigned a product code by the secretary, the following steps must be taken before the filing may be properly submitted to the filing officer for indexing and inclusion in the master list:

1. Contact the UCC Division/Central Registry at (504) 922-1314 to submit a request for a new farm product name and corresponding collateral product code to be assigned.
2. Generic categories of farm products, such as "Fish" or "Greens" are impermissible under the Federal Food Security Act. Requests for approval of categories deemed generic will be disallowed by the secretary and shall not be accepted for inclusion in the master list.
3. Farm Products deemed acceptable by the secretary shall be added to the list of published farm products and assigned a corresponding collateral code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§321. Schedules of Fees For Filing and Encumbrance Certificates

A. In accordance with R.S. 3:3657, the following fees shall be assessed by the filing officers for filing, recording and cancelling effective financing statements:

UCC-1F	EFS Farm Product Notice Only\$20*
	UCC and EFS Farm Product Notice\$35*
	* Includes prepaid termination fee, indexing of all debtor names, and attachments.	
UCC-3F	Amendment\$20*
	Assignment (Full and Partial)\$20*
	Continuation\$20*
	Partial Release\$20*
	* Includes indexing of all debtor names and attachments	

B. The fee for the issuance of each encumbrance certificate shall be \$15.

C. Registration (Initial and Renewal) for the master list of farm product encumbrances shall be assessed each calendar year and are calculated as follows:

	1 - 10 parishes	\$ 40
	11 - 30 parishes	\$ 80
	31 - 45 parishes	\$125
	46 - 64 parishes	\$175
		\$325
		\$500

FARM PRODUCTS

1 - 3

4 - 7

OVER 7

E. Registrants notifying the central registry of non-receipt will be provided a new list within five regular business days of receipt of the notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§315. Requests for Information From Non-Registrants

A. Upon written request submitted on the form approved by the secretary, filing officers shall furnish oral confirmation to any person of the existence of an EFS filed with a filing officer and transmitted to the central registry. The request shall contain:

1. the name, address, telephone number (and fax number, if available) of the person making the request; and
2. the name, address, parish of residence, and social security number or federal tax identification number of the person who is the subject of the request.

B. Oral confirmation will be provided no later than the regular business day following the day on which the request is received, at or before the time of day when it was received by the filing officer.

C. If the requesting party cannot be reached at the stated telephone number on the next regular business day, the filing officer shall attempt to reach the party on the following regular business day. If at the end of that time the requesting party has not been reached, the filing officer shall be deemed to have fulfilled his obligation to provide oral confirmation.

D. All written requests and responses will be recorded and will be kept on file by each filing officer receiving such requests.

E. All oral confirmations will be followed by written confirmation in the form of an encumbrance certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§317. Encumbrance Certificates

Encumbrance certificates may be requested from any filing officer. The request must be in writing. Each request shall be subject to the following provisions:

1. The request shall contain the name and address of the person making the request.
2. The request shall contain the complete name, address, and parish of residence of the person who is the subject to the request.
3. The request may contain the nickname, initials, or other appellation by which the person who is the subject of the request is sometimes or commonly known.
4. The request shall contain the social security number or federal tax identification number of the person who is the subject of the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§323. Transition Rules

A. All effective financing statements and written security devices, as well as assignments, releases, amendments, and extensions thereof, entered into and filed with the Department of Agriculture and Forestry prior to January 1, 1991, shall remain in full force and effect.

B. Original copies of all effective financing statements and other statements, and the computerized records maintained by the Department of Agriculture and Forestry's Central Registry of Farm Product Filings shall be transferred to the secretary effective January 1, 1991.

1. Persons desiring copies of filings originally submitted to the Department of Agriculture should contact the UCC Division/Central Registry for assistance at (504) 922-1314.

2. Requests for copies of documents filed on or after January 1, 1991 must be directed to the parish filing officer with whom the filing was originally made.

C. Encumbrance certificates prepared by the filing officers on and after January 1, 1991 shall reflect financing information relating to effective financing statements and other statements originally filed with the Department of Agriculture and Forestry and transferred to the secretary.

D. Subsequent filings (amendments, partial releases, assignments, continuations or terminations) relating to effective financing statements and written security devices originally filed with the Department of Agriculture and Forestry shall be accomplished by filing an approved form UCC-3F with any parish filing officer which conforms to the following requirements:

1. The original file number assigned by the Department of Agriculture and Forestry, as well as the date and time of filing, must be identified.

2. The name(s), address(es) and taxpayer identification numbers of each debtor, and the name and address of the secured party appearing on the original effective financing statement must be identified.

3. The uniform fee for filing a UCC-3F must accompany the subsequent filing unless approval for billing has been granted by the filing officer.

Exception: Filing officers will file and record UCC-3F termination statements at no charge to the filing party.

4. Once a UCC-3F filing relating to an original CR-1 has been submitted to a parish filing officer pursuant to this Section, the filing party must submit all subsequent filings relating to that original CR-1 in that parish.

E. The completion of the master list shall be as follows:

1. The master list or portions thereof scheduled to be compiled for the quarter beginning January 1, 1991 shall be prepared and distributed by the Department of Agriculture and Forestry, in accordance with the registration application on file for each participant for the 1990 calendar year.

2. The secretary of state shall compile and distribute its initial master list or portions thereof within five regular business days of January 15, 1991, in accordance with registration applications submitted to the secretary on or after October 15, 1990. Thereafter, cumulative addenda thereto shall be compiled on the first and 15th of each month until the next regularly scheduled master list to be compiled on April 1, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

§325. Filing Officers

The names and addresses of the 64 filing officers for the state of Louisiana can be obtained from the Department of State, Office of Uniform Commercial Code/Central Registry at 1-800-247-5935.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

Secretary

W. Fox McKeithen

RULE

Department of State
Office of Uniform Commercial Code

In accordance with the notice of intent published in the Louisiana Register, Volume 17, Number 1, page 108 on January 20, 1991, the Department of State, Office of the Uniform Commercial Code, amends its existing rules by adding the following provisions governing filings affecting transmitting utility debtors and IRS tax liens.

Title 10

BANKS AND SAVINGS AND LOANS Part V. Uniform Commercial Code

Chapter 1. Secured Transactions §107. Forms To Be Used in Filing

A - H.....

1. Filings affecting "transmitting utility" debtors, as defined in R.S. 10:9.403(8), shall not be treated as effective until terminated unless the filing is presented on the revised form UCC-1 approved by the secretary of state effective December 1, 1990, which specifically identifies the status of the debtor by signifying the same in Item Number 8B on the form. Persons submitting nonstandard filings (security agreements, mortgages, deeds of trust, or other instruments) affecting transmitting utility debtors must attach a properly completed revised form UCC-1 to the filing in order to have the filing considered effective until terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:73 (January 1991); amended LR 17: (May 1991).

§109. Presentation of Filing

A - D.....

E. The secretary of state shall, within two business days following receipt of such information from the filing officer, send written notice confirming such receipt and reflecting all information received and included in the master index, to the secured party of record and such other requesting per-

B. The fee allocable to the secretary of state for each IRS Federal Tax Lien filed with the parish filing officers shall be \$7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:230(C).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

W. Fox McKeithen
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Editor's Note: The following Section of a Wildlife and Fisheries Department rule, as appeared in the *Louisiana Register*, Volume 17, March, 1991, page 277, is being republished to correct a typographical error in the historical notes.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter I. Freshwater Sport and Commercial Fishing

§ 149. Black Bass Regulations-Daily Take and Size Limits

The Louisiana Wildlife and Fisheries Commission hereby establishes a statewide daily take (creel limit) of eight fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

In addition, the commission establishes special size and daily take regulations for black bass on the following waterbodies:

Concordia Lake (Concordia Parish) and False River (Pointe Coupee Parish):

Size Limit: 15 inch - 19 inch slot
Daily Take: 8 fish - of which no more than 2 fish may exceed 19 inches maximum total length.*

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take
A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Caney Creek Lake (Jackson Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

Size Limit: 14 - 17 inch slot
Daily Take: 8 fish - of which no more than 4 fish may exceed 17 inches maximum total length.

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take
A 14 - 17 inch slot means that it is illegal to keep or possess a

son as designated on the financing statement. If the debtor was specifically identified as a transmitting utility on the financing statement in accordance with §107 herein, such written notice shall be sent in duplicate and by registered mail, return receipt requested, to the secured party of record and such other requesting party designated on the financing statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:73 (January 1991), amended LR 17: (May 1991).

§ 115. Duration

A. With the exception of transmitting utility filings presented in the format required by §107 herein, a financing statement is effective for a period of five years from the date of filing. Transmitting utility filings properly presented for filing are effective until a termination statement is filed with the filing officer with whom the financing statement was originally filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:75 (January 1991), amended LR 17: (May 1991).

§ 131. Schedule of Fees For Filing and Information Requests (Certificates)

UCC-1.....
* Financing Statement (Transmitting Utility) \$200
AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:77 (January 1991), amended LR 17: (May 1991).

Chapter 2. Internal Revenue Service Tax Liens

§ 201. Place of Filing

The proper place to file notices of federal tax liens affecting movable property (corporeal and incorporeal) is with the clerk of court of any parish, or, in the case of Orleans Parish, with the Recorder of Mortgages thereof (the "filing officer").

AUTHORITY NOTE: Promulgated in accordance with R.S. 52:52(C), and 10:9-401, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§ 203. Forms To Be Used in Filing

The document entitled "Notice of Federal Tax Lien Under Internal Revenues Laws" utilized nationwide by the IRS shall be accepted in lieu of the standard form UCC-1 financing statement by all filing officers. Nonstandard form penalties shall not be applicable to filings presented by the IRS pursuant to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:230(C).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: (May 1991).

§ 205. Filing Fees

A. The uniform filing fee to be collected by each filing officer includes prepayment of the termination fee, as well as the indexing of all debtor names appearing on the lien submitted by the IRS.

black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive. This rule becomes effective April 1, 1991. * Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (c), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17: (May 1991).

James H. Jenkins
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Livestock Sanitary Board advises its intent to amend and/or add to the regulations of the board:

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 17. Livestock Sanitary Board

§ 11711. Livestock Dealer General Requirements

A. Louisiana livestock dealers may become permitted, provided the following requirements are met:

1. The facilities are adequate and maintained in a satisfactory condition.
2. The dealer agrees to clean and disinfect the facilities at least once each month with an approved disinfectant.
3. Records of all sales and purchases must be maintained for at least 12 months. The records shall contain the complete name and address of the seller, the permanent identification number of any brucellosis test eligible animals, the weight and price of the animals, and the complete name and address of the purchaser. These records shall be made available to representatives of the Livestock Sanitary Board upon request. Livestock dealers who are not permitted will be governed by LAC 7:XXI.11733 for cattle.

B. Livestock dealers shall furnish the purchaser with the appropriate documents (health certificate, herd test, negative 30-day test record, negative Equine Infectious Anemia test), which indicate the animals meet the specific requirements stated in the regulations of the Louisiana Livestock Sanitary Board.

C. All livestock moving into the state of Louisiana must meet federal interstate requirements, the requirements of LAC 7:XXI.11705, governing the admission of livestock into the state; and the requirements of the state of destination.

D. Failure of a permitted livestock dealer to meet the requirements of this and other regulations of the board, will result in the revoking of his permit and he will be subject to prosecution, as provided in R.S. 3:2096.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:563 and R.S. 3:564.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985); amended LR 14:200 (April 1988).

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., June 17, 1991, at the following address: Maxwell Lea, Jr., D.V.M., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Richard Allen
Assistant Commissioner
of Management and Finance

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulation 11711

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary) There will be no cost to state or local governmental units to implement the proposed amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary) There will be no effect on revenue collections of state or local governmental units by this proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary) There will be no economic benefits or costs associated with this rule to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) It is estimated that this action will have no effect on competition and employment.

Richard Allen
Assistant Commissioner of
Management and Finance
David W. Hood
Senior Fiscal Analyst

Richard Allen
Assistant Commissioner
of Management and Finance

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulation §11771**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated costs or savings to local governmental units to implement the proposed amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
By composting dead birds, the producer will save 90 percent of the cost of digging the disposal pits now commonly used. Composting also allows recycling as the decayed compost material can be spread over the producer's land. Compost piles will not contaminate ground water supplies.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule change will have no effect on competition and employment.

Richard Allen
Assistant Commissioner
David W. Hood
Senior Fiscal Analyst
of Management and Finance

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

Notice is hereby given that the Office of the State Museum intends to adopt the proposed rule as follows:

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 3. Accessions, Deaccessions and Loan Policy §301. Accessions Procedure

The Board of Directors of the Louisiana State Museum, acting under R.S. 36:201 is responsible for the acquisition, deaccessioning and loans of materials that are part of the Museum collections.
A. The Louisiana State Museum maintains an Accessions Collection and an Education Collection.
1. Accessions collection will be only those collections related directly to the Museum's stated purpose, subject to the concerns and protections of collections care regulated by

**NOTICE OF INTENT
Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Livestock Sanitary Board advises its intent to amend and/or add to the regulations of the board:
Louisiana Administrative Code, Title 7, Section 11771, to require the following:

To amend Livestock Sanitary Board Regulation 11771 Governing the Sanitary Disposal of Dead Poultry.
§ 11771. Governing the Sanitary Disposal of Dead Poultry
A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Approved Methods
Dead poultry must be removed from the presence of the live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods:
1. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.
2. Incinerators
Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plants
Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.
4. Composting
The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), LR 17:
Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., June 10, 1991, at the following address: Maxwell Lea, Jr.,

policy and law. Materials placed in the accessions collection become part of the permanent collection.

2. Education collections supplement the primary collections goal of the Museum, support the research and educational functions of the Museum but do not become part of the permanent collection.

B. Donors must be appraised in which category the artifact is to be classified and the terms and conditions of that category before transfer of title.

C. Proffered objects will be examined and evaluated as to condition, pertinency and/or duplication to the collection and the ability to provide proper storage and conservation of the object. Outside expert opinion may be secured as necessary. The Museum professional staff will make a recommendation to the Accessions Committee.

The recommendation may be to reject the object, determine it appropriate for the education collection, or recommend that the object be accepted into the accessions collection.

D. The Accessions Committee meets on an established schedule.

The committee receives recommendations, examines and evaluates objects and makes recommendations to the Board of Directors of the Louisiana State Museum.

E. The Board of Directors receives the committee recommendations and determines acceptance or rejection of the object.

F. If approved by the Board of Directors, the donor issues a permanent receipt and the object is accessioned into the accessions collection. If not approved, the object is returned to the owner.

G. All donations to the Louisiana State Museum are considered outright, unconditional gifts to the people of Louisiana, unless otherwise determined by the board of directors at the time of accessioning.

H. The Louisiana State Museum staff will not appraise donations.

This rule will void any prior rule on the Museum's accessions procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:684 (July 1985), LR 17:

§303. Deaccession of Museum Collection Items

A. The Louisiana State Museum must be able to protect and improve the quality of its collections through the exchange, transfer or disposal of artifacts. Deaccessioning is the process of permanently removing accessioned artifacts from the Museum collections.

B. Artifacts in the Museum's collections will be deaccessioned only if they have lost their physical integrity, usefulness, authenticity, or relationship to the Museum's purposes.

C. Museum artifacts are state property and will be disposed of in compliance with appropriate state regulations and established Museum collections policy.

D. No object may be deaccessioned less than two years after its acquisition by the Museum.

E. Procedure

1. Proposals to deaccession collection materials shall be made by the museum professional staff to the Museum

director who will make a recommendation to the Accessions Committee.

2. The Accessions Committee receives recommendations, evaluates the proposal and makes a recommendation to the Board of Directors of the Louisiana State Museum.

3. The Board of Directors shall accept or reject the recommendation of the Accessions Committee. Acceptance of the recommendation to deaccession will require a majority vote of those board members voting.

F. Deaccessioned objects shall be disposed of by one or more of the following methods, in accordance with all state and federal regulations.

1. Exchanging, exclusively with non-profit institutions, for objects of equal or greater monetary or historical value.

2. Transfer to a non-profit institution or state agency.

3. The sale of objects only through competitive means where the Museum's identity may or may not remain anonymous.

4. Destruction of deaccessioned objects which are of a hazardous nature or in a state of deterioration beyond redemption.

5. Transfer of the object to the Museum's educational collection.

G. Deaccessioned objects shall not be non-competitively transferred by any means to Louisiana State Museum employees, volunteers, members of the Museum Board, members of a museum support organization or other affiliated associations, their families or representatives.

H. However, anyone may participate in an approved public sale which complies with established museum collections policy and current museum ethics as published by the American Association of Museums.

This rule will void any prior rule on Deaccession of Museum Collections items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:684 (July 1985), LR 17:

§305. Loan Policy

The Louisiana State Museum transacts both outgoing and incoming loans.

A. Outgoing Loans. The Louisiana State Museum Board will lend objects from the collections of the Louisiana State Museum to public and private organizations. Such loans must be for specified public purposes and for a specified period not to exceed three years, which may be renewed by the board. All loan requests will be submitted through the Museum director to the Accessions Committee of the Board of Directors of the Louisiana State Museum which will review the condition of the objects requested, the exhibition and research needs of the Louisiana State Museum, the purposes for which the objects are being requested, the professional standards and capabilities of the borrowing organization, and the ability of the borrowing organization to properly care for the objects requested. All requests for loans must be made in writing and signed by the legal authority responsible for the organization making the request. The board reserves the right to decline loans when, in its judgment, the loan would not be in the best interest of the objects requested, or the Museum. All loans must be insured by the borrower at a value established by the Museum and a certificate of insurance provided to the Museum prior to transfer.

recall by the Louisiana State Museum for purposes of exhibition, conservation, and research.

h. The Louisiana State Museum will inspect loan materials annually and may, at its discretion, recall a loan item or replace a loan item with another item from the museum's collection.

i. All loans except those to the governor's offices and mansion must be insured by the borrower at a value established by the Louisiana State Museum Board. The museum must be presented with a Certificate of Insurance before physical transfer is made to the borrower.

j. The status of all loans made under this policy will be reported to the Louisiana State Museum Board annually.

k. All expenses for framing, matting, or other incidental expenses related to loans, except for those loans to the governor's offices and to the governor's mansion, will be the responsibility of the borrowing elected or appointed official.

l. All preparation, framing, matting, packaging and handling will be under the exclusive supervision and control of the Louisiana State Museum.

Materials are released to the borrowing elected or appointed official upon satisfactory completion of loan forms and receipt by the Louisiana State Museum of a Certificate of Insurance for loan materials, (except for those materials in the governor's offices and the governor's mansion) at values established by the Louisiana State Museum.

B. Incoming Loans

1. The Louisiana State Museum Board may borrow material for exhibition and other special purposes such as research or public presentation for a specified period of time not to exceed three years, subject to renewal.

2. The Museum Board will make a determination of loans on an individual basis and may apply conditions to the loan.

3. The following requirements will apply to all loans to the Louisiana State Museum:

a. Care and Handling

i. Objects loaned to the Museum will receive the same degree of care given to objects owned by the Museum. (If possible, objects will be photographed upon receipt.) The condition of the loan objects will be established in writing prior to the loan. Evidence of damage to objects at the time of receipt or while in the Museum's custody will be reported immediately to the lender. No alteration, restoration or repair to objects will be undertaken without the written authorization of the lender. The Louisiana State Museum will not be responsible for natural deterioration or damage accrued by Acts of God for items on loan. The loan agreement will be signed by both parties.

ii. Costs of transportation and packing will be borne by the Museum unless otherwise stated. The method of shipment must be agreed upon by both parties.

b. Insurance. The Museum will insure the loaned items under its blanket fine arts policy subject to the standard exclusions for a fair and reasonable amount specified on the face of the loan agreement while in transit and on location during the period of the loan. The lender agrees that, in the event of loss or damage, recovery shall be limited to such amount as may be paid by the insurer, thereby releasing the Museum from liability for all claims arising out of such loss or damage.

c. Publicity and Photography. The Museum will comply with the lender's policy regarding the photographing and

1. Care and Preservation. The borrower must demonstrate understanding of appropriate environment, exhibition and security standards for the requested loan object. The loan objects shall not be cleaned, repaired, retouched or altered in any way without written permission from the Louisiana State Museum. The Louisiana State Museum must be notified immediately if the loan object is damaged or stolen. Museum artifacts on loan may not be lent to a third party or moved to another location without authorization from the Museum. The completed loan agreement must be signed by the borrower or his representative.

If the borrower removes the loan object from exhibition prior to the expiration of the loan period, the object will be immediately returned to the Louisiana State Museum.

2. Transportation and Packing. Items to be loaned shall be prepared for transport as determined appropriate by the Museum Registrar. The object(s) shall be returned to the Museum in the same manner unless otherwise stipulated upon by both parties.

3. Expenses. All expenses incurred in connection with a loan will be borne by the borrower unless otherwise agreed upon by both parties.

4. Publicity and Photography. Permission for the reproduction (including photo reproduction) of the borrowed works for any purpose must be obtained from the Museum. Each borrowed artifact must be credited to the Louisiana State Museum according to the credit line as provided. The borrower will give the Museum two copies of any catalogue or publication associated with the exhibition or educational program.

5. Loans to State Officials. The Louisiana State Museum Board will consider requests for loans of materials from the State Museum collection to the governor's offices in the State Capitol, the governor's mansion, and other official offices of the governor. The Louisiana State Museum Board will also consider loans to the official offices of the following public officials: statewide elected officials; president of the Senate; speaker of the House; secretary of the Department of Culture, Recreation and Tourism; chief justice of the Supreme Court of Louisiana.

All such loans must meet the following criteria:

a. Requests for loans must be made in writing to the director specifying the materials requested. All requests must be signed by the elected or appointed official for whose office the request is made.

b. The Museum Board will consider only requests for loans to be placed in public offices which are located in public buildings.

c. Loans will be made of only those materials that are not on exhibition or that are not utilized for research or scheduled exhibitions.

d. Loans will be made of only those materials that are in sound physical condition.

e. All loans must meet the requirements specified in the Museum's regular loan agreement policy and will be for a period of one year. Such loans may be renewed for 12-month periods, but not to exceed the term of office of the elected or appointed official.

f. In determining a loan request, the State Museum Board will consider the safety and conservation of the requested objects and may deny a request for reasons of security or conservation.

g. All loan materials will be considered available for

copying of objects on loan. Publicity and exhibition labels will credit lenders according to the agreement.

d. Return of Loans

i. Unless renewed, loans will be returned to the lender within 30 days of the expiration of the loan period. The Museum will not be responsible for the conservation or restoration of loan materials unless in agreement with the lender.

ii. Failure by the lender to withdraw or retrieve a loan at the agreed time will require the Museum to initiate procedures regarding abandoned property as specified in R.S. 25:345 Section C.

(a). Any property which has been deposited with the Louisiana State Museum, by loan or otherwise, and which has been held by the Museum for more than 10 years, and to which no person has made claim shall be deemed to be abandoned and, notwithstanding the provisions of Chapter 1 or Title XII of Book III of the Louisiana Civil Code, shall become the property of the Museum, provided that the Museum has complied with the following provisions:

(b). At least once a week for two consecutive weeks, the State Museum shall publish in at least one newspaper of general circulation in the parish in which the particular Museum facility is located a notice and listing of the property. The notice shall contain:

(1). the name and last known address, if any, of the last known owner or depositor of the property; and

(2). a description of the property; and

(3). a statement that if proof of claim is not presented by the owner to the Museum and if the owner's right to receive such property is not established to the satisfaction of the Museum within 65 days from the date of the second published notice, the property will be deemed to be abandoned and shall become the property of the State Museum.

(c). If no valid claim has been made to the property within 65 days from the date of the second published notice, title to the property shall vest in the State Museum free from all claims of the owner and all persons claiming through or under him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:201.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:684 (July 1985), LR 17.

Written comments may be addressed to James F. Setcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176-2448.

James F. Setcik
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Accessions, Deaccessions and Loan Policy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) as a result of this rules change/update. There will be no impact on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Will have no effect or impact on revenue collections of state or local governmental units.

III. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no known effect on revenue collections.

IV. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There may be economic benefit to the locating business because of lower than normal rent or lease rates if the parish or municipality offers lower rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition because all other sources

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Will provide economic benefits to the State Museum as collections are evaluated for condition, pertinency and/or duplication to the collection and accepted or disposed of in accordance with these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

John R. Rombach
Legislative Fiscal Officer

James F. Setcik
Assistant Secretary

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Board of the Louisiana Economic Development Corporation proposed new rules, as adopted at its March 27, 1991 board meeting.

A copy of the complete text of these proposed rules can be viewed in the emergency rules section of this issue of the Louisiana Register.

Written comments concerning the rules should be addressed to the Louisiana Economic Development Corporation, Box 94185, Baton Rouge, LA 70804-9185 to the attention of Mike Williams. Comments will be accepted through the close of business at 4:45 p.m. on June 20, 1991.

Michael Williams
Interim Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana Community Economic
Development Loan Assistance Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no new costs incurred by the state to implement these rules. Local government will have unknown costs relating to administration and matching funds for loan assistance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no known effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be economic benefit to the locating business because of lower than normal rent or lease rates if the parish or municipality offers lower rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition because all other sources

The proposed rule change benefits racing associations and cellular telephone owners by changing betting areas to buildings where cellular telephone usage is prohibited. (For instance, persons with carphones may still possess and use them in the parking lot.) The written permission requirement remains.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

§9909. Resale; Movement

Chapter 99. Claiming Rule

Part XI. Claiming Rule and Engagements

§9909. Resale; Movement

If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until where a race meeting is authorized and conducted as a split-meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until that segment of the split meeting at which it was claimed is terminated. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), re-promulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 17:

Department of Economic Development
Racing Commission

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

§5742. Cellular Telephones Prohibited

Chapter 57. Personnel, Registration and Licensing

Part III. Personnel, Registration and Licensing

HORSE RACING

Title 35

§5742. Cellular Telephones Prohibited

A. No person shall, in any building where pari-mutuel wagering is licensed and being conducted, possess, use or control a cellular telephone capable of transmitting or communicating with a person, firm or corporation located outside of the confines of a racetrack or off-track wagering facility without first obtaining and having on his person the written permission of the commission.

B. C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), amended LR 17:

Department of Economic Development
Racing Commission

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

NOTICE OF INTENT

Department of Economic Development
Racing Commission

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

There is no effect on competition nor employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change benefits racing associations and cellular telephone owners by changing betting areas to buildings where cellular telephone usage is prohibited. (For instance, persons with carphones may still possess and use them in the parking lot.) The written permission requirement remains.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment. All interested persons may submit written comments relative to this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

§5742. Cellular Telephones Prohibited

Chapter 57. Personnel, Registration and Licensing

Part III. Personnel, Registration and Licensing

HORSE RACING

Title 35

§5742. Cellular Telephones Prohibited

A. No person shall, in any building where pari-mutuel wagering is licensed and being conducted, possess, use or control a cellular telephone capable of transmitting or communicating with a person, firm or corporation located outside of the confines of a racetrack or off-track wagering facility without first obtaining and having on his person the written permission of the commission.

B. C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), amended LR 17:

§9909. Resale; Movement

Chapter 99. Claiming Rule

Part XI. Claiming Rule and Engagements

§9909. Resale; Movement

If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until where a race meeting is authorized and conducted as a split-meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until that segment of the split meeting at which it was claimed is terminated. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), re-promulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 17:

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Cellular Telephones Prohibited

Claude P. Williams
Executive Director

§5742. Cellular Telephones Prohibited

Chapter 57. Personnel, Registration and Licensing

Part III. Personnel, Registration and Licensing

HORSE RACING

Title 35

§5742. Cellular Telephones Prohibited

A. No person shall, in any building where pari-mutuel wagering is licensed and being conducted, possess, use or control a cellular telephone capable of transmitting or communicating with a person, firm or corporation located outside of the confines of a racetrack or off-track wagering facility without first obtaining and having on his person the written permission of the commission.

B. C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), amended LR 17:

Department of Economic Development
Racing Commission

The Louisiana Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

NOTICE OF INTENT

Department of Economic Development
Racing Commission

Michael Williams
Interim Executive Director

John R. Rombach
Legislative Fiscal Officer

have to be utilized as well. Employment in the local community will increase by at least one job for every \$2,500 of Louisiana Economic Development Corporation funds.

Michael Williams
Interim Executive Director

John R. Rombach
Legislative Fiscal Officer

There is no effect on competition nor employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change benefits racing associations and cellular telephone owners by changing betting areas to buildings where cellular telephone usage is prohibited. (For instance, persons with carphones may still possess and use them in the parking lot.) The written permission requirement remains.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment. All interested persons may submit written comments relative to this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

§5742. Cellular Telephones Prohibited

Chapter 57. Personnel, Registration and Licensing

Part III. Personnel, Registration and Licensing

HORSE RACING

Title 35

§5742. Cellular Telephones Prohibited

A. No person shall, in any building where pari-mutuel wagering is licensed and being conducted, possess, use or control a cellular telephone capable of transmitting or communicating with a person, firm or corporation located outside of the confines of a racetrack or off-track wagering facility without first obtaining and having on his person the written permission of the commission.

B. C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 172.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:257 (March 1991), amended LR 17:

§9909. Resale; Movement

Chapter 99. Claiming Rule

Part XI. Claiming Rule and Engagements

§9909. Resale; Movement

If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until where a race meeting is authorized and conducted as a split-meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until that segment of the split meeting at which it was claimed is terminated. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), re-promulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 17:

Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Stable Telephone**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
The proposed rule change deletes the requirements of securing and using public telephones during racing hours, benefiting individuals needing to place emergency or necessary phone calls.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to repeal the following rules.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 109. Super Six

§10903. Entries and Fields

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10905. Pool Calculations

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department

this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Resale; Movement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
The proposed rule change benefits racing associations by adding a *split* meet requirement that a claimed horse remain at the track where it was claimed for 60 days or until that segment of the split meet has ended.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations

§5741. Stable Telephone

No telephone shall be installed in the stable area except upon the request of the association conducting the meeting and the written approval of the chairman of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 172.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, repromulgated by Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), repromulgated LR 4:278 (August 1978), amended LR 13:495 (September 1987), LR 17:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P.

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

This action will not affect revenue collections.

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

The proposed repeal of rules is needed due to a technicality, and prevents conflict in the upcoming printing of the *Rules of Racing*. Benefits are primarily to the general public and mutual departments of the racing associations. Proper distribution of the Super Six pool is contained in the present version of LAC 35:XIII.10901.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

**Title 35
HORSE RACING
Part I. General Provision
Chapter 17. Corrupt and Prohibited Practices
§1775. Testing of a Split or Referee Sample**

The following procedure is hereby established for the testing of a split or referee sample.

A. After a horse has voided. . . .

B. Should blood be drawn. . . .

C. The veterinarian in charge. . . .

D. Within five days from the date the stewards notify a trainer that the initial laboratory test on a urine or blood specimen from a horse entered and raced by him was positive for the presence of a prohibited drug or substance, the trainer must request the stewards to have the split or referee sample tested by an alternate laboratory as provided herein. At the time of his request the trainer must forward the necessary fees to cover all expenses to be incurred in shipping and testing the split or referee sample to the alternate testing laboratory. Failure of a trainer to make a timely request to the stewards constitutes a waiver of any and all rights to have the split or referee sample tested.

E. A trainer timely. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 8:405 (August 1982), amended LR 10:660 (September 1984), LR 17:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All there are no costs to repeal this series of rules

of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10907. Dead Heats

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10909. Sale of Tickets

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10911. Name and Notice

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10913. Cancellation of Races

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10915. Limitation on Multiple Wagers Does Not Apply

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10917. Disclosure

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

§10917. Disclosure

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), repealed LR 17:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Super Six**

Claude P. Williams
Executive Director

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

There are no costs to repeal this series of rules

(This option does not prohibit a school from rotating the daily schedule to fulfill the aggregate time requirements.)

Elementary certification is required for teachers of students meeting the requirement via a proficiency examination. Computer Literacy certification is required for teachers of those schools who implement the standard prior to the 1992-93 school year shall award the affected elementary students one-half unit of high school credit following the procedures outlined in standard numbers 2.102.01 - 2.102.02. These students include the incoming freshmen class for the 1992-93 school year only.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Computer Literacy (Elementary)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The total estimated cost is \$21,759,200. The costs borne by the state will be \$75,200 to develop, pilot, and print a new curriculum guide; to print and disseminate the policy change; to develop proficiency tests, and to inservice teachers. The Computer Literacy Writing Committee estimated the cost of implementation to local systems at \$26,000 per school. There are 734 public and 100 nonpublic schools which have grades 6, 7, or 8. This makes a total of \$21,684,000 to local systems for a total cost to state and local government of \$21,759,200.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no estimated effect on revenue collection. **TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)**

This rule would impact approximately 500,000 elementary students by mandating that they take the equivalent of a course in Computer Literacy prior to entry into high school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)

Some teachers may need to be retrained. Local systems have options for implementing the policy change, therefore, no effect on competition and employment is anticipated.

Graig A. Luscombe
Deputy Superintendent
John R. Rombach
Legislative Fiscal Officer

Interested persons may submit written comments relative to this rule through Friday, June 7, 1991, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Testing of a Split or Referee Sample**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
The proposed rule change reflects a change in procedure regarding split samples, benefitting trainers needing split samples to be analyzed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 - Standard 2.090.06 Computer Literacy

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 an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, Standard 2.090.06 relative to requirements for Computer Literacy at the elementary level as stated below:

2.090.06 By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in Computer Literacy.

School systems shall implement the standard prior to the 1993-94 school year. Each school system shall determine the grade level and the subject area in which Computer Literacy shall be taught.

The equivalent of one semester of instruction in Computer Literacy is determined as follows:

1. Students successfully pass a state proficiency examination in Computer Literacy prior to entry into the eighth grade. [Each local system shall determine the grade or grade levels for the administration of the examination.]

2. Students receive a minimum of 150 minutes of instruction per week in Computer Literacy for one semester.

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

There would be no costs to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule would allow a few more persons to qualify for specific teaching positions in nonpublic schools, however, there should be very limited effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Addendum to Bulletin 741 - Part B
State Test Security Policy

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 the adding of the State Test Security Policy as an addendum to Nonpublic School Standards, Bulletin 741, Part B. Complete text of policy is stated below.

The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

Test Security

1. Test administered by or through the State Board of Elementary and Secondary Education shall include, but not be limited to:

a. Teacher Evaluation Test for Vocational-Technical Education

b. The High School Graduation Exit Examination

c. High School Equivalency Program Test (GED)

d. All Criterion-Referenced Tests (CRT) and Norm-Referenced Tests (NRT).

2. For purposes of this policy, school districts shall include Local Education Agencies, Special School District #1, Special Schools, Vocational-Technical Schools, and institutions which utilize tests administered through the Board of Elementary and Secondary Education or the Department of Education.

It shall be a violation of test security for any person to do any of the following:

a. administer test in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education which would give examinees an unfair advantage or disadvantage;

b. give examinees access to test questions prior to testing;

c. copy, reproduce, or use in any manner inconsistent with test regulations all or part of any secure test booklet;

d. coach examinees during testing or alter or interfere with examinee's responses in any manner;

e. make answer keys available to examinees;

f. fail to follow security regulations for distribution and return of "secure" tests as directed; or fail to account for and

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741, Standard 6.016.15 - Nonpublic

6.016.15 All members of the instructional staff, pre-kindergarten through 12, shall have received a bachelor's degree from an accredited institution. They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12 semester-hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one half or more of the school day or must have earned the required specialized academic courses as described in Bulletin 746, Louisiana Standards for State Certification of School Personnel. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

Teachers in the pre-kindergarten class shall be qualified in either elementary, kindergarten, or have 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers in the kindergarten class shall be qualified in either elementary, kindergarten, or have 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers in the pre-kindergarten class shall be qualified in either elementary, kindergarten, nursery school, or have 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Teacher Eligibility (Nonpublic)

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

The only implementation cost would be \$100 to revise Bulletin 741.

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

There is no estimated effect on revenue collections.

d. any other situation which may result in invalidation of test results.

8. In cases where test results are not accepted because of breach of test security or action by the State Department of Education, any programmatic, evaluative, certification, or graduation criterion dependent upon the data shall be deemed not to have been met.

9. Individuals shall adhere to all procedures specified in all operation manuals which govern mandated testing programs.

10. Any individual(s) who knowingly engage(s) in any activity during testing which results in invalidation of scores derived from the High School Graduation Exit Examination, the High School Equivalency Program Test (GED) or the Vocational-Technical Teachers' Evaluation Examination shall forfeit the test results and will be allowed to retake the test at the next test administration.

11. Anyone known to be involved in the forged, counterfeit, or altered identification for the purposes of obtaining admissions to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education shall have breached test security. Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit or altered identification for the purpose of obtaining admission to any test administration site shall forfeit all test scores and will be allowed to retake the test at the next test administration.

12. Any teacher or other school personnel who allows or breaches test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

Interested persons may comment on the proposed policy changes and or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: State Test Security as an addendum
to Bulletin 741, Part B**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only implementation cost would be \$400 to revise Bulletin 741, Part B.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There would be no cost to directly affected persons or non-governmental groups.

secure test materials before, during or after testing;

g. participate in, direct, aid, counsel, assist in, encourage or fail to report any of the acts prohibited in this Section.

3. Each local school district shall develop and adopt a district test security policy. The policy shall provide for the security of the materials during testing and the storage of all "secure" tests and test materials; including observational answers, keys, video tapes and completed observation sheets and examinee answer documents before, during and after testing.

4. Test materials, including all test booklets and other materials containing "secure" test questions, answer keys, and student responses, shall be kept secure and accounted for in accordance with the procedure specified in the examination program administration manuals and other communications provided by the State Department of Education.

The manual procedures shall include, but are not limited to, the following:

- a. All test materials shall be kept in a secure, locked, storage area prior to and after administration of any test.
- b. All test materials shall be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.
- c. Any discrepancies noted in the number of serial numbers of testing materials received from contractors shall be reported to the assistant superintendent for research and development by the designated institutional or school district personnel prior to the administration of the test.

d. In the event the test materials are determined to be missing while in the possession of the institution or school district, the designated institutional or school district personnel shall immediately by telephone notify the assistant superintendent of research and development. The designated institutional or school district personnel shall investigate the cause of the discrepancy and provide the Department of Education with a report of the investigation within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witnesses to the occurrence. Officials from the State Department of Education are authorized to conduct additional investigations.

5. Each district superintendent or institution shall designate annually, one individual in the district or institution who is authorized to procure test instruments which are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education or the State Department of Education. The name of the individual designated shall be provided in writing to the assistant superintendent of research and development, State Department of Education.

6. The state superintendent of Education may disallow, after investigation, test results which may have been achieved in a manner which is violative of test security.

7. The State Department of Education shall establish procedures to identify:

- a. improbable achievement of test score gains in consecutive years;
- b. situations in which collaboration between or among individuals may occur during the testing process;
- c. a verification of the number of all tests distributed and the number of tests returned;

There will be no effect on competition as a result of this action. By this action, we hope that we will be able to employ associate degree nurses as instructors in our practical nursing programs.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendments to Bulletin 1877,
Implementation Guide for LTIPLATEP

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 amendments to Bulletin 1877, Implementation Guide for LTIPLATEP which was adopted as an emergency rule and printed in the July 20, 1990 issue of the *Louisiana Register*. These amendments which consist of pages 8, 10, 12, 15, 24, 27, and 28 and printed as an emergency rule in the April, 1991 issue of the *Louisiana Register* include the recommendations submitted by the Louisiana Association of Educators in their correspondence of October 23, 1990 as altered by judicial mandates, supersede the respective pages of Bulletin 1877 which appeared in the February, 1991 issue of the *Louisiana Register* as an emergency rule.

See April, 1991 issue of the *Louisiana Register* for complete text of the revised amendments to Bulletin 1877. Interested persons may comment on the proposed policy changes and or additions in writing, until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Revisions to the LTIPLATEP Guidelines

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The estimated costs for FY 90-91 are for printing of the revisions (\$576 at the state level and indeterminate at the local level).
The costs for FY 91-92 will be to place the standards in the LTIPLATEP Implementation Guide. The cost for printing of the LTIPLATEP Guide would be approximately \$1.75 per guide or \$21,000 for 12,000 guides.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
There is no cost and/or economic benefit to directly

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
The policy would have no direct effect on competition and employment.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Practical Nursing Certification Requirements
Amendment to Bulletin 746, Part B - Postsecondary

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 the revised certification requirements set by the State Board of Practical Nurse Examiners at their February, 1991 meeting. The revised certification requirements, which are an amendment to Bulletin 746, Part B, were also adopted as an emergency rule and printed in full in the April, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Waiver of certification requirements for Health Occupations-Practical Nursing Instructors

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
This is revising the Board of Elementary and Secondary Education policy on the certification requirements for a health occupations-practical nursing instructor under Bulletin 746-Part B for a period of two years. The cost to implement this change would be approximately \$75. This would be for printing and postage and to mail out the revisions to the certification bulletin.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There will be no effect on revenue collections of state or local governmental units as a result of this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
There will be no cost to persons or non-governmental groups for this action. Students being trained at the technical institutes could benefit because we will be able to hire instructors for our practical nursing programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)

higher education \$.7 million; technical institutes \$5.4 million.

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

Students (unduplicated count) enrolled in the vocational program who will benefit from programs supported by these funds total 149,204. A breakdown of student enrollment is as follows: technical institutes, 24,674; local school systems, 120,899; and institutions of higher education (approximately), 3,631.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the Program Plan for the Administration of Vocational Education will focus on employment and assist in providing a more skilled workforce, thus, affording better employment opportunities to the participants.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

ECIA Chapter I FY-92 Migrant Education State Plan

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 the ECIA Chapter I FY 92 Migrant Education State Plan.

The Migrant Program was created to serve the special educational needs of migratory children of migratory agricultural workers and migratory fishermen. The FY-92 State Plan was written according to instructions provided by the Office of Migrant Education.

The State Plan may be seen in its entirety in the Office of the Louisiana Register, the Office of the State Board of Elementary and Secondary Education located in the Education Department or in the Bureau of Migrant Education at 654 Main Street, Baton Rouge, LA. Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: FY-92 Migrant State Plan

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

Participating local Education Agencies (LEAs) and Community Action Agencies (CAAs) will expend approximately \$2,721,885 and the Louisiana Department of Education (LDE) will expend approximately \$265,990 to implement the provisions of the FY-92 Louisiana State Plan for Migrant Education.

affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The revisions to the Implementation Guide for the LTP/LATEP does not specifically affect competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Louisiana Program Plan for the Administration of Vocational Education, FY 92-94

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 submission to Washington, the Louisiana Program Plan for the Administration of Vocational Education FY 92-94 to meet the intent of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 which includes the use of a combination Pell Grant and JTPA formula.

This Program Plan may be seen in its entirety in the Office of the Louisiana Register, the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, or in the Office of Vocational Education located in the Education Building.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Carl Perkins Vocational Education Act

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

The state of Louisiana will incur costs to administer the Program Plan for the Administration of Vocational Education according to the Carl D. Perkins Act in the amount of \$1.3 million.

Local education agencies, technical institutes, and the teacher training universities will incur costs of approximately \$17 million annually to administer the Plan. These monies have been previously appropriated by the Louisiana Legislature for this purpose.

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

Louisiana will receive approximately \$18 million of Carl D. Perkins Act monies as result of this Plan. The amounts of funds used by the participating agencies are as follows: State Department of Education \$1.3 million; local education agencies \$11.0 million; institutions of

STAFFORD FEE	STAFFORD TYPE SCHOOL FEE	STAFFORD CLASS LEVEL FEE
3% 1st (Freshman)	3% or \$60	3% 1st (Freshman)
3% 2nd (Sophomore)	3% or \$60	3% 2nd (Sophomore)
1.5% 3rd (Junior)	3% or \$60	1.5% 3rd (Junior)
1.5% 4th (Senior)	3%	1.5% 4th (Senior)
1.0% 5th (Senior)	3%	1.0% 5th (Senior)
.8% 6th (1st Yr Grad)	3%	.8% 6th (1st Yr Grad)
.5% 7th or higher	3%	.5% 7th or higher
3% SLS (all levels)	3%	3% SLS (all levels)
3% PLUS (all levels)	3%	3% PLUS (all levels)

PROPOSED FEES

The Louisiana Student Financial Assistance Commission advertises its intention to amend its fee schedule for loans guaranteed on or after October 1, 1991 for schools periods that begin on or after October 1, 1991 as follows:

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

NOTICE OF INTENT

John R. Rombach
Deputy Superintendent
Legislative Fiscal Officer

There is no estimated impact of competition and employment in the public and private sectors as a result of PLOYMENT (Summary)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

grants referred to in number II. effort exists through increased revenue in the form of mini-training in the area of nutrition education. Economic benefits in child care centers and schools statewide receive ent agencies. Teachers, food service personnel, and children in child care centers and schools statewide receive There would be no estimated cost effect on the recipient agencies. Teachers, food service personnel, and children in child care centers and schools statewide receive

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

The state will receive an additional \$50,709 to operate the program in 1990-91. Funds were made available based on the number of students participating in Child Nutrition Programs in the state. However, approximately \$7,482 will be available to local education authorities and Child Care Food Programs sponsors in the form of Mini-grants. The receipt of federal funds available to the state is contingent upon approval of the Amended State Plan for the Nutrition Education and Training Program by USDA and The Board of Elementary and Secondary Education.

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

The state will receive an additional \$50,709 to operate the program in 1990-91. Funds were made available based on the number of students participating in Child Nutrition Programs in the state. However, approximately \$7,482 will be available to local education authorities and Child Care Food Programs sponsors in the form of Mini-grants. The receipt of federal funds available to the state is contingent upon approval of the Amended State Plan for the Nutrition Education and Training Program by USDA and The Board of Elementary and Secondary Education.

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

The state has received a total of \$137,342 from the U.S. Department of Agriculture for the 1990-91 federal

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amended State Plan for the Nutrition
Education and Training Program**

Carole Wallin
Executive Director

Baton Rouge, LA 70804-9064.

The Louisiana Student Financial Assistance Commission advertises its intention to amend its fee schedule for loans guaranteed on or after October 1, 1991 for schools periods that begin on or after October 1, 1991 as follows:

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., July 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**Board of Elementary and Secondary Education
Amendments to the State Plan for the Nutrition
Education and Training Program, FY 91**

NOTICE OF INTENT

Graig A. Luscombe
Deputy Superintendent
John R. Rombach
Legislative Fiscal Officer

The Migrant Education program creates full-time instructional positions for more than 240 persons, most of whom are paraprofessional teaching aides. Approximately 50 additional full-time positions are funded for recruitment personnel, records personnel, and state office staff. A number of part-time or share-timed positions are also funded with these monies. The program has little if any effect on competition.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

of \$2.9 million. The FY-92 allocation was \$3.1 million. Programs. A decrease is expected with a FY-92 allocation or supportive services through the Migrant Education least a portion of the school year will receive instructional approximately 6,500 children living in Louisiana for at

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

Participating LEAs and CAAs will collect approximately \$2,721,885 and the LDE will collect approximately \$265,990 in federal funds.

Policy VII and Procedure 11 of the Louisiana Guaranteed Student Loan Program Policy and Procedure Manual will be amended to reflect the proposed fee schedule.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., July 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Guarantee Fee Schedule Effective July 1, 1991

Jack L. Guinn, Executive Director

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
No costs are estimated with the implementation of this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
An increase in collections of about \$583,512 is anticipated from the implementation of this proposal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
First and second year higher education students (with whom more risk is associated) would incur a very slight increase in their fee (at present, for a \$2650 loan a straight 3 percent rate would yield \$79.50 guarantee fee, but the agency collects only \$60. Higher level students (with whom less risk is associated) will incur a decrease in their fee (for a \$4000 loan the agency has been collecting \$60 rather than 3% or \$120, but will now give progressively more savings to a student the higher his level of study (and lower his level or risk).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
No effect on competition and employment is anticipated from this proposal.

Jack L. Guinn
Executive Director
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Policy for Altering Applications/Promissory Notes
Due to Change in Lender Name

The Louisiana Student Financial Assistance Commission advertises its intention to adopt a policy regarding new loan applications/promissory notes altered due to a lender change as follows:
When it is necessary for a lender or this office to change the lender section on a new loan applications/prom-

Issuory note, the following procedure is to be followed:

Draw one line through the incorrect lender name and write the correct lender name clearly above it. In the margin of the application make the notation "Lender changed from that pre-printed. See Disclosure Statement." A bank official or the person making the change in this office must initial it. Policy VII, Subsections H and M Procedures 10 and 55 of the Louisiana Guaranteed Student Loan Program Policy and Procedure Manual are being changed to reflect the above policy.
Interested persons may submit written comments on the proposed regulations until 4:30 p.m., July 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Policy for Altering Applications/Promissory Notes Due to Change in Lender Name

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
No costs will result from enactment of this policy. This procedure dictates a method to correct the note which will maintain its integrity.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
No impact on revenue collection should result from this policy other than to ensure an appropriate procedure to protect integrity of a legal document.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
No measurable costs or benefits will result to directly affected person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
No effect on competition on employment is expected.

Jack L. Guinn
Executive Director
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Board of Barber Examiners**

The Board of Barber Examiners in accordance with R.S. 49:950 et seq., and R.S. 37:341-392, amends the following sections in Chapter 15 of LAC 46:VII.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VII. Barbers

Chapter 15. Barber Students

§1503. A. - J. ...

K. Students are not allowed to do any barber work outside that which is allowed in Subsection I and J until they

NOTICE OF INTENT

**Department of Employment and Training
Office of Worker's Compensation**

Pursuant to Louisiana Revised Statutes 49:950 and 23:1081(9), the Department of Employment and Training, Office of Worker's Compensation, hereby gives notice of its intent to adopt rules regarding drug testing of employees who are involved in job related accidents. (LAC 40:1, Chapter 15) Comments regarding these rules should be forwarded to Stephen W. Cavanaugh, Director of the Office of Worker's Compensation, Box 94040, Baton Rouge, LA 70804-9040; written comments will be accepted until the close of business, 4:15 p.m. on June 14, 1991.

A copy of the proposed drug testing rules is available from the Office of Worker's Compensation Administration and from the Office of the State Register, 900 Riverside North, Fifth Floor Capitol Annex, Baton Rouge, LA.

Phyllis Coleman Mouton
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Drug Testing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The cost to print the proposed drug testing rules will be \$18,750. The cost to distribute the rules will be \$2,500. The proposed rules require the involvement of a medical review officer (MRO). The MRO may be an Office of Worker's Compensation contract employee. The cost to contract with a physician to provide the services of the MRO would be \$50,000.

There will initially be an increase in court litigation because of the rules: Affected employees will probably be more aggressive to obtain worker's compensation benefits: Likewise, employers will probably be more strident in defending against a claim for benefits. Nonetheless, in a relatively short time after these rules are implemented, there will be less litigation, as these rules very specifically define the parameters within which employers may act. Employers will be less prone to take controversial actions against employees: Also, employees would be fully apprised of the consequences of substance abuse, and they would be less likely to challenge a positive drug test result that is obtained through compliance with these rules that are specific in nature, promote confidentiality, protect against erroneous positive results, and protect against due process abuses.

Governmental units will also experience savings in those instances where they do not have to pay benefits to employees whose intoxication caused job related injuries.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Copies of the rules will be provided by the Office of Worker's Compensation at a charge of \$3.75 per copy. There will be a \$50 charge to employers for each result that is sent to the MRO for evaluation.

have completed training, taken the state board examination and received the initial license. Any students found violating this rule will forfeit all hours completed in barber school and the school knowingly permitting the violation of this provision will place its license in jeopardy.

L. Students attending barber schools shall not frequent or work in any registered barber shop in any capacity whatsoever. This regulation applies even though the student's immediate family or the students themselves might be owners or have an interest in the barber shop in question, or jeopardy of the students losing a portion of or all of their hours.

M. Students transferring their student certificate and/or source of hours from one school to another are required with their transfer to submit a letter to the board office clearly stating their reason for transfer. The board office should review this letter and if the reasons do not appear to be sound, fair, and honorable, the letter will be referred to the board for study at which time the board may see fit to call the student before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:341-392.

HISTORICAL NOTE: Promulgated by the Department of Labor, Board of Barber Examiners, LR 13:397 (July 1987), amended by the Department of Employment and Training, LR 17:

Persons wishing to make comments and responses may do so by contacting: Sharon Cobb, Louisiana Board of Barber Examiners, 1000 Scenic Highway, Baton Rouge, LA 70802. This can be done by writing or in person between 8:30 a.m. and 4 p.m. until June 20, 1991.

Sharon L. Cobb
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Barber Students**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There are no anticipated costs or savings in implementing these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There will be no effect on revenue collections of state or local government units, because these rules clarify existing procedures and will not require any additional expenses to those affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Adoption of these rules will not have an additional cost or economic benefits to affected persons or non-governmental groups because these rules simply clarify existing rules and policy, they will not require any additional expenses to those affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
These rules will have no effect on competition and employment because all affected will be treated uniformly.

Sharon L. Cobb
Secretary
David W. Hood
Senior Fiscal Analyst

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

Employers will likely have a more efficient staff as a result of these rules which promote drug free employees. Employers will not have to pay worker's compensation benefits for which they may otherwise have been liable. Employers will probably be paying less in legal fees as a result of these rules which clearly delineate the parameters within which they may act. Attorneys will not be needed to determine how employers may act.

Employers may save in cost of worker's compensation insurance premiums; insurers may charge less for premiums, as a smaller number of claims may be paid after the rules are implemented. Employers will be assessed a charge of \$50 for each test result that is sent to the MRO for evaluation. Employers will have to maintain a collection site that must possess necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage and transportation of specimens to drug testing laboratories. Employers will be responsible for testing and transportation costs. Initially, there is likely to be more litigation expense to employees as shown in I., above; Shortly, thereafter, though, there is likely to be a decrease in litigation costs.

Laboratories will have more business and reap more profits as a result of the implementation of these rules. Labs may incur costs regarding the personnel, equipment, facilities, and supervision necessary to provide adequate testing, security, and transmission of results. Laboratories will also have to have qualified personnel available to testify in a legal or administrative proceeding against an employee which is based on a positive drug or alcohol result.

There will be a negative effect on employees who are tested positive for drugs; their worker's compensation benefits may be denied, and Louisiana Revised Statute 23:1081(10) allows for the test results to be used against employees in claims for unemployment benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The drug testing rules will have a positive effect on businesses, public and private, and will make them more efficient and, hence, more competitive. The rules will provide the impetus for more efficient personnel. Employees are less likely to be intoxicated at work with the threat of denial of compensation benefits in existence. Consequently, employees will be less likely to be injured if they are fully alert and not impaired by drugs.

Stephen Cavanaugh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT
Department of Environmental Quality
Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054,

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These regulations will add four definitions to Section 111. They will also correct errors which are in the existing regulations. These edits are minor in size but significant to the meaning of the text.

These proposed regulations are to become effective on August 20, 1991, or as soon thereafter as practical upon publication in the Louisiana Register.

A public hearing will be held on June 24, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, June 25, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884 2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log Number AQ52. Copies of the proposed regulations may be viewed in their entirety in the emergency rule section of this issue of the Louisiana Register.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Revision to LAC 33:III.111 Definitions, AQ52

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

No additional cost to state or local governmental units is anticipated.

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

None.

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

No significant impact is expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None.

Mike D. McDaniel
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT
Department of Environmental Quality
Office of Water Resources
Groundwater Protection

Under the authority of the Louisiana Environmental Quality Act R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950,

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

Ground water monitoring wells constructed by these standards will require more construction time and more qualified personnel to perform the construction. Therefore, the cost of the wells will increase. The estimated cost of the average ground water monitoring well is \$2,500. The use of these standards will result in an estimated cost increase of \$1,000, or \$3,500 per well.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact of this rule will be industry wide and should not affect competition. Individual companies within the industry may have to hire additional or more qualified personnel to comply with these standards.

Maureen O'Neill
John R. Rombach
Assistant Secretary
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
State Land Office**

Pursuant to the provisions of R.S. 41:1701-1715 and the Administrative Procedure Act, the commissioner of administration hereby gives notice of his intention to repeal rules and regulations for implementing Act 645 of 1978, and adopt rules and regulations for implementing Act 645 of 1978. The new rules make neither substantive nor procedural changes to the granting of leases for commercial structures upon state owned waterbottoms. The new rules will reduce the rental for such structures.

A copy of the text of the proposed rules and regulations may be reviewed during normal business hours at the State Land Office, 12th Floor, Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA and at the Office of the State Register, 900 Riverside North, Fifth Floor, Capitol Annex Building, Baton Rouge, LA. Questions and comments may be directed to Karl Morgan, Box 44124, Capitol Station, Baton Rouge, LA 70804, telephone (504) 342-4583, and must be received by July 19, 1991.

H. Glen Kent
Administrator

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Act 645 of 1978**

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

This is a current program of the State Land Office being administered by present staff therefore there will be no implementation costs other than presently budgeted. There will be no additional printing or distribution expenses above what is currently scheduled and budgeted for the existing program.

et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt Chapter 5 of the Groundwater Protection Regulations, LAC 33:XIII, Chapter 5, (Log number GW01).

These proposed regulations will be cited as Part XIII of Title 33 of the Louisiana Administrative Code. These regulations will incorporate enforceable standards and specifications for the construction of groundwater monitoring wells, recovery wells, and piezometers at solid and hazardous waste facilities and also include standards and procedures for the abandonment of groundwater monitoring wells at solid waste facilities.

These proposed regulations are to become effective on August 20, 1991, or as soon thereafter as practical upon publication in the Louisiana Register.

A public hearing will be held on June 24, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, June 25, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log number GW01. Copies of the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810;
Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;
Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;
Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;
Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002;
Department of Environmental Quality, 100 Epler Road, Lafayette, LA 70505.

**Fiscal and Economic Impact Statement
For Administrative Rules
Monitoring Wells
Rule Title: Standards for the Construction of Ground**

J. Terry Ryder
Assistant Secretary

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

Some minor implementation costs for printing and distribution of these standards may be incurred. However, these costs are anticipated to be very nominal and insignificant.

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

There will be no impact on revenue collections for state or local governmental units because there are no fees or revenues associated with the implementation of the standards.

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

There will be a net effect of increasing revenue collections to state government of \$57,000. The State Land Office presently collects \$43,000 from 23 leases issued pursuant to this program. However, no new leases have been issued since the legislation suspended the leasing program in 1989. This change would reduce that present rental to approximately \$25,000. However, there will be approximately 450 new leases issued under the new rules and regulations. These new leases will return an additional estimated \$75,000 annually to the State Land Office.

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

Each owner of a commercial wharf, pier or dock will have to pay lease on these waterfronts being used by their respective structure. The owners of these structures will receive the benefit of a lease for the lands upon which their structures are situated. We anticipate 45 percent of these leases will be for the minimum rental of \$100 per year. Another 35 percent will be for approximately \$150 per year. We estimate five percent of the leases will pay more than \$250 per year. This rental is based upon the area of state waters upon which is situated the privately owned commercial structures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment. Since this minor cost will be imposed on all commercial wharves and piers, no one group will gain any competitive advantage.

H. Glen Kent
Administrator

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Professional Counselors**

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., intends to adopt the following rule amendments governing the practice of mental health counseling in the state of Louisiana.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LX. Professional Counselors, Board of Examiners
Chapter 13. License; Adjudication
§1301. Denial, Revocation, or Suspension of License**

A - B. ...
C. Authority: The board by an affirmative vote of at least four of its seven members shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this law R.S. 37:1110.

D. Procedures

1. Ground rules governing a hearing before the board. a. R.S. 37:1110 gives the board the authority, for the purpose of hearings, to subpoena persons, books, and papers on its own behalf or on behalf of the applicant or licensee who may appear by counsel or personally on his own behalf. To subpoena includes requirement of the board that the licensee or applicant and legal counsel draw up the subpoena, convey it to the attorney for the board chairperson's signature, that the subpoena be returned to the applicant or licensee for service to be effected by the applicant or licensee. b. In accordance with R.S. 37:1110 (A) all complaints shall be addressed confidential to the chairperson of the board and shall be sent to the board office. The chairperson of the board shall during an executive session of the board convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request counsel to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall prepare a Show Cause Order in which the accused shall be notified in sufficient specificity that he/she is being charged with a breach of the state and/or ethical code adopted by the board and that he/she must show cause why the board should not discipline the accused. A response is to be made to the chairperson of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the accused licensee. However, sufficiently specific allegations shall be conveyed to the accused for his/her response. Once the accused has answered the complaint, the board shall determine if a hearing is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, Board of Examiners of Health and Hospitals, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October 1989), LR 17:

Interested persons may present their views on the proposed rules in writing at the following address: Susan Mayeaux, Executive Director, Licensed Professional Counselors Board of Examiners, 4664 Jamestown Avenue, Suite 125, Baton Rouge, LA 70808-3218.

Susan Mayeaux, M.A.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Chapter 13. License; Adjudication

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

There will be no costs (savings) to other state or local governmental units as a result of these proposed rule amendments.

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

There is no effect on revenue collections of other state or local governmental units. There will be no difference in

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;
7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;
8. cognitive or clinical incompetency;
9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of respiratory therapy practice in this state;
10. knowingly performing any act which in any way assists an unlicensed person to practice respiratory therapy, or having professional connection with or lending one's name to an illegal practitioner;
11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the respiratory therapist or respiratory therapy technician;
12. interdiction by due process of law;
13. inability to practice respiratory therapy with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;
14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice occupational therapy with reasonable skill or safety to patients;
15. practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory therapy as defined by the Act or these rules;
16. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to practice respiratory therapy in that state, or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;
17. violation of the code of ethics adopted and published by the American Association for Respiratory Therapy; or
18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, or the United States or of the state in which such conviction or plea was entered.
 2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of respiratory therapy;
 3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice respiratory therapy;
 4. providing false testimony before the board or providing false sworn information to the board;
- A. As used herein and in R.S. 37:3358, "unprofessional conduct" by a respiratory therapist or respiratory therapist technician shall mean:

Conduct
§5519. Causes for Action; Definitions; Unprofessional
 The board may refuse to issue or renew, or may suspend, revoke or impose probationary conditions and restrictions on, the license or temporary license of any respiratory therapist or respiratory technician license or temporary license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. §5519. Causes for Action; Definitions; Unprofessional Conduct

§5517. Causes for Administrative Action
 Subpart III. Practice
 Part XLV. Medical Profession
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Title 46

Department of Health and Hospitals
Board of Medical Examiners
NOTICE OF INTENT

Notice is hereby given, in accordance with R.S. 49:953, that the State Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:3358(A)(2) and (C), and the provisions of the Administrative Procedure Act, intends to amend its rules prescribing the causes for suspension or revocation of, or the imposition of probationary conditions on, the license of a respiratory therapist or respiratory technician. LAC 46:XLV, Subpart 3, Chapter 55, §5519. The proposed amendments are set forth below.

There will be no effect on competition in the private sector.

Peter M. Emerson, Ed.D.
 David W. Hood
 Senior Fiscal Analyst
 Board Chair

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
 No costs and/or economic benefits will be felt by the individuals licensing. No costs and/or economic benefits will be felt by other persons or non-governmental groups. IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 There will be no effect on competition in the private sector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3058.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to Delmar Forison, Executive Director, State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, arguments or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

Delmar Forison
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Respiratory Therapy Practice, Causes for Ad-
ministrative Action**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary) It is not anticipated that the proposed rules amendments will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary) It is not anticipated that the proposed rules amendments will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary) It is not anticipated that implementation of the proposed rules amendments will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Forison
Executive Director
David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953, that the State Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:3011(A)(2) and (C), and the provisions of the Administrative Procedure Act, intends to amend its rule prescribing causes for suspension or revocation of, or the imposition of probationary conditions on, the license of an occupational

therapist or occupational therapy assistant. LAC 46:XLV, Subpart 3, Chapter 49, §4921. The proposed amendment is set forth below.

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Title 46
Part XLV, Medical Profession
Subpart III, Practice**

§4921. Suspension and Revocation of License; Refusal to Issue or Renew; Unprofessional Conduct

A. The board may refuse to issue or renew, may suspend or revoke, or may impose probationary conditions on any occupational therapy or occupational therapy assistant license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or likely to endanger the health, welfare, or safety of the public. B. As used herein and R.S. 37:3011, "unprofessional conduct" by an occupational therapist or occupational therapy assistant shall mean:

- 1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States or of the state in which such conviction or plea was entered;
- 2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of occupational therapy;
- 3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice occupational therapy;
- 4. providing false testimony before the board or providing false sworn information to the board;
- 5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
- 6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;
- 7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;
- 8. cognitive or clinical incompetency;
- 9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of occupational therapy practice in this state;
- 10. knowingly performing any act which in any way assists an unlicensed person to practice occupational therapy, or having professional connection with or lending one's name to an illegal practitioner;
- 11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the occupational therapist or occupational therapy assistant;
- 12. interdiction by due process of law;
- 13. inability to practice occupational therapy with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;
- 14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness

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

It is not anticipated that implementation of the proposed rules amendments will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

David W. Hood
Executive Director

Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals

Board of Pharmacy

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq. and Pharmacy Law R.S. 37:1178, the Louisiana Board of Pharmacy hereby gives its notice of intent to modify and add to present rules pertaining to the definition and transmission of prescriptions, and further provide for freedom of choice to the patient by amending and adopting §§909, 911 and 2713 to Title 46, Professional and Occupational Standards, Part LIII. Pharmacists.

There will be a public hearing on Wednesday, June 12, 1991, at 10 a.m. in the Louisiana Board of Pharmacy office at 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808. Comments concerning the proposed rules may be directed to the above address and made to the attention of Howard Bolton. Comments should be submitted before Monday, June 10, 1991.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 9. Pharmacies

§909. Prescription

A. Definition: A prescription means an order for a drug, chemical, device or a combination thereof, either written, given orally or otherwise transmitted to a licensed pharmacist by a licensed physician, dentist or veterinarian, to be dispensed or compounded in a permitted pharmacy and dispensed by a licensed pharmacist to the patient or agent along with necessary and appropriate patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: §911. Transmission of Prescriptions

A. Receipt of a Prescription

1. Written: A pharmacist may receive and dispense a bona fide prescription which has been written and/or signed by the practitioner.

and ability to practice occupational therapy with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of occupational therapy as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to practice occupational therapy in that state, or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;

17. violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA); or

18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

C. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3011.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendment, in writing to Delmar Rorison, Executive Director, State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

Delmar Rorison
Executive Director

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Occupational Therapy Practice, Causes

For Administrative Action

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

It is not anticipated that the proposed rules amendments will result in any additional costs to the Board of Medical Examiners.

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

It is not anticipated that the proposed rules amendments will have any effect on the board's revenue collections.

A. Labeling
The label on the prepackaged container shall contain the following information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's last name and initial;
9. expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§919. Drug Administration

Drug administration is the providing of a single unit final dose form of medication for a patient upon orders and directions for use by a licensed pharmacist in compliance with an authorized prescriber's order.
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§921. Mechanical Drug Dispensing Devices

Dispensing of prescription legend drugs directly to a patient by mechanical devices or machine is prohibited.
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§923. Prescription Department Requirements

A pharmacy commencing operation after January 1, 1989, or an existing operation continuing at a new or remodeled location, must meet the following minimum requirements:
A. Structure. A prescription department must provide sufficient and adequate structural space for safe and appropriate drug dispensing and compounding.
1. Prescription Department Area. The prescription department is a restricted area that shall be not less than 200 total square feet that is inaccessible to the public.
2. Prescription Counter. A prescription counter on which to compound or dispense medications must have a free working surface of not less than two feet in width nor less than 12 feet in length or a minimum of 24 total square feet. The minimum unobstructed free working surface must be kept clear at all times for the compounding or dispensing of prescriptions.
3. Prescription Aisle Space. The aisle space behind the prescription counter shall not be less than 30 inches in width.

4. Prescription Department Plumbing. The prescription department shall have, in close proximity of the prescription counter, a sink equipped with available hot and cold running water.
5. Drug Inventory/Fixtures. The pharmacy shall provide sufficient shelf and drawer or cabinet space for proper storage of labels, prescription containers, and an adequate ana.

2. Oral: A pharmacist may receive and dispense a bona fide prescription which has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. Electronic Transmission: A pharmacist may receive and dispense a bona fide prescription communicated from a practitioner, via facsimile or other means, and then the prescription must be reduced to hard copy. When receiving a prescription transmitted in this manner the pharmacist must indicate on the hard copy the mode of transmission as well as the phone number of the practitioner making the transmission.
B. Verification: Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§913. Prescription Dispensing

A. Definition. Prescription dispensing is the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:
1. receiving and interpretation of the written or oral prescription order; and
2. assembling the drug products and an appropriate container; and
3. preparing the prescription by compounding, mixing, counting, or pouring; and
4. affixing the proper label to the final container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§915. Labeling

An appropriate label shall be affixed to a proper container with the following information:
A. pharmacy's name;
B. pharmacy's address and telephone number;
C. prescription serial number;
D. authorized prescriber's name;
E. patient's name;
F. date dispensed;
G. directions for use, as indicated;
H. drug name and strength;
I. pharmacist's last name and initial; and
J. cautionary auxiliary labels, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1171 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

§917. Pharmacy Repackaging

Repackaging is the packing of medications in a unit of use container, by a licensed pharmacist, in a Louisiana permitted pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 46-LIII 909-919 and 2713**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary) There will be no implementation costs to any state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary) These proposed changes will have no effect on revenue collections of any state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary) There will be no economic benefits to or costs to any group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) No effect.

Howard B. Bolton Executive Director
David W. Hood Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with provisions of the Louisiana Administrative Procedures Code, R.S. 49:950 et seq., the Department of Health and Hospitals (DHH), Office of Public Health proposes to rescind the management fee for the Drinking Water Program in accordance with Act 257 of the 1990 Regular Session of the Louisiana Legislature. The following definitions in Section 12:001 of the Sanitary Code shall be deleted:

12:001 Definitions: (to be deleted from current listing) *Management Fee* is a charge assessed to the public water supplies by the Department of Health and Hospitals for management of the Safe Drinking Water Program. Failure to pay this fee will result in a violation of a National Primary Drinking Water Regulation and subsequent issuance of an Administrative Order and/or Administrative Penalty in an amount not to exceed \$5000 per day for each day of violation.

Service Connection is a physical connection to public water supply which may or may not be metered. The following section shall be deleted from the State Sanitary Code:

12:002-7 The Department of Health and Hospitals shall assess an annual management fee to the public water supplies (community, non-transient non-community and non-community) according to the following schedule:

COMMUNITY WATER SUPPLIES

Each community water supply will be charged an annual fee based on the number of service connections in the system.

prescription inventory in order to compound and dispense prescription orders.

6. Pharmacy Security. The board requires that adequate protection of the prescription and drug department be secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist when the prescription department is closed in order to avoid the diversion of dangerous drugs and shall be inaccessible to the public and the key shall be maintained by the pharmacist-in-charge or a pharmacist designee.
- For emergency access only, a key to the prescription department may be available elsewhere. When this emergency key is utilized the name of the person entering the prescription department, the day and time of entry, as well as the nature of the emergency shall be entered in a log maintained in the pharmacy department. At the next available opportunity, the pharmacist-in-charge shall sign and date the log verifying the emergency.
- a. Storage. Adequately secured storage is required for legend drugs to avert diversion or theft.
7. Contents. The following references, equipment, and supplies shall be required.
 - a. Reference. Current editions with supplements of the following:
 - i. Louisiana Board of Pharmacy Laws, Rules, and Regulations;
 - ii. United States Pharmacopoeia Dispensing Information: Advice for the Patients;
 - iii. one of the following is required: Pharm-Index or Facts and Comparisons;
 - b. Equipment Minimum Requirements
 - i. suitable Class "A" balance;
 - ii. accurate set of weights;
 - iii. set of graduated;
 - iv. mortars and pestles;
 - v. spatulas;
 - vi. funnels;
 - vii. ointment slab; and
 - viii. typewriter, or equivalent.
 - c. Supplies
 - i. prescription files;
 - ii. bottles, vials, and other suitable containers;
 - iii. labels
 - iv. empty capsules;
 - v. powder papers; and
 - vi. filter papers.

R.S. 37:1171 et seq. AUTHORITY NOTE: Promulgated in accordance with HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:

Chapter 27. Pharmacy Opening and Closing Procedures §2713. Limit Freedom of Choice

A. Pharmacists and/or pharmacies are prohibited from entering into any agreement and/or arrangement, or participating in any process that directly or indirectly denies limits freedom of choice to the patient.

B. Pharmacists and/or pharmacies are prohibited from supplying facilities and/or other equipment or supplies, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

Howard B. Bolton
Executive Director

ings are supposed to be passed on to their customers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 Rescission of the fee has no effect on competition or employment.

Joel L. Nitzkn, M.D., D.P.A. Director
 David W. Hood Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Medicaid Program established by Title XIX of the Social Security Act provides medical assistance to certain low-income individuals and families and is administered by the states in accordance with federal requirements. The program by law is intended to be the payor of last resort; that is, other available third party resources must be used before the Medicaid Program pays for the care of an individual eligible for Medicaid. The overall purpose of State Medicaid third party liability (TPL) programs is to ensure that federal and state funds are not spent for covered services to eligible Medicaid recipients when third parties exist that are legally liable to pay for the services.

In accordance with the statutory provisions of the Deficit Reduction Act of 1984, since May 12, 1986, the state agency has utilized the method of claims payment called cost avoidance to process all Medicaid claims involving third party liability. In cost avoidance, if probable third party liability is established at the time the claim is filed, the agency rejects the claim and returns it to the provider for a determination of third party liability. When the amount of third party liability is determined, the agency pays the claim to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party's payment.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272), was enacted on April 7, 1986. Section 9503 of COBRA amended Section 1902 (a)(25) of the Social Security Act to enact new provisions relating to third party liability in the Medicaid Program. DHHS/HCFR published the regulation at 42 CFR which mandates the implementation of these COBRA provisions. Congressional intent in revising the methods of paying claims was to reduce the health providers' responsibility in administering the third party liability program so that physicians and other providers will continue their participation in the Medicaid Program, particularly in those geographical areas where there is unmet need for certain health and medical services.

The regulations implementing Section 9503 set forth exceptions to the cost avoidance method of claims payment in TPL situations. For these exceptions the state is mandated to pay the submitted claim in the full amount allowed under the agency's payment schedule then seek reimbursement from any liable third party to the limit of legal liability. This method of claims payment is referred to as "pay and chase."

NUMBER OF CONNECTIONS CATEGORY	NUMBER OF COMMUNITIES IN EACH CATEGORY	ANNUAL FEE
6-50	598	\$ 25
51-125	236	\$ 500
126-250	172	\$ 600
251-625	208	\$ 700
626-825	48	\$ 800
826-1,250	66	\$ 900
1,251-2,500	71	\$ 1000
2,501-12,500	47	\$ 1500
12,501-18,750	4	\$ 2000
18,751-25,000	6	\$ 2500
25,001-Up	6	\$ 3000

Each Non-Community water supply will be charged a flat fee of \$25 per year.

NON-COMMUNITY WATER SUPPLIES

NUMBER OF NON-COMMUNITIES	ANNUAL FEE
591	\$25

NON-TRANSIENT NON-COMMUNITY WATER SUPPLIES

NUMBER OF NON-TRANSIENT NON-COMMUNITIES	ANNUAL FEE
294	\$25

Interested persons may submit comments at the following address: Joseph D. Kimbrell, Deputy Assistant Secretary, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. Comments will be received up to June 20, 1991.

**Fiscal and Economic Impact Statement
 For Administrative Rules
 Rule Title: Safe Drinking Water Management Fee
 Rescission**

David L. Ramsey
 Secretary

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 The Office of Public Health is saving money because the cost of fee billing and collection activities has been terminated. Specifically, the OPH is saving \$28,000 annually--\$15,000 for personal services; \$3,000 in operating expenses; and \$10,000 in professional services are being saved.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 State self generated monies have decreased. It is estimated that collection would have been \$350,000 - \$500,000 although \$1,000,000 was billed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
 Since the public water supplies do not have to pay the Safe Drinking Water Program Fee, their customer (general public) water bills may decrease slightly. Each public water supply that might have paid the bill is now saving between \$25 and \$3,000 per year consequently, the saving of public water supplies do not have to pay the

Accordingly, the pay and chase method of claims payment will apply to Medicaid claims for the following services covered under the State's Medicaid Plan:

A. Prenatal care for pregnant women;

B. Preventive pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years; and

C. Services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

The HCFA Regional Office has provided the ICD-9-CM Diagnosis Codes for prenatal care services and preventive pediatric care services. These HCFA-approved procedure codes will be used to identify the prenatal and preventive pediatric care claims which will be subject to the pay and chase method of payment. These procedure codes will be made available to providers in the provider newsletter and will be included in the provider manual at an early date.

The state agency will pay and chase claims whenever these codes are listed as the primary diagnosis for covered Medicaid services. For free-standing laboratories and radiology centers, the state agency will pay and chase reimbursement if the procedural codes are listed as the primary or secondary diagnosis. If there is no diagnosis code indicated on the claim (for example, pharmacy and medical transportation) which denotes prenatal or preventive pediatric care, the cost avoidance method of claims payment will be applied when there is probability of third party liability. In addition, hospitals and prepaid health plans such as health maintenance organizations are excluded from the mandatory pay and chase method of payment. Claims associated with inpatient hospital stay for labor and delivery and post-partum care will continue to be cost-avoided.

The Title IV-D provision is a "pay and chase" requirement under COBRA which is provided to an individual for whom child support enforcement services are being carried out under Title IV-D. Congressional intent of this requirement was to protect the custodial parent and his/her dependent children from having to pursue the absent spouse, and his/her employer or insurer, for third party liability. The statute and implementing regulations give states the option to require the medical or health provider to bill a liable third party.

RULE

In accordance with 42 CFR Section 433.139 which implements Section 9503 of COBRA, Medicaid claims for services covered under the State Plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

A. prenatal care for pregnant women;

B. preventative pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years;

C. services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase." When the claim is for a service provided to an individual for whom child support enforcement services are being enforced through the Title IV-D state agency, the provider is not required to bill a liable third party prior to billing the state Medicaid agency. The state elects to process these claims in the same manner as for prenatal care and preventive pediatric services, that is, through the pay and chase process. Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Eligibility for Medicaid benefits requires that certain non-financial criteria be met, as well as the financial income and resource standards for the applicable household size. To qualify for medical assistance, an individual must meet categorically related criteria (i.e., aged, blind, disabled, or a member of a family with children deprived of the support of at least one parent as well as being financially eligible.

In households in which a parent and his/her children reside with a stepparent, the stepparent is not eligible for inclusion in the certification under Aid to Families with Dependent Children (AFDC) regulations as a member of a family with children deprived of parental support, unless the stepparent is an "essential person." AFDC policies allow inclusion of an "essential person" in the AFDC household if he/she provides child care which enables the qualified relative (parent) to work full time or receive full-time training or schooling.

However, in some instances the parent may not currently be working or attending school. In those instances the stepparent has been certified for Medicaid benefits in a separate AFDC related Medically Needy Program certification when he/she meets the incapacity requirements.

Clarification of this policy has been received from the Health Care Financing Administration which requires that, if the stepparent cannot be considered a member of a family with deprived children, he/she must instead be categorically related as an aged, blind, or disabled individual in order to be eligible for Title XIX benefits. The proposed rule was adopted by emergency rulemaking effective December 1, 1990 and published in the December 20, 1990 issue of the *Louisiana Register* (Vol. 16, No. 12, page 1044) and re-adopted and published in the April, 1991 *Louisiana Register*, (Vol. 17, No. 4).

PROPOSED RULE

Title XIX eligibility to stepparents who do not meet the criteria to be included as a member of a family with children deprived of the support of at least one parent shall be determined in the appropriate categorically related aged, blind, or disabled classification.SSI budgeting procedures shall be used to determine eligibility for medical assistance.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement

**For Administrative Rules
Rule Title: COBRA '85 Pay and Chase Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Implementation of the proposed rule will result in no cost or savings for FY 90/91. Savings to the state for FY 91/92 are estimated to be \$29,118, and for FY 92/93, \$34,941.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
No effect on revenue collections are anticipated for FY 90/91. Federal funding will decrease by \$88,293 for FY 91/92 and by \$105,952 for FY 92/93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Medical providers participating in the Medicaid Program will no longer be required to submit certain claims to insurance companies prior to submitting claims to the Medicaid program. No revenue impact to Medicaid participating providers or to recipients is anticipated as the result of adoption of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Secretary
David W. Hood
Senior Fiscal Analyst

PROPOSED RULE

Medicaid eligibility in the F and V categories of assistance as an Optional Categorically Eligible group is extended to those individuals ages 18 through 20. Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect. Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Caretaker Relative - Stepparent Eligibility
for Medicaid**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no impact on costs (savings) to state or local governmental units through this rule change. This rule will reclassify current Medicaid beneficiaries as aged, blind or disabled rather than stepparents.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
There is no effect on revenue collections of state or local governmental units.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
There are no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director
David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medicaid Assistance Program. Effective November 1, 1986, Medicaid coverage of individuals ages 18, 19, and 20 for whom public agencies are assuming full or partial financial responsibility and who are in foster homes or private institutions, and individuals who are in adoptions subsidized in full or part by a public agency (categories F, V, I and O) was discontinued. This change was the result of circumstances which required the review of all optional Medicaid services. While budget constraints within the Medicaid program required that coverage of these groups be eliminated, the Department of Social Services, Office of Community Services was required to continue to provide medical care. Costs to the state associated with that care exceed the state share of the cost of providing Medicaid services to this population.
In order to reduce state expenditures for the care of the targeted population and to obtain available federal financial participation, the Bureau of Health Services Financing is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B)(1) to adopt the following rule. The rule was previously adopted by emergency rulemaking effective November 1, 1990 and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, No. 10,

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Medicaid Eligibility for F and V Children Ages 18 through 20**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
It is estimated that savings to the state will be \$4,348 for FY 90/91, \$10,224 for FY 91/92 and \$10,633 for FY 92/93.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Increased federal funding is anticipated as \$98,100 for FY 90/91, \$177,371 for FY 91/92 and \$184,466 for FY 92/93.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Individuals, ages 18, 19 and 20 for whom public agencies are assuming full or partial financial responsibility and who are in adoptions subsidized in full or part by a public agency, are directly affected by the proposed rule. It is anticipated that adoption of this rule will positively affect the affected group. We are unable to calculate the revenue impact.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director
David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) requires that the state specify training and evaluation programs for nurse aides, including procedures for review and approval of such programs with specified methodologies and at specified frequencies and at specified frequencies. In compliance, the bureau has formulated the Nursing Aide Training and Competency Evaluation Program, as required by Omnibus Budget Reconciliation Act of 1987 (OBRA '87). These regulations set forth training and evaluation programs for nurses aides, including procedures for review and approval of such programs with specified methodologies and at specified frequencies. Nurse aides must register with the Board of Examiners for Nursing Home Administrators, which is responsible for maintaining the nurse aide registry and issuing licenses for certification biannually. These regulations are formulated utilizing Health Care Financing Administration (HCFA) policy issues and technical assistance pending adoption of final regulations by HCFA.

The Omnibus Budget Reconciliation Act (OBRA) of 1987 mandates that effective January 1, 1990 a person cannot be employed as a nurse aide by a nursing home for more than four months unless that person has satisfactorily completed an approved training and/or Competency Evaluation Program.

This proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Nurse Aide Training and Competency Evaluation Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost will be \$100 for

printing costs, of which \$50 is the project cost to the state for FY 90/91. There is no expenditure increase or decrease projected for FY 91/92 or 92/93. Costs associated with training and testing provisions of these regulations were previously considered in publication of nursing home reform provisions of OBRA '87 published in the *Louisiana Register* as a Notice of Intent on September 20, 1990, and as a final Rule on December 20, 1990. II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary) Implementation of the proposed rule increased federal matching funds for Title XIX administrative expenditures by \$50 for printing of regulations. There is no projected impact on revenues for FY 91/92 and FY 92/93. III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary) There is no projected impact to directly affected persons arising from adoption of these regulations. IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) This proposed rule will have no known impact on competition or employment.

Carolyn O. Maggio
Director
David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. Provision of adequate, accessible care in rural areas has become a problem as the escalating cost of medical technology has been compounded by decreased utilization of local medical resources. Rural hospitals all over the nation are falling behind in the financial struggle to provide basic medical services for the local population. As rural populations move toward utilization of medical center resources, local hospitals eventually cease to exist, leaving no readily accessible source of hospital care at the local level. Patients requiring hospitalization must leave the local area, and cannot be treated by a physician who must travel an hour or more to see his patients in the hospital. Physicians without adequate local technical resources are forced to relocate to a less medically isolated area. Accessible care in rural communities has become a need with no obvious solution.

To address this issue, Medicaid is proposing to adopt Optional Targeted Case Management services in targeted areas of the state, through which Medicaid beneficiaries may be provided with a primary care physician in close proximity to their residence. Under this rule, Claiborne Parish will be the first targeted area of the state where physician case management will be offered. Additional rural areas will be targeted as the department identifies communities where a majority of physicians and hospitals seek to enroll in Title XIX

Enrolled providers shall be licensed physicians, defined as general practitioners, family practitioners, internists, pediatricians, and obstetrician/gynecologists, or group practices with at least one full-time equivalent of one of the above specialists, who are separately enrolled as Medicaid providers. These providers shall be exempt from and, therefore, deemed to have met, state licensure standards for case management. Enrollment as a provider shall be contingent upon agreement to provide services as described herein in addition to physician services rendered in accordance with accepted medical practice.

The case management shall be provided by licensed physicians specializing in general practice, family practice, internal medicine, pediatrics, or obstetrics/gynecology, or by professional staff under the direction of the individual care manager who possesses those qualifications. Maximum case-load size is 500 cases per physician at any given time.

General provisions and standards for payment listed in the Title XIX State Plan for case management services shall apply. Special requirements are as follows:

A. 24-hour access. Case Managers must inform Medicaid patient of his/her normal office hours and explain the procedures the recipient should follow when the office is closed. A single 24-hour telephone number must be provided.

B. provision of basic health services and urgent care. The case manager will serve as the recipient's primary physician, providing basic health care services in accordance with accepted medical practice.

C. referral for other medical services. Referrals may be made by the case manager to another physician for specialty care or for primary care during his/her absence or non-availability. A referral must be made if the recipient requests a second medical opinion when surgery has been recommended or a second medical option is required under Title XIX (Medicaid) for the surgical procedure.

D. accessibility of care. The primary office location of the case manager shall be in the parish of residence of the Medicaid beneficiaries to whom services are offered, or may be in a contiguous parish if such location is no less accessible than the offices of providers in the targeted parish. As a condition of participation, referrals shall be made to the nearest appropriate hospital, specialist, or substitute primary care provider.

E. recording. The case manager shall document and clearly label any individualized planning and service coordination activities in the medical record.

F. Freedom of Choice assistance. The case manager shall assist clients in requesting a change in case management providers, or in enrolling or withdrawing from case management.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

and provide physician case management services. Under Physician Case management, the basic manner in which Medicaid services are obtained will be enhanced to:

A. assure needed access to care;

B. provide for continuity of services;

C. strengthen the physician-patient relationship;

D. promote the educational and preventive aspects of health care including early diagnosis and treatment;

E. encourage development and utilization of locally available health care resources;

F. reduce unnecessary and inappropriate utilization and costs; and

G. promote efficient and appropriate management of the health care system, including the responsibility of the individual to use health care resources appropriately.

Physicians, defined as general practitioners, family practitioners, internists, pediatricians, and obstetrician/gynecologists, or group practices with at least one full-time equivalent of one of the above specialists, will be separately enrolled as case management providers. Enrollment shall be contingent upon agreement to provide services in accordance with accepted medical practice, and shall not require that provider be licensed as a case management agency. Medicaid patients will be given the opportunity to select a physician from the list of participating providers and encouraged to participate in this optional program.

Providers will be required to provide 24-hour availability of primary care and referral for other necessary services consistent with normal family physician relationships and practices. Specific requirements include:

A. 24-hour access. Community Care Providers must arrange for physician coverage 24 hours per day, 7 days per week. The physician must inform the recipient of his/her normal office hours and explain the procedures the recipient should follow when the office is closed. A single 24-hour telephone must be provided.

B. provision of basic health services and urgent care. The Community Care provider will serve as the recipient's primary physician, providing basic health care services in accordance with accepted medical practice.

C. referral for other medical services. Referrals may be made by the Community Care provider to another physician for specialty care or for primary care during his/her absence or non-availability.

D. accessibility of care. As a condition of participation, referrals shall be made to the nearest appropriate facility, specialist, or substitute primary care provider.

Providers, in addition to their normal fee for services, reimbursements from Medicaid, will be paid \$5 per month for each Medicaid patient for whose care management the provider is responsible.

This rule is necessary in order to enhance access to care for Medicaid recipients in targeted areas where patterns of utilization indicate unresolved difficulty of access.

This rule was adopted under the emergency rulemaking provision of R.S. 46:953 B effective February 4, 1991 and was published in the February, 1991 issue of the *Louisiana Register* (Volume 17, No. 2 published February 20, 1991).

PROPOSED RULEMAKING
RULE

Physician Case Management is defined as individualized planning and service coordination of medical services. Services shall be provided to Medicaid patients who are residents of designated geographic areas.

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Implementation of Community Care Case Man-

agement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this provision will result in a cost to the state of \$57 in FY 90/91. A savings of \$180 in FY 91/92 and \$1,212 in FY 92/93 is projected. Net cost (savings) is computed by comparing cost of the services with anticipated savings in transportation and emergency room charges.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under this rule, federal funding will increase by \$163 for FY 90/91. It will decrease by \$547 for FY 91/92 and by \$3,677 for FY 92/93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR NON-

GOVERNMENTAL GROUPS (Summary)

Medical beneficiaries in targeted areas are expected to benefit from increased access to medical care, earlier detection of debilitating disease, continuity of services, and efficient and appropriate management of health care. There is no revenue impact to recipients. Providers of case management will receive reimbursement of \$6,815 in FY 90/91, \$66,605 in FY 91/92, and \$85,480 in FY 92/93.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program effective August 20, 1991.

Skilled Nursing Services for Infectious Disease (SN/ID) are covered under the state's Title XIX Medical Assistance Program in accordance with applicable federal and state rules and regulations. Previously provider reimbursement was calculated on the basis of allowable costs for care at specified occupancy rates. For the first 12 months or until 20 percent occupancy was achieved (whichever occurred first), reimbursement was 90 percent of the FY 88/89 rate paid for inpatient hospitalization treatment of AIDS at the state's Charity Hospital in New Orleans without inclusion of disproportionate share amounts. Following 12 months participation or after 20 percent occupancy was achieved, the facility was required to provide a proposed budget reflecting

anticipated costs at 20 percent occupancy. This budget was used to establish the interim rate subject to review and approval by the agency, utilizing Medicare principles for determining allowable cost for nursing facility services. Increases in occupancy triggered a downward adjustment in the client per diem to reflect the approved budget at the appropriate occupancy level. No adjustment was made if the occupancy level declined following the attainment of the 20 percent, 40 percent, 60 percent or 85 percent thresholds. Facilities were required to submit cost reports at the end of each 12-month period. Providers were required to segregate SN/ID costs from other long-term care costs in their annual cost report or submit a separate cost report for SN/ID services. No duplication of costs was allowed. All rates were subject to annual cost settlement following Medicare principles for determining allowable cost for nursing facilities and capped at 90 percent of the FY 88/89 rate paid for inpatient hospitalization treatment of AIDS at the state's Charity Hospital in New Orleans without inclusion of disproportionate share amounts.

Previous payment levels and reporting requirements for nursing facility services for patients with AIDS were determined to be a barrier to the provisions of services. The state is amending the rate mechanism to a flat-rate methodology with reimbursement at the rate of \$230.05 per diem. Emergency rulemaking implementing this change was effected on March 1, 1991 in order to assure delivery of necessary services and prevent imminent peril to the health and welfare of AIDS patients in need of nursing facility services.

RULE

Reimbursement for Skilled Nursing Facility Services for Infectious Disease (SN/ID) shall be capped at \$230.05 per diem, subject to the established SN payment limitations, standards for participation, and standards for payment with the additional requirements for this Title XIX provider type. At the end of the facility's cost reporting period, the facility shall file a separate long-term care facility cost report or segregate such costs from other nursing services provided, which cost report shall be subject to audit. When audited cost is below the per diem limit, the bureau shall charge back the calculated overpayment amount. No additional payment shall be made for audited cost which exceeds the per diem cap. All participating facilities will be expected to work closely with the Bureau to insure that services are provided at the most cost-effective rate.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91020, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 25, 1991 in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Louisiana Register

Vol. 17, No. 5

May 20, 1991

519

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA the policy prior to this change shall remain in effect.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement

**For Administrative Rules
for Infection Control for Skilled Nursing Services**

Rule Title: Reimbursement for Skilled Nursing Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The estimated savings to the state are \$3,268 for FY 90-91, \$62,685 for FY 91-92; and \$125,370 for FY 92-93.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The estimated effect on revenue collections for state government is a decrease of federal financial participation in the Medical Assistance Program of \$9,369 for FY 90-91; \$190,077 for 91-92; and \$380,155 for 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Recipients of the Medical Assistance Program with infectious diseases who are in need of skilled nursing facility services will experience increased availability of these services.

It is estimated that nursing facility providers for patients with infectious disease will experience increased revenues of \$209,921 for FY 90-91; \$4,198,412 for FY 91-92 and \$8,396,825 for FY 92-93 while it is anticipated that hospital providers will receive decreased revenues projected at \$222,559 for FY 90-91; \$4,451,175 for 91-92 and \$8,902,350 for FY 92-93.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
The impact of this proposed rule on competition and employment is unknown.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. Under current regulations, Skilled Nursing/Technology Dependent Children (SN/TDC) services are provided to patients age 18 or younger in need of nursing services beyond those provided at an intermediate level because of medical conditions which render them 24-hour ventilator dependent.

David L. Ramsey
Secretary

RULE

Facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies for this service were initially adopted in May, 1989. Under this rule, the Medical service entitled Skilled Nursing/Technology Dependent Children (SN/TDC) services shall be entitled Skilled Nursing/Technology Dependent Care (SN/TDC) services. The age restriction previously imposed shall no longer apply. All other regulations including facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies heretofore applicable to SN/TDC shall remain applicable. In order to provide SN/TDC services to adults who are 24-hour respirator dependent, and thus avoid imminent peril to the health and welfare of individuals who may not otherwise receive appropriate care, and to avoid a budget deficit by reducing state expenditures for those respirator-dependent adults who now receive continuous hospital care, the Bureau of Health Services Financing is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:553(B)(1) to adopt the following rule. This rule is effective for the maximum period allowed under R.S. 49:554(B) et seq.

The Medical service described as Skilled Nursing/Technology Dependent Children (SN/TDC) service shall be entitled Skilled Nursing/Technology Dependent Care (SN/TDC) services. The age restriction previously imposed shall no longer apply. All other regulations, including facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies heretofore applicable to SN/TDC shall remain applicable. Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Tuesday, June 25, 1991 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

SN/TDC Implementation
NOI 4/91

Recipients Trans. from Hospitals
\$975.60 Hospital cost/day/recip
\$140 SN/TDC cost/da

Month	# Recipients	# Days	Hospital Cost	SN/TDF Cost	Savings
5/91	6	180	\$175,608	\$25,200	(\$150,408)
6/91	7	210	\$204,876	\$29,400	(\$175,476)
7/91	8	240	\$234,144	\$33,600	(\$200,544)
8/91	9	270	\$263,412	\$37,800	(\$225,612)
9/91	10	300	\$292,680	\$42,000	(\$250,680)
10/91	11	330	\$321,948	\$46,200	(\$275,748)
11/91	12	360	\$351,216	\$50,400	(\$300,816)
12/91	13	390	\$380,484	\$54,600	(\$325,884)
1/92	14	420	\$409,752	\$58,800	(\$350,952)
2/92	15	450	\$439,020	\$63,000	(\$376,020)
3/92	16	480	\$468,288	\$67,200	(\$401,088)
4/92	17	510	\$497,556	\$71,400	(\$426,156)
5/92	18	540	\$526,824	\$75,600	(\$451,224)
6/92	19	570	\$556,092	\$79,800	(\$476,292)
7/92 on	20	600	\$585,360	\$84,000	(\$501,360)
90/91	Total	74.14%	(\$241,610)	25.86%	(\$84,274)
91/92		75.20%	(\$3,053,884)	24.80%	(\$1,007,132)
92/93		75.20%	(\$4,524,273)	24.80%	(\$1,492,047)
90/91	Hospital loss		\$54,600		\$325,884
91/92			\$680,400		\$4,061,016
92/93			\$1,008,000		\$6,016,320

SN/TDC Implementation
NOI 4/91

Recipients Trans. from Hospitals
\$975.60 Hospital cost/day/recip
\$140 SN/TDC cost/da

Month	# Recipients	# Days	Hospital Cost	SN/TDF Cost	Savings
5/91	6	180	\$175,608	\$25,200	(\$150,408)
6/91	7	210	\$204,876	\$29,400	(\$175,476)
7/91	8	240	\$234,144	\$33,600	(\$200,544)
8/91	9	270	\$263,412	\$37,800	(\$225,612)
9/91	10	300	\$292,680	\$42,000	(\$250,680)
10/91	11	330	\$321,948	\$46,200	(\$275,748)
11/91	12	360	\$351,216	\$50,400	(\$300,816)
12/91	13	390	\$380,484	\$54,600	(\$325,884)
1/92	14	420	\$409,752	\$58,800	(\$350,952)
2/92	15	450	\$439,020	\$63,000	(\$376,020)
3/92	16	480	\$468,288	\$67,200	(\$401,088)
4/92	17	510	\$497,556	\$71,400	(\$426,156)
5/92	18	540	\$526,824	\$75,600	(\$451,224)
6/92	19	570	\$556,092	\$79,800	(\$476,292)
7/92 on	20	600	\$585,360	\$84,000	(\$501,360)
90/91	Total	74.14%	(\$241,610)	25.86%	(\$84,274)
91/92		75.20%	(\$3,053,884)	24.80%	(\$1,007,132)
92/93		75.20%	(\$4,524,273)	24.80%	(\$1,492,047)
90/91	Hospital loss		\$54,600		\$325,884
91/92			\$680,400		\$4,061,016
92/93			\$1,008,000		\$6,016,320

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Continuing Education Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Implementation of Continuing Education Requirements for insurance agents will not result in any additional expenditures for the Department of Insurance.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Implementation of the Continuing Education Requirements will generate revenue in the amount of \$15,000 based on review of 60 programs at \$250 each in FY 90-91.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Programs certified will pay a fee of \$250 for its certification. Individuals seeking certification will most likely pay fees estimated at \$50 to \$250 to programs offering Continuing Education services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
Implementation of these rules will create opportunities for proprietary schools to provide services to persons seeking to maintain their agent's license in good standing. Many insurance companies and trade associations will also be active providers. The number of jobs created in the private sector cannot be determined at this time.

Hunter O. Wagner, Jr.
Acting Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Aid to Families with Dependent Children (AFDC), Refugee Cash Assistance (RCA) and Food Stamp Programs.

This rule is mandated by Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, which contains an amendment to the Computer Matching and Privacy Protection Act of 1988. The amendment changes the Computer Matching and Privacy Protection Act's due process requirements.

With the adoption of this rule, the following rule is hereby repealed: "Food Stamp/Assistance Payments Programs-Computer Matching-due process", Vol. 16, No. 4, April 20, 1990, page 321.

PROPOSED RULE

Due process will be provided to applicants for and recipients of benefits in the Aid to Families with Dependent Children, Refugee Cash Assistance and Food Stamp Programs who are subject to computer matches, as follows:

Recipients may not have their benefits suspended or reduced based on the information received in a computer match until the expiration of the appropriate adverse action

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Implement SN/TDC Services for Adults**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Implementation of this provision is expected to result in a savings to the state of \$84,274 in FY 90/91, \$1,007,132 in FY 91/92, and \$1,492,047 in FY 92/93.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Under this rule, federal funding will decrease \$421,610 in FY 90/91, \$3,053,884 in FY 91/92, and \$4,524,273 in FY 92/93.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
No revenue impact will result to adult ventilator-dependent recipients. Hospitals who have been providing care will have a decrease of \$380,484 in FY 90/91, \$4,741,416 in FY 91/92, and \$7,024,320 in FY 92/93. Nursing facilities providing SN/TDC care will have an increase in reimbursement of \$54,600 in FY 90/91, \$680,400 in FY 91/92, and \$1,008,000 in FY 92/92.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

The Department of Insurance advertises its intent to revise Insurance Department Rule 10 regarding the continuing education requirements needed to maintain eligibility as an insurance agent in the state of Louisiana. The rules will also establish the criteria to be met in order to qualify as an approved continuing education program to provide continuing education services to insurance agents seeking to maintain a valid agent's license in the state of Louisiana.

Interested parties may submit written comments on the proposed rule revision until 4:30 p.m., June 19, 1991 at the following address: Joseph Shorter, III, Deputy Commissioner of Management and Finance, Box 94214, Baton Rouge, LA 70804-9214.

A public hearing will be held to obtain comments from interested parties. The public hearing will be held in Baton Rouge, LA at the Insurance Building Hearing Room located at 950 N. Fifth Street at 2 p.m. on June 19, 1991.

Hunter O. Wagner, Jr.
Acting Commissioner

notice period for the program, which is 10 days under usual

circumstances.

Interested persons may submit written comments to

the following address: Howard L. Prejean, Assistant Secre-

tary, Office of Family Support, Box 94065, Baton Rouge, LA

70804-4065. He is the person responsible for responding to

inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on

June 27, 1991 in the Second Floor Auditorium, 755 River-

side, Baton Rouge, LA beginning at 9:30 a.m. All interested

persons will be afforded an opportunity to submit data, views

or arguments, orally or in writing, at said hearing.

May Nelson

Secretary

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Computer Matching - Due Process

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs associated with

this rule. Note: The only expense is minimal - \$30.51 for

printing an Executive Bulletin notifying staff of the

change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR NON-

GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated

with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EM-

PLOYMENT (Summary)

There is no effect projected on competition or employ-

ment.

Howard L. Prejean

John R. Rombach

Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family

Support, proposes to repeal the rules that are listed below.

They were not repealed by subsequent rules. The following

listing of rules to be repealed indicates the issue of the *Louisiana Register* in which they were originally published and a

statement of their topic.

AID TO FAMILIES WITH DEPENDENT CHILDREN

(AFDC) RULES TO BE REPEALED

LR 3:72 (February 1977) - Policy on employment and

training in the Indo-Chinese Program

LR 3:100 (March 1977) - Revised standards for aid to

families with dependent children

LR 3:419 (October 1977) - Policy on power driven con-

veyances

LR 3:420 (October 1977) - Mandatory work registration

for AFDC recipients

LR 4:4 (January 1978) - Need standard for AFDC and

GA programs

LR 4:295 (August 1978) - Increases in AFDC and GA

LR 4:511 (December 1978) - AFDC and GA need

standard

LR 5:281 (September 1979) - AFDC and GA increases

LR 6:13 (January 1980) - AFDC and GA need stand-

ards increase

LR 6:603 (October 1980) - AFDC and GA need stand-

ards increase

LR 7:188 (April 1981) - AFDC/GA need standards in-

creases

LR 7:627 (December 1981) - AFDC/GA program in-

creases

LR 8:235 (May 1982) - Retrospective budgeting

LR 8:341 (July 1982) - AFDC incapacity reporting

LR 8:342 (July 1982) - Food stamp reporting

LR 8:343 (July 1982) - Monthly reporting requirements

LR 8:648 (December 1982) - AFDC/GA need standard

increases

LR 8:189 (January 1982) - amended LR 9:684 (Octo-

ber 1983) - AFDC and Refugee resettlement program

changes

LR 8:189 (January 1982) - amended LR 9:838 (De-

cember 1983) - Good cause and timely reporting in assist-

ance payments monthly reporting

LR 9:686 (October 1983) - WIN - EBR Parish, AFDC

program

LR 9:837 (December 1983) - AFDC/GA need standard

increase

LR 9:839 (December 1983) - Reinstatement in assist-

ance payments, retrospective budgeting and monthly report-

ing

LR 10:7 (January 1984) - Earned income tax credits

LR 10:1029 (December 1984) - AFDC/GA need stand-

ard increase

LR 11:1078 (November 1985) - AFDC/GA need stand-

ard increase

LR 11:1146 (December 1985) - AFDC/RCA monthly

reporting

LR 12:768 (November 1986) - AFDC need standard

LR 13:750 (December 1987) - AFDC need standard

FOOD STAMP PROGRAM RULES TO BE REPEALED

LR 1:220 (May 1975) - Food Stamp Program

LR 3:271 (June 1977) - Revision of income standards

and Basis of Issuance in the Food Stamp Program

LR 3:496 (December 1977) - Income Standards and

Basis of Issuance in the Food Stamp Program

LR 4:227 (June 1978) - Income Standards and Basis

of Issuance in the Food Stamp Program

LR 5:245 (August 1979) - Increases in the Food Stamp

Program

LR 6:13 (January 1980) - Food Stamp coupon allot-

ment adjustment

LR 8:75 (February 1982) - Food Stamp requirements

LR 8:235 (May 1982) - Retrospective budgeting

LR 8:341 (July 1982) - AFDC incapacity reporting

LR 8:342 (July 1982) - Food stamp reporting

LR 8:343 (July 1982) - Monthly reporting requirements

LR 8:649 (December 1982) - Amend reporting, budg-

eting in Food Stamp Program

defined by R.S. 37:682(8).
 neers or provide or offer to provide engineering services as
 themselves to the public as engineers or professional engi-
 ing of engineering design and they may not present
 ing registration are exempt only for the purpose of the teach-
 Those persons who are exempt from professional engineer-
 employment by a college or university in the state of Louisiana.
 neering registration as long as they remain in continuous em-
 prior to January 1, 1991, are exempt from professional engi-
 the employ of a college or university in the state of Louisiana
 those of higher rank teaching engineering design courses in
 which to become registered. The assistant professors and
 or after January 1, 1991, shall have a period of two years in
 Louisiana board. Such professors who become employed on
 thereafter, shall be registered professional engineers of the
 sity in the state of Louisiana on January 1, 1991, and
 sign courses who become employed by a college or univer-
 professors and those of higher rank teaching engineering de-
 ered as the practice of professional engineering. Associate
 charge of the teaching of engineering design shall be consid-
 2. Teaching of engineering design and the responsible

A. - B.1. ...

§105. Definitions

Chapter 1. General Provisions

Part LXI. Professional Engineers and Land Surveyors
PROFESSIONAL AND OCCUPATIONAL STANDARDS

Title 46

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise Louisiana Administrative Code 46:LXI as follows:

Department of Transportation and Development
Board of Registration for Professional Engineers
and Land Surveyors

NOTICE OF INTENT

Howard L. Prejean
 Assistant Secretary
 John R. Rombach
 Legislative Fiscal Officer

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
 There are no implementation costs associated with this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
 This rule will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
 There are no costs or economic benefits associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
 There is no effect projected on competition or employment.

- LR 9:685 (October 1983) - Retrospective budgeting in the Food Stamp Program
 - LR 9:839 (December 1983) - Retrospective budgeting and monthly reporting
 - LR 10:9 (January 1984) - Standard utility allowance for food stamps
 - LR 10:1031 (February 1984) - Standard utility allowance for food stamps
 - LR 11:1146 (December 1985) - Monthly reporting in advance for food stamps
 - LR 12:366 (June 1986) - Job search services
 - LR 12:423 (July 1986) - Annualization of interest income for retrospective budgeted monthly reporting household
 - LR 13:498 (September 1987) - Monthly reporting REFUGEE CASH ASSISTANCE RULES TO BE REPEALED
 - LR 3:72 (February 1977) - Policy on employment and training in the Indo-Chinese Refugee Assistance Program
 - LR 4:107 (April 1978) - Date change of checks
 - LR 10:7 (January 1984) - Earned income tax credits
 - LR 11:1146 (December 1985) - Monthly reporting in Food Stamps
 - LR 14:871 (December 1988) - Cuban/Haitian program limitation
 - LR 15:553 (July 1989) - RCA recipients in monthly reporting
 - REFUGEE RESETTLEMENT PROGRAM RULES TO BE REPEALED
 - LR 8:66 (February 1982) - Cuban Haitian entrants program
 - LR 8:189 (April 1982) - Cuban Haitian program limitation
 - LR 8:235 (May 1982) - Retrospective budgeting
 - LR 8:343 (July 1982) - Monthly reporting requirements
 - LR 9:839 (December 1983) - Retrospective budgeting and monthly reporting
 - SUPPORT ENFORCEMENT PROGRAM RULES TO BE REPEALED
 - LR 8:510 (October 1982) - Federal tax return offset
 - LR 9:62 (February 1983) - Assign support payments retained by AFDC recipients
 - LR 9:132 (March 1983) - Involuntary military allotments, IV-D
 - LR 9:465 (July 1983) - Elimination of double support payments
 - LR 13:497 (September 1987) - Award guidelines
- Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.
- A public hearing on the proposed rule will be held on June 27, 1991 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend the language in the plan document of benefits relative to the definition of "Retiree" to provide for eligibility of persons who are participants in an optional retirement plan to participate in the State Employees Group Benefits Program.

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

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on July 1, 1991, at the following address: Tommy D. Teague, Acting Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

Tommy D. Teague
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Amendment to "Retiree" Definition**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
This proposed rule change will allow employees who retire to continue coverage with the State Employees Group Benefits Program if they receive retirement benefits from an approved state or state governmental agency defined benefit plan. This is provided that the employee has accumulated the total number of years of creditable service which would have entitled him/her to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
Revenue collections of state or local governmental units will not be affected by this proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
There will be no economic benefit or costs to the directly affected persons, this program's retired plan members and their dependents, as a result of these proposed changes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
Competition and employment will not be impacted by this rule change.

Tommy D. Teague
Acting Executive Director
David W. Hood
Senior Fiscal Analyst

AUTHORITY NOTE: Promulgated in accordance with

R.S. 37:682.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:

Chapter 15. Examinations

§1503. Approval to Take the Fundamentals of Engineering Examination

A - E. ...
F. The board may allow the substitution of a written qualifying examination for the fundamentals of engineering examination for any applicant who has an earned doctorate from a college or university having an undergraduate curriculum accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:683.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:

Interested persons may submit written comments or offer amendments to the proposed rules to the Board Office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to May 29, 1991. The board proposes to consider and take action on the adoption of this rule at a meeting in its office at 11 a.m. on June 3, 1991.

Paul L. Landry, P.E.
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 46, Part LXI, Subpart 1
Rules § 105 B and § 1503 F**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The proposed rule change will have no estimated implementation costs or savings to the board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
The proposed rule change will have no impact on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)
Assistant professors in the employ of a college or university in the state of Louisiana prior to January 1, 1991 will also be exempt from professional engineering registration as long as they remain in continuous employment by a college or university in the state of Louisiana. It will have a positive impact on those educators by not placing the burden of requiring registration.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
Adding assistant professors has no effect on competition and employment.

Paul L. Landry
Executive Secretary
John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its rules relative to the conditions for acceptance of school boards into the State Employees Group Benefits Program in order to eliminate the previously required notice a school board must give before enrolling in the State Employees Group Benefits Program. The complete text of this proposed amendment can be viewed in its entirety in the emergency rule section published in this issue of the *Louisiana Register*. Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on July 1, 1991, at the following address: Tommy D. Teague, Acting Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

Tommy D. Teague
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Acceptance of School Boards into Benefits Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY) TO THE PREVIOUS RULE MANDATED THAT SCHOOL BOARDS MAKING APPLICATION TO JOIN THE STATE EMPLOYEES GROUP BENEFITS PROGRAM COMPLETE AN ADOPTION AGREEMENT AND SUBMIT TO THE EXECUTIVE DIRECTOR OF THE STATE EMPLOYEES GROUP BENEFITS PROGRAM AT LEAST 120 DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE OF COVERAGE. THE RULE CHANGE REMOVES THE 120 DAYS WAITING PERIOD.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY) REVENUE COLLECTIONS OF THE STATE EMPLOYEES GROUP BENEFITS PROGRAM WOULD BE IMPACTED IF ANY SCHOOL BOARD CHOSE TO JOIN THE STATE EMPLOYEES GROUP BENEFITS PROGRAM.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY) THE PLAN MEMBERS OF SCHOOL BOARDS ELECTING TO JOIN THE STATE EMPLOYEES GROUP BENEFITS PROGRAM COULD REALIZE A SAVINGS IN THEIR PREMIUM COST IF THE RISK RATED PREMIUM IS LESS THAN THE RATES QUOTED BY THEIR PRIVATE CARRIER.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)

The Department of Wildlife and Fisheries does hereby give notice of its intent to amend the rule governing the harvest of wild populations of alligators, alligator eggs, raising and propagation of farmed alligators and regulations governing the selling of hides, alligator parts and farm raised alligators. Specific sections of the rule to be amended are as follows:

**NOTICE OF INTENT
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Tommy D. Teague
Acting Executive Director
David W. Hood
Senior Fiscal Analyst

Competition and employment will not be affected as a result of this rule change.

**Chapter 7. Alligators
§701. Alligator Regulations**

K. Report Requirements.

4. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

(f) Each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with a bill of sale for each transaction. Violation of this part is a class 2 violation as described in Title 56.
(g) Each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligator parts for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this part is a class 3 violation as described in Title 56.

N. Alligator Egg Collection.

The alligator egg collection permittee and the landowner are responsible for returning the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. Each alligator shall be returned to two original egg collection areas within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36" in size and the returned sex ratio should contain at least 50 percent females. The department shall be responsible for supervising the required return of these alligators. Releases back to the wild will only occur between March 15 and September 30 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from

another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this part is a class 7A violation as described in Title 56.

12. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported out of state. Violation of this part is a class 7A violation as described in Title 56.

The Wildlife and Fisheries Commission regular monthly meeting in June, July and August shall serve as public hearings for the proposed amendments to the rule at which time interested persons may submit oral and written comments relative to the proposed amendments until 4:30 p.m., August 30, 1991, to Tommy Prickeitt, Administrator, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:260, 262, 262.1 and 262.2.
 HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:

James H. Jenkins, Jr.
 Chairman

**Fiscal and Economic Impact Statement
 For Administrative Rules
 Rule Title: Alligator Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
 The rule changes to be implemented will result in no net cost increase or decrease. The department will mail post cards to facilitate the change in reporting requirements which will be handled with the existing budget. The change to allow smaller alligators to be released will speed up the release process thereby saving department labor cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)
 The proposed change will not affect revenue collection in any way.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)

Allowing alligator farmers the flexibility to release varying sizes of alligators will prevent adverse disturbance impacts to those alligators not released and additionally allow farmers to adjust releases to take advantage of a changing market for alligator skins. There is no way to predict or estimate to what degree this will economically affect farmers. Farmers do, however, support these changes so they must perceive that there may be a positive economic impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)
 The rule change will affect everyone in the farm alligator market equally so there should be no effect on competition. The proposed changes will not affect employment.

Bettise Baker
 Undersecretary
 David W. Hood
 Senior Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to establish rules that will allow a Louisiana resident to raise and sell live gametish fingerlings for stocking purposes. The rules are as follows:

**Title 76
 WILDLIFE AND FISHERIES
 Part VII. Fish and Other Aquatic Life**

Chapter I. Freshwater Sport and Commercial Fishing

§159. Gametish Fingerling Aquaculture - Rules and Permits

A. A fish farmer raising and selling live gametish fingerlings must obtain an annual fish farmers certificate (license) and gametish farmers permit issued by the department on a calendar year basis.
 B. Live gametish fingerlings sold from an approved fish farm shall be subject to all applicable statute and rule limitations if any.

C. A fish farmer raising and selling live gametish fingerlings must maintain a record of all sales and shipments of fish and these records must be open for inspection by designated employees of the Department of Wildlife and Fisheries.
 D. A fish farmer raising and selling live gametish fingerlings must submit to the secretary of the Department of Wildlife and Fisheries an annual report delineating the type and number of fish species produced, dates stocked, and the specific location sites where stocked such that the department will be able to find the stocking areas at a later date. The deadline for submission of the annual report will be no later than one month after the reporting year has ended.

E. Gametish farmers transporting gametish fingerlings for sale must notify the Enforcement Division as per L.R.S. Title 56 and must possess a bill of lading which shall accompany each shipment showing species of fish contained in the shipment, the name of the consignee and consignee, and the grower's name and fish farmer's license number.

F. All trucks transporting gametish fingerlings for sale must have the words "GAMETISH FARMER" prominently displayed with a minimum of three inch block letters.
 G. Fish farmers holding permits are not granted any fishing privileges greater than those stated in Title 56 of the Louisiana Revised Statutes and must abide by all statutes pertaining to domestic fish farming.

H. Gametish fingerlings produced and distributed shall be certified disease and parasite free.

Committee Report

COMMITTEE REPORT

House and Senate Committees on Commerce Oversight Review

Pursuant to the provisions of R.S. 49:968, the Commerce Committee of the House of Representatives and the Senate met jointly on May 6, 1991, to review certain rules proposed by the Louisiana Department of Economic Development to provide for environmental criteria for rating tax exemptions.

There was testimony both for and against the proposed rules at the committee's hearing. Members of the committee expressed concern regarding the starting date of an applicant's environmental compliance history, the method of awarding bonus points for emission reductions, the unentered discretion of a governor to modify tax exemption applications and the authority of the Department of Environmental Quality (DEQ) to conduct studies relative to health and safety concerns. Therefore, the proposed rules were found unacceptable by the House Committee on Commerce by a vote of 8 to 7 and by the Senate Committee on Commerce by a vote of 4 to 1. As chairmen of those respective committees, we would suggest that these concerns could be effectively addressed by modifying the proposed rules as follows:

1. The starting date for computing an applicant's environmental compliance record, as stated in Subsection B of Section 2103 of the rules, could be changed from July 1, 1988, to November 1, 1990.

2. Language could be added to Paragraph 1 of Section 2107 of the rules to provide that at any point at which an applicant's DEQ approved emission reduction plan is in effect, full credit for emission reduction bonus points shall be on a prorated basis.

3. Section 2111 of the rules could be changed to retain the authority of a governor to grant or deny a tax exemption application, while deleting his authority to modify any such application. That same section could also be changed to delete health or safety concerns or problems as a trigger for an in-depth environmental study by DEQ, therefore providing that only environmental concerns or problems could trigger such a study by that department.

In accordance with R.S. 49:968, copies of this report are being forwarded this date to the governor, the Department of Economic Development and the State Register.

J. E. Jumboville

Chairman

Senate Committee on Commerce

Dale Sittig

Chairman

House Committee on Commerce

R.S. 56:327(A)(1)(b) and (A)(2).

AUTHORITY NOTE: Promulgated in accordance with

committee fails to adhere to any of the above regulations.

J. The secretary may revoke any or all permits issued

for the raising and selling of gametish fingerlings if the per-

mitted shall not be genetically manipulated or

altered in any way without prior approval of the department.

1. Genetic purity shall be maintained and gametish fin-

Interested persons may submit written comments on

the proposed rule to the following address before Monday,

July 15, 1991: Bennie J. Fontenot, Jr., Administrator, Inland

Fish Division, Louisiana Department of Wildlife and Fish-

eries, Box 98000, Baton Rouge, LA 70898-9000.

Chairman

James H. Jenkins, Jr.

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Gametish Fingerling Aquaculture - Rules &

Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs. Issuance of

permits and enforcement of rules will be administered

and conducted by existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of the

state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS

TO DIRECTLY AFFECTED PERSONS OR NON-

GOVERNMENTAL GROUPS (Summary)

This rule will allow the aquaculture and sale of live

gametish fingerlings for stocking purposes. This new in-

dustry in the state will have an economically beneficial

effect to all involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EM-

PLOYMENT (Summary)

Permitted aquaculture and sale of live gametish fin-

gerlings will have a direct and positive effect on employ-

ment in this state, especially in the areas of the gametish

fingerling farms.

Bettise Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

The Department of Environmental Quality will make substantial changes to the Revision of the Solid Waste Regulations, LAC 33:VII, Subpart 1, (Log #SW02) which was proposed on March 20, 1991. Notice of the public hearing on these changes will be published in the *Louisiana Register* at a later date. All inquiries should be directed to David Hughes at (504) 765-0399 or Roger Gingles at (504) 765-0249.

Paul H. Templet
Secretary

POTPOURRI

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

The Department of Environmental Quality will make substantive changes to the proposed Solid Waste Recycling Regulations, LAC 33:VII, Subpart 2, (Log #SW03) which were proposed on March 20, 1991. Notice of the public hearing on these changes will be published in the *Louisiana Register* at a later date. All inquiries should be directed to David Hughes at (504) 765-0399 or Barby Carroll at (504) 765-0249.

Paul H. Templet
Secretary

POTPOURRI

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

In accordance with Section 1923 of the Social Security Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has found, pending verification that obstetric services require-ments are met, that the hospitals listed below qualify for an interim payment adjustment for inpatient hospital services re-imbursed by Medicaid as they serve a disproportionate number of low income patients. The Medicaid mean for acute care general hospitals for cost reporting periods beginning 10/1/90 has been calculated to be equal to 16.52 percent plus one standard deviation equal to 14.26 percent for a total disproportionate share qualifying percentage of 30.78 percent. The qualification for disproportionate share adjustment as well as the amount of adjustment noted below is tentative as Medicaid reimbursement is subject to audit and cost set-tement. The disproportionate share payment adjustment percentage as adjusted at audit shall be applied to both inpa-tient cost limits and then total allowable inpatient costs in accordance with the provisions outlined in the Medicaid State Plan, Attachment 4.19A, Item 1.

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

The next retail floristry examinations will be given at 9:30 a.m. daily at the Delgado Community College/615 City Park Avenue/New Orleans, LA 70119 (504) 483-4114. The deadline for getting in application and fee is July 1, 1991. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be July 23-26, 1991.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Bob Odum
Commissioner

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. particularly R.S. 49:968.H.2, the secretary gives notice that substantive changes have been made to the proposed amendments to the Air Quality Regulations, LAC 33:III, Chapter 51, Subchap-ters A, C, E, F, J, M, and V. (Log #AQ12).

A public hearing will be held at 1:30 p.m., May 28, 1991, at the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and sub-oral comments on the proposed substantive changes.

A copy of the proposed rule and the substantive changes incorporated is available at the Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or 7290 Bluebonnet Blvd., Fourth Floor, Baton Rouge, LA 70810. For information regarding the substantive changes or other locations where copies may be obtained, contact David Hughes at (504) 765-0399.

Paul Templet
Secretary

David L. Ramsey
Secretary

Notice is hereby given that public hearing pursuant to requirements for Bureau of Health Services Financing approval of drug screening laboratories will be conducted on June 25, 1991 at 9:30 a.m. in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. Notice of intent concerning these regulations was published in the Louisiana Register on April 20, 1991 (Volume 17, Number 4, page 422). A copy of the Louisiana Register which is located at 900 Riverside North, Baton Rouge, or by calling the Louisiana Register at (504) 342-5015. Copies may also be obtained from Health Standards Section, Bureau of Health Services Financing located in the annex of 1201 Capitol Access Road, Sixth Floor, or by calling (504) 342-5774.

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

POTPOURRI

David L. Ramsey
Secretary

Provider Name	Dispro Paymt Adj (%)
Abbeville General Hospital	4.00
Acadia St. Landry Hospital	18.39%
Caldwell Memorial Hospital	26.70%
New Orleans General	119.36%
East Carroll Parish	30.02%
Riverwest Medical Center	4.00
Riverland Medical Center	7.37%
L. S. Huckaby Hospital	18.69%
Savoy Memorial Hospital	4.00
Bayou Rapides Medical Center	84.20%
Children's Hospital	33.96%
United Medical Center	45.69%
LSU Medical Center	121.93%
E. A. Conway	162.94%
Earl K. Long	142.01%
Huey P. Long	178.90%
University Medical Center	144.08%
W. O. Moss	153.70%
Lallie Kemp	98.71%
Washington-St. Tammany	149.16%
South La. Medical Center	84.95%
Charity Hospital of New Orleans	121.77%
Villa Feliciana	88.78%

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 14 claims in the amount of \$36,150.96 were received in the month of April 1991, 32 claims in the amount of \$82,275.65 were paid, and four claims were denied.
Loran C. coordinates of reported underwater obstructions are:

28668	46870
27655	46869
28044	46833
28517	46849

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

The spring meeting of the Sabine River Compact Administration will be held at the Omni-Royal Orleans Hotel, Royal and St. Louis Streets, New Orleans, LA 70140 on Friday, June 14, 1991; the meeting will begin at 9:30 a.m. The purpose of the meeting will be to conduct business as programmed in Article IV(8) of the By-Laws to the Sabine River Compact.
The fall meeting will be held in Texas in November 1991.

The contact person in Louisiana concerning the meeting is: Max J. Forbes Jr., Secretary, Sabine River Compact Administration, 1064 Highland Park Drive, Baton Rouge, LA 70808. (B) 504-765-0558 (H) 504-766-1698.

Max J. Forbes, Jr.
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Pages	Issue
3-128	January
131-235	February
241-319	March
325-443	April
449-536	May

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of,

Horticulture Commission

Examination, 233P, 233P

Quarantine, 439P

Structural Pest Control Commission

Fumigation, 251R

Technician, 251R

Agriculture Finance Authority

Securitized Program, 164R, 249R

Animal Health Service, Office of

Pet Turtles, 78N, 350R

Forestry, Office of

Indian Creek Recreation Area, 476R

Stumpage values, 3ER, 476R

Horticulture Commission

Examination, 529P

Livestock Sanitary Board

Auction market, livestock 30R, 30R

Definitions, 29R

Livestock admittance, 29R, 79N, 354R

Livestock dealers, 30R, 489N

Livestock sale/purchase, 31R, 31R

Poultry, 490N

Market Commission

Strawberry tax, 249R

CIVIL SERVICE

Civil Service Commission

Continuous service, 390N

Military leave, 279N

Referee decision, 278N

CULTURE, RECREATION AND TOURISM DEPARTMENT

Office of State Museum

Accession, deaccessions, loan policy, 490N

ECONOMIC DEVELOPMENT

Architectural Examiners, Board of

Continuing Education, 208N

State interpretation, 210N

Titles, firm names, 210N

Certified Shorthand Reporters,

Board of Examiners of

Certification, 31R

Continuing education, 31R, 279N

Fees, 31R

Commerce and Industry, Office of

Enterprise Zone, 252R

Environmental tax exemption, 3ER, 213N, 455ER, 528CR

Finance Division

Louisiana labor, 280N

Public hearing, 317P

Rule One, 280N

Economic Development Corporation

Community Economic Development Loan

Assistance Program, 328ER, 454ER, 493N

Financial Institutions, Office of

Consumer Credit Law, 216N, 216N

Credit Unions, 34R, 476R

Licensed lender, 283N

Records retention, 283N

Racing Commission

Alcohol abuse, 5ER, 172R

Apprentice jockey, 257R

Apprentice's contract, 217N

Associations duties, 457ER

Audio transmission, 5ER, 171R

Cellular telephone, 257R, 494N

Equine urine sample, 390N

Failure to comply, 258R

Fax transmission, 5ER, 170R

Filming/taping races; preservation, 258R

Horse disqualification, 5ER, 169R

Horse registration, 5ER, 258R

Interstate common pool wagering, 259R

License renewal, 260R

Matters not covered, 260R

Maximum overweight, 260R

NSF checks, 261R

Paddock inspection, 261R

Pari-Mutuel Machines, 5ER, 169R

Pari-Mutuel Tickets, 5ER, 170R, 261R

Perjury, 391N

Program statistics, 262R

Publication of past performances, 262R

Race schedule, 5ER, 170R

Resale; Movement, 457ER, 494N

Rider, 5ER, 170R

Stable telephone, 495N

Subpoena, 5ER, 172R

Substance abuse, 5ER, 172R, 391N

Super six, 329ER, 495N

Testing split/referee sample, 458ER, 496N

Totalizer; camera, 262R

Tote companies, 5ER, 173R

Video transmission, 5ER, 171R

Real Estate Appraisal Subcommittee

Experience Credit, 244ER, 392N

Residential Certification, 79N, 393N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Pourpoint

PPM—Policy and Procedure Memorandum

R—Rule

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

EO—Executive Order

EMPLOYMENT AND TRAINING

Barber Examiners, Board of

Barber student, 503N

Repeal, repromulgate rules, 356R

Repeal, repromulgate rules, 38R

Employment Security, Office of

Repeal, repromulgate rules, 38R

Labor, Office of

Apprenticeship, 356R

Community Services Block Grant, 10ER, 357R

JTPA, 357R

Minor Labor Law, 357R

Private employment service, 82N, 357R

Plumbing Board

Repeal, repromulgate rules, 49R

Review, Board of

Repeal, repromulgate rules, 35R

Worker's Compensation, Office of

Administrative procedures, 357R

Drug testing, 504N

Fiscal Responsibility Unit, 114CR

Fraud, 359R

Hearing officer, 262R

Safety requirements, 176R

Utilization review, 263R, 402N

Worker's Compensation Second Injury Board

Repeal, repromulgate rules, 179R

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

Air Quality Division

Air oxidation emissions (AQ27), 407N

Capture efficiency (AQ53), 404N

Construction variances, 441P

Continuous emission monitors

(AQ30), 223N, 477R

(AQ18), 405N

Distillation operations (AQ28), 407N

Emission monitoring (AQ19), 409N

Flame ionization analyzer (AQ34), 408N

General control device, 181R

General Provisions, 466ER, 505N

Liquid storage tank (AQ20), 263R

Organic compound emission

(AQ36), 82N, 360R, 477R

(AQ51), 406N

(AQ51E), 461ER

Permit (AQ37), 223N, 478R

Steam generating units (AQ17), 224N, 478R

Toxic air fees (AQ50), 403N

Toxic air pollutant (AQ12), 122P, 233P, 441P, 529P

Visible emissions (AQ29), 263R

CR—Committee Report
ER—Emergency Rule
L—Legislation
P—Potpourri
PFA—Proposed Fee Action
PMM—Policy and Procedure Memorandum
R—Rule
EO—Executive Order
FA—Fee Action
N—Notice of Intent
P—Notice of Intent
PFA—Proposed Fee Action
PMM—Policy and Procedure Memorandum
R—Rule

Real Estate Commission

Branch offices, 393N

Escrow, trust account, 394N

Out-of-State broker, 396N

Continuing education, 396N

Transfers, terminations, 397N

EDUCATION

Elementary and Secondary Education, Board of

(g) Annual Program/budget, 284N

ACT scores, 174R

Carl Perkins Vocational Education, 501N

Certified personnel, 458ER

Computer literacy, 497N

Diploma, nonpublic high school, 8ER, 80N, 354R

Foreign language, 398N

High school diplomas, 174R

Holiday

Presidential Election Day, 398N

LTP/LTEP, 132ER, 244ER, 247ER, 286N, 330ER, 399N, 460ER, 500N

Migrant Education State Plan, 501N

Noncertified personnel, 35R

Nutrition education/training, 340ER, 502N

Post secondary curriculum, 175R

Practical nursing certification, 330ER, 500N

Pupil appraisal handbook, 285N

School psychologist, 285N

Substance abuse, 131ER, 174R

Teacher eligibility, 498N

Teacher evaluation, 9ER, 81N

Teacher tuition, 461ER

Technical institutes' consolidation, 461ER

Temporary teaching assignments, 10ER

Test security, 498N

Vo-tech

Fees, courses, visits, 287N

Salary schedule, 8ER, 81N, 286N, 355R

Tuition fee, 35R

Student Financial Assistance, Office of

Adverse discretionary decision appeal, 400N

Agency name, 175R

Bankrupt of school, 401N

Delinquencies, 175R

Fee schedule, 175R

Guarantee fee refund, 402N

Guarantee fee schedule, 502N

Interest rate, 176R, 176R

Last resort loan, 288N

Lender name change, 503N

Occupational licensing, 291N

Out-of-state eligibility, 288N

PLUS/SLS, 176R, 176R

Scholarship/grant, 289N

Scholarship/merit ranking, 290N

Tax forms for participation, 399N

Proprietary School Commission

Student complaint procedure, 355R

ELECTION AND REGISTRATION

Voting machines, 218N

Legal Affairs and Enforcement, Office of

New office location, 441P
Permit, 225N
Regulatory agenda, 441P

Solid and Hazardous Waste, Office of

Hazardous Waste Division
Manifest Requirements (HW25), 84N, 362R
Non-HSWA Cluster II (HW26), 410N
Non-HSWA Cluster VI (HW27), 226N, 478R

Revisions, SW02, 292N, 529P
Revisions, SW03, 293N, 529P
Toxicity Characteristic Leaching Procedure
(TCLP) (HW20), 85N, 368R

Underground storage tanks (UT02), 411N
Ground Water (GW01), 234P, 505N

Water Resources, Office of

Oil/gas exploration, production (WP05), 263R
Surface Water (WP07), 86N, 149ER, 264R, 293N

EXECUTIVE ORDERS

BR 91-1—Authorizes lease purchase agreement with Office
Facilities Corporation, 131

BR 91-2—Creates Armitte River Basin Interagency Commit-
tee, 452

BR 91-3—Promotes cooperative environmental quality goals
between Department of Environmental Quality,
LSU, and agricultural community, 452

BR 91-4—Designates task force and guidelines for Child
Care Development Block Grant, 453

GOVERNOR'S OFFICE

Division of Administration

Commissioner's Office
PPM No. 71-IRS state compliance 115PPM
Community Development Section

LCDBG, 183R, 412N
Contractual Review, Office of

Professional, personal, consulting, social
services, 264R

Engineers Selection Board
Selection procedure, 415N

Property Assistance Agency
Penalties, 266R

Property Control, 266R
Risk Management, Office of

Patient's Compensation Fund
Oversight Board, 57R

State Land Office

State owned waterbottoms, 506N
State Purchasing

Vendor subscription fees, 343ER, 415N
Telecommunications Management, Office of

Repeal, repromulgate rules, 267R
Elderly Affairs, Office of

Area Agency

Advisory council, 296N
Governing body, 296N

Ombudsman, 297N
Responsibilities, 297N

Council on Aging
Organization, 299N

GOEA Manual, 57R

Law Enforcement and Administration of

Criminal Justice
Inmate housing, 412N

Wetland Conservation and Restoration Authority
Plan (FY 91-92), 122P

Women's Services, Office of
Marriage license fees, 227N, 479R

HEALTH AND HOSPITALS

Board Certified Social Work Examiners, Board of
Fees, 370R

License, 416N
Embalmers and Funeral Directors, Board of

Examination, 122P, 270R, 317P
Electrolysis Examiners, Board of

Inspections, 417N
Sterilizations, 417N

Hospitals, Office of
Automated cardiac defibrillation, 24ER, 89N

Lecturer compensation, 247ER
Human Services, Office of

Alcohol/drug abuse services, 418N
Drug treatment fund, 419N

Substance abuse; group homes, 299N
Medical Examiners, Board of

Complaint procedure, 480R
Hearing, 318P

Midwives, 87N, 234P
Occupational therapy, 508N, 509N

Physician temporary permit, examination, fees, 88N
Respiratory therapist, 479R

Radiologic technologists, 122P
Nursing, Board of

Continuing education, 58R
Nursing Home Administrators, Board of

Examiners of
Notification change, 199R

Pharmacy, Board of
Pharmacies, prescriptions, drug administration, 510N

Physical Therapy Examiners, Board of
Licensing, 417N

Education, 417N
Fees, 417N

Professional Counselors, Board of Examiners of
Mental health counseling, 507N

Public Health, Office of
Fecal Pollution, 123P

Head injury, 199R
Neonatal screening, 92N, 378R

Safe Drinking Water Program, 421N, 512N
Sanitary Code
Biomedical waste, 420N, 420N

Seafood, 199R
Sewage/refuse, 123P, 201R

Surface water treatment, 271R
CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PFA—Proposed Fee Action

N—Notice of Intent

FA—Fee Action

EO—Executive Order

PPM—Policy and Procedure Memorandum

R—Rule

Vital Records

Birth certificate, 89N, 375R

Secretary, Office of
AFDC

Dependent children, 515N
Medically needy, 271R

AIDS, 154ER

Anesthesia services, 25ER

COBRA (1985), 155ER, 513N

Dispensing fee, 271R

Drug screening (urine), 422N

Drug screening labs, 530P

F and V Children, 516N

Facility Need Review, 61R, 301N, 466ER

Federally-qualified health center, 343ER

Foster children, 158ER

Inpatient psychiatric recipient, 344ER

Low-income patients, 158ER

Medical aid eligibility, 159ER

Medical aid providers, 201R

Medical reimbursement, 529P

Nurse aide training/evaluation, 467ER, 517N

Nursing facilities, 159ER, 201R

OBRA (1990), 27ER

Pharmacy program, 27ER

Pregnancy/prenatal risk assessment, 344ER

Provider billing, 271R

Rural care providers, 156ER, 160ER, 161ER, 517N

SN/TDC per diem, 378R

SSI disability, 272R

Skilled nursing facility/services, 28ER, 161ER, 519N

Skilled Nursing/Technology Dependent Care, 473ER, 520N

Steparent's eligibility, 346ER

Speech Pathology and Audiology, Board of Examiners for

Code of Ethics, 370R

Procedural Rules, 372R

Substance Abuse Counselors, Board of
Certification of

Continuing Education, 149ER

INSURANCE

Commissioner of Insurance

Chiropractic, 202R

Continuing education, 522N

Directors/Officers liability insurance, 93N, 378R

Group health insurance, 67R

Medicare Supplemental Insurance, 67R, 67R, 67R

LOUISIANA ADMINISTRATIVE CODE UPDATE

Administrative Code Update

January, 1990 - December, 1990, 112

January, 1991 - March, 1991, 437

NATURAL RESOURCES

Conservation, Office of

Hazardous liquids pipeline, 379R

Public hearing, 234P

Statewide Order 29-B, 382R

Secretary, Office of

Fees, 302N

Fishermen's Gear

Claims, 123R, 234P, 318R, 441P, 530P

Equipment labeling, 272R

PUBLIC SAFETY AND CORRECTIONS

Alcoholic Beverage Control, Office of

Fairs, festivals, 162ER, 303N

Malt beverage industry, 304N

Stocking/pricing/rotating, 306N

Corrections Services

Administrative remedy, 68R

Adult prisoners, 228N

Death penalty, 202R

Escape (juvenile), 422N, 424N

Medical parole, 228N, 481R

Work release, 203R

Fire Marshal, Office of

Electrical power connection, 273R

Extinguisher/alarm systems, 273R

State Police, Office of

Bingo, keno, raffle, 94N, 383R

Commercial lessor, 229N

DWI, 307N

Electronic video bingo, 97N, 482R

Right-to-know, 307N, 425N

REVENUE AND TAXATION

Tax Commission

Natural gas severance tax, 442P

Real property, 231N

Stumpage values, 3ER, 476R

SOCIAL SERVICES

Community Services, Office of

Adoption Assistance Program, 97N, 386R

Adoption Subsidy Program, 231N, 482R

Adult Protective Services, 232N, 482R

Child Custody Permanency Plan, 98N, 387R

Child protective services, 99N, 387R

Children's Trust Fund, 426N

Emergency Shelter Grant, 318P

Social Services Block Grant, 442P

Weatherization Assistance Program, 123P

Family Support, Office of

AFDC, 346ER, 427N

Benefits computer matching, 522N

Child Support Enforcement Services

Tax offset fee, 100N, 388R

Individual/Family Grant, 474ER

JOBS, 100N, 101N, 248ER, 309N, 388R, 388R

Repeal of previous agency rules, 523N

CR—Committee Report

ER—Emergency Rule

L—Legislation

P—Potpourri

PFA—Proposed Fee Action

PMM—Policy and Procedure Memorandum

R—Rule

EA—Executive Order

FA—Fee Action

N—Notice of Intent

State Employees' Retirement System, Board
of Trustees of the
Deferred Retirement Option Plan (DROP), 109N
Payroll deduction, 110N
Retiree defined, 474ER, 525N
School boards, 474ER, 526N
Trustees, 109N, 314N

WILDLIFE AND FISHERIES

Secretary, Office of
Scenic and River System, 315N
Wildlife and Fisheries Commission
Aquaculture, 429N, 431N
Alligators, 347ER, 526N
Black Bass, 273R, 277R, 488R
Deer Management Program, 78R, 204R
Cobia, 207R
Fingerling aquaculture, 527N
Fox/coyote, 205R
Free fishing days, 389R, 389R
Freshwater gametish, 112N, 438CR
Freshwater Trout, 78R
Hunting seasons, 28ER
New Orleans area, 208R
King Mackerel, 28ER, 164ER, 207R, 347ER
Netting prohibition, 436N, 437N
Oyster season, 164ER, 348ER, 433N
Resident game birds/quadrupeds, 316N
Sherburne Wildlife Management, 29ER
Shrimp season

Chandeleur Sound, 348ER
Inshore, 475ER
Raccoon Point, 249ER, 475ER
Spanish Mackerel, 207R
Toledo Bend, 233CR, 273R, 317CR

Rehabilitation Services
Commission for the Deaf
Rules of Operation, 102N, 388R
Independent living, 273R
Personal care attendant, 310N
Sign language interpreter, 102N, 389R

STATE

Uniform Commercial Code, Office of
Central Registry; Farm Products, 103N, 482R
Secured transactions, 72R
Transmitting utility debtors, 108N, 163ER, 487R

TRANSPORTATION AND DEVELOPMENT

Flood Control and Water Management
Division

Port Construction/Development Priority, 274R
Professional Engineers and Land Surveyors,
Board of Registration

Definitions, 524N
Engineering Branches, 273R
Examinations, 524N
Seal use, 273R

Sabine River Compact Administration

Meeting, 530P

Secretary, Office of

American flag display, 428N
Roadside vegetation, 204R

TREASURY

Bond Commission
Fees, 163ER, 313N
State Employees Group Benefits Program,
Board of Trustees of the

Grandchildren eligibility, 310N
Military reservists, 78R
Pre-existing conditions, 248ER, 311N
Well-baby care, 311N
Well-child care, 312N

CR—Committee Report
ER—Emergency Rule
L—Legislation
P—Poitourri
PFA—Proposed Fee Action
N—Notice of Intent
FA—Fee Action
EO—Executive Order
PMM—Policy and Procedure Memorandum
R—Rule

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5780 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637

Dear Mr. [Name]:
I have received your letter of [Date] regarding [Subject].
I am sorry that I cannot provide a more definitive answer at this time.
The matter is currently under review and I will contact you again once a final decision has been reached.

I appreciate your interest in [Subject] and your patience.
I will be sure to keep you informed of any developments.
Thank you for your understanding.

Sincerely,
[Name]

[Name]
[Title]
[Address]
[Phone Number]

I have reviewed your request and the information provided.
The committee has discussed the matter and has reached a decision.
Unfortunately, the decision is not in your favor at this time.
I understand this may be disappointing, but I believe the committee's decision is based on the current information available.
I will be happy to discuss the reasons for the decision with you if you wish.

I am sorry that I cannot provide a more favorable outcome.
Thank you for your understanding and cooperation.